



City of Morgantown, KY
Ordinance 2024-05

ORDINANCE ESTABLISHING REGULATION OF THE CULTIVATION, PROCESSING, SALE, DISTRIBUTION, AND USE OF MEDICINAL CANNABIS IN THE CITY OF MORGANTOWN AS RECOMMENDED BY THE PLANNING AND ZONING COMMISSION OF MORGANTOWN, ARTICLE VIII.

BE IT ORDAINED by the Planning and Zoning Commission of Morgantown, KY on 7/07/2024: that Article VIII, "Cannabis Dispensaries and Grower/Processor facilities be it adopted to the Zoning Ordinance of Morgantown, KY be it amended by adding the following Article VIII:

BE IT ORDAINED by the City Council of Morgantown, KY: that Article VIII of the Morgantown Zoning Ordinance be adopted by adding Article VIII Cannabis Dispensaries and Grower/Processor facilities), adopted by the Morgantown KY Zoning Ordinance, 2024-05, as amended, of the Zoning Ordinance of Morgantown KY by adding this language.

This ordinance shall take effect 9/12/2024 and be in force immediately after adoption, the public welfare demanding it.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF MORGANTOWN AS FOLLOWS:

Article VIII

General Provisions Medical Cannabis Dispensaries

§ 80.601 Definitions

"Medicinal cannabis" means

- a. marijuana as defined in KRS 218A.010 when cultivated, harvested, processed, produced, transported, dispensed, distributed, sold, possessed, or used in accordance with this chapter;
- 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;

"CHFS" means The Cabinet for Health and Family Services is responsible for developing specific state regulations for the medical cannabis program;

"Cannabis business" means an entity licensed under KRS 218B as a cultivator, dispensary, processor, producer, or safety compliance facility;

"Medicinal cannabis cultivator" means a business that is licensed to grow medicinal cannabis in compliance with KRS 218B, more specifically to:

- a) Acquire, possess, plant, cultivate, raise, harvest, trim, or store cannabis seeds, seedlings, plants, or raw plant material;
- b) Deliver, transport, transfer, supply, or sell raw plant material or related supplies to other licensed cannabis businesses in this state; or
- c) Sell cannabis seeds or seedlings to similar entities that are licensed to cultivate

cannabis in this state or in any other jurisdiction.

Medicinal cannabis cultivators are regulated in four tiers by KRS 218B, as follows:

1. A Tier I cultivator shall not exceed an indoor growth area of two thousand five hundred (2,500) square feet;
2. A Tier II cultivator shall not exceed an indoor growth area of ten thousand (10,000) square feet;
3. A Tier III cultivator shall not exceed an indoor growth area of twenty-five thousand (25,000) square feet;
4. A Tier IV cultivator shall not exceed an indoor growth area of fifty thousand (50,000) square feet.

“Medicinal cannabis dispensary” means an establishment that is licensed in compliance with KRS 218B to:

- a) Acquire or possess medicinal cannabis from a cultivator, processor, or producer in this state;
- b) Acquire or possess medicinal cannabis accessories or educational material;
- c) Supply, sell, dispense, distribute, or deliver medicinal cannabis, medicinal cannabis accessories, and educational material to cardholders or other dispensaries;
- d) Sell cannabis seeds to similar entities that are licensed to cultivate cannabis in this state or in any other jurisdiction; or
- e) Acquire, accept, or receive medicinal cannabis products from a cardholder pursuant to KRS 218B.110.

“Medicinal cannabis processor” means a business that is licensed in compliance with KRS 218B to:

- a) Acquire or purchase raw plant material from a cultivator, processor, or producer in this state.
- b) Possess, process, prepare, manufacture, manipulate, blend, or package medicinal cannabis.
- c) Transfer, transport, supply, or sell medicinal cannabis and related supplies to other cannabis businesses in this state.

Types of Cannabis Businesses

According to the Cabinet, a cannabis business license can be for one of the following:

- Cultivator – responsible for planting, raising, harvesting, trimming and curing raw plant material in an indoor facility.
- Processor – responsible for processing and packaging raw plant material into usable product formats. Current state law does not allow these products to be smokable.
- Producer* – responsible for both growing and processing raw plant material. (The Cabinet is not accepting applications for this license type at this time.)
- Safety compliance facility – responsible for contamination and purity testing.
- Dispensary – responsible for purchasing and selling finished products to medical cannabis cardholders.
- A county or city where cannabis businesses are allowed may enact ordinances “relating

to the time, place, and manner of cannabis business operations.”

Local Regulations KRS. 218B

Governor Andy Beshear signed Senate Bill 47 on March 31, 2023, which legalizes medical cannabis in the commonwealth effective Jan. 1, 2025. The Office of Medical Cannabis in the Cabinet for Health and Family Services is charged under KRS Chapter 218B with implementing and administering Kentucky's Medical Cannabis Program.

Kentucky Medical Cannabis Program Regulations the Cabinet for Health and Family Services (“CHFS”) is responsible for developing specific regulations for the medical cannabis program. Other governing bodies may also issue rules and regulations tailored to their specific jurisdictions. Refer to Kentucky Cannabis Laws for an overview of the laws and regulations impacting the medical cannabis program in the commonwealth.

- These ordinances cannot be less restrictive than state law or the administrative regulations promulgated by the Cabinet as laid out in KRS. 218B and shall not “impose an undue burden or make cannabis business operations unreasonable or impractical.”
- County and cities may also “establish and assess reasonable local fees to compensate for any additional costs caused by the operation of cannabis businesses.” However, those fees cannot exceed the additional costs caused by the operation of cannabis businesses.

§ 80.602 Purpose

Zoning for Cannabis

By passing zoning conditions that cannabis land uses have to abide by, local governments are able to reduce the impact of such businesses on surrounding properties. Zoning conditions commonly legislated may include the following:

- Buffering (i.e., setting a location distance from a school, daycare center, public park, church, or other specified use or building).
- Density (limiting how many cannabis businesses may operate within a certain area).
- Operational characteristics such as hours of operation or odor.
- Storefront characteristics such as lighting, outward-facing displays, and signage.

Additional land use regulations may include its purpose (commercial or industrial), the size of the structure (square footage), height of the structure, and number of rooms.

As the cannabis industry grows, it will be increasingly important for local governments to review their zoning and land use ordinances.

Maximum Number of Cannabis Dispensaries.

- a) In the development and execution of these regulations, it is recognized that there are some uses which because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a potential deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that

these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area.

- b) The City shall allow up to 1 (1) cannabis dispensary provided the time, place, and manner of said dispensaries comply with this ordinance.

§80.603 Locational Requirements

- Operation of cannabis dispensaries are allowed in only in zoning classified as B-2 Commercial District and follow all requirements as laid out in §80.106 only and prohibited in all other zoning districts and not eligible as home occupational use.
- Will only dispense medical cannabis registered qualified patients as laid out in KRS 218B.045
- It shall be unlawful to operate a dispensary in a building which contains a residence or a mixed-use building with commercial and residential uses.
- Is only permitted to dispense medical cannabis in an indoor, enclosed, permanent, and secure building, and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other motor vehicle.
- Is not permitted to have a drive-through service.
- Shall have a single, secure public entrance and shall implement appropriate security measures to deter and prevent the theft of medical cannabis and unauthorized entrance into areas containing medical marijuana.
- Parking requirements will follow the parking requirements for retail as specified in B-2 Parking Standards.
- No pictures, photographs, drawings or other depictions of cannabis or cannabis paraphernalia shall be displayed on the outside of the facility, or any sign associated therewith. All signage shall comply with §80.202 requirements.
- Vehicular ingress and egress to and from a medical cannabis dispensary site shall be designed to accommodate the anticipated vehicles used to service the facility.
- Permitted daily hours of operation of a medical cannabis dispensary shall be 8:00 a.m. to 8:00 p.m.
- Is not permitted to operate on the same site as a facility used for growing and processing medical cannabis.
- Controlled Access - No cannabis establishment shall share premises with or permit access directly from another medical cannabis establishment, business that sells alcohol or tobacco, or, if allowed by law, other cannabis establishments.

§80.604 Required Separation Distances

- A cannabis dispensary shall be located not less than 1,000 feet from a public or private school or daycare facilities.
- Prescribed separation/setback distances from certain existing uses are to be measured from the lot line of the property where the dispensary is proposed.

§80.605 Documentation Requirements

- No cannabis dispensary shall acquire, possess, store, deliver transfer, transport, supply or dispense medical cannabis, cannabis products without providing documentation of licensure from the State of Kentucky.
- Is only permitted to dispense medical cannabis to certified patients and medical cannabis caregivers and shall comply with all lawful, applicable state and local health regulations.
- Shall be legally registered in the commonwealth and possess a current valid medical cannabis permit from the Kentucky Department of Health.

§80.606 Permits and Fees

The zoning official is authorized to issue permits (Zoning) for cannabis dispensaries subject to following:

- Submission of a site plan containing the following:
 - Any information required for applicable Zoning permit.
 - Ingress and egress plan.
 - Parking plan.
 - Lighting plan (including security lighting).
 - Screening/security fencing plan.
 - Refuse plan.
 - Hours of operation.
- Any other information as lawfully may be required by the Zoning official to determine compliance with this ordinance.
- All Zoning Permits, Procedures and Provisions apply as laid out in §80.402

§80.607 Specialized Retail

A place of business providing goods and services that are not usually considered part of a continuous pedestrian retail environment, including but not limited to animal hospitals, pawn shop, cannabis dispensary, funeral home, storage, and garages that require a Zoning Fee not less than \$50.00 or exceed \$200.00.

§80.608 Cultivator/Processor Facilities

- Medical cannabis-cultivator/processor shall be permitted by conditional use permit only subject to the regulations of medical cannabis processing. All industrial uses shall be screened with a 20-foot landscape buffer when abutting any nonindustrial use adjacent to or within I-Industrial Zoning.
- A medical cannabis cultivator/processor facility is authorized as a conditional use requirement in (I)-Industry zones, subject to the following regulations:

- Shall only grow medical cannabis in an indoor, enclosed, and secure building which includes electronic locking systems, electronic surveillance and other features required by the Kentucky Department of Health. The grower/processor facility shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other motor vehicle.
- Maximum floor area shall be limited to 20,000 square feet of which sufficient space shall be set aside for secure storage of raw materials, related finished product, and related materials used in production or for required laboratory testing.
- Marijuana remnants and by-products shall be secured and properly disposed of in accordance with the Kentucky Department of Health policy and shall not be placed within unsecured refuse containers.
- Shall provide only wholesale products to other permitted medical for cannabis uses. Retail sales and dispensing of medical cannabis and related products is prohibited.
- All odors shall be managed by ventilation and exhaust equipment with operable filtration so that any odors are effectively confined to the interior of the building. There shall be no emission of dust, fumes, vapors, odors, or waste into the environment that can be seen, smelled, or otherwise perceived beyond the facility.
- Vehicular ingress and egress shall be designed to accommodate the anticipated vehicles used to service the facility. All vehicular access shall secure the appropriate highway permits.
- A plan shall be provided demonstrating that all external and internal lighting, including light for nighttime growing, is shielded in such a manner as to not allow light to be emitted skyward or onto adjoining properties.

§80.609 Shall not be located:

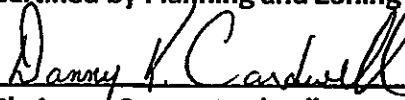
- Located not less than 1,000 feet from a public or private school or daycare facilities.
- Prescribed separation/setback distances from certain existing uses are to be measured from the lot line of the property where the dispensary is proposed.
- Shall comply with any other lawful and applicable requirements or regulations imposed by state and/or local laws or regulations.
- Any use which may be noxious or offensive due to the emission of odor, dust, fumes, smoke, gas, vibration or noise as to constitute a nuisance is prohibited.
- In any zone except I-Industry all other zoning classifications are prohibited.

§80.610 Severability Clause

It is hereby declared that sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph, or section shall be declared unconstitutional or invalid by the valid judgement or decree of any court of competent jurisdiction such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the

same would have been enacted by the city council without the incorporation of any such unconstitutional phrase, clause, sentence, paragraph, or section.

Certified by Planning and Zoning Commission on July 2, 2024

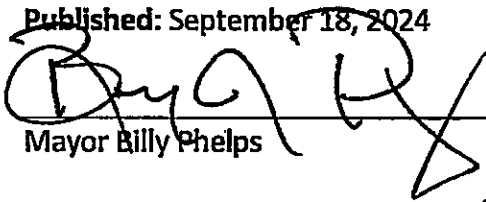

Chairman Danny Cardwell

This the 12th day of September, 2024.


First Reading: August 8, 2024

Second Reading: September 12, 2024

Published: September 18, 2024


Mayor Billy Phelps

Attest:


City Clerk Allie Lee