

MEMORANDUM

TO: Bellevue Planning & Zoning Commission
FROM: M. Erin Wilkins, Chair
DATE: 5/9/26
RE: Recommended Revisions to Proposed Medicinal Cannabis Text Amendment

After reviewing the proposed text amendment against KRS Chapter 218B and KRS 218A.010, I recommend several revisions before the Commission moves the amendment forward. The proposed language has terminology inconsistencies that should be corrected. A clean revised draft is attached.

I. Issues Identified in the Current Proposed Amendment

A. Substantive error in MARIJUANA exclusion #6.

The proposed exclusion #6 excludes "a *cannabidiol* product approved as a prescription medication by the United States Food and Drug Administration." The corresponding exclusion in KRS 218A.010(28)(g) reads "a *cannabinoid* product approved as a prescription medication" by the FDA. Cannabidiol (CBD) is one specific cannabinoid; cannabinoid is the broader class. As drafted, an FDA-approved THC-based or other-cannabinoid prescription medication would fall outside the exclusion and could be regulated as marijuana under the zoning code, contrary to state law.

B. Missing statutory exclusions.

The proposed amendment omits three exclusions that appear in KRS 218A.010(28):

1. Subsection (f): cannabinoid products derived from industrial hemp used for scientific research.
2. Subsection (g) is captured but contains the cannabidiol/cannabinoid error described in A above.
3. Subsection (h): medicinal cannabis as defined in KRS 218B.010. This omission is particularly notable because the same proposed amendment adds zone permissions for medicinal cannabis activities. As drafted, the city is simultaneously defining "marijuana" in a way that arguably includes medicinal cannabis while permitting medicinal cannabis as a use.

C. Terminology inconsistency across zones.

The proposed zone amendments use "medicinal marijuana dispensary" in the SC, T-5, and T5.5 zones, but "medicinal cannabis cultivators, processors, producers, and safety compliance facilities" in the I-1 zone. KRS 218B does not use the term "medicinal marijuana" anywhere. The statute uses "medicinal cannabis" as the umbrella term and the single-word terms "Cultivator," "Dispensary," "Processor," "Producer," and "Safety compliance facility" for the licensed entities.

D. Non-statutory terms in Article VII.

The proposed definitions for "Cannabis cultivator," "Cannabis processor," "Cannabis producer," and "Medicinal marijuana dispensary" are not terms used in KRS Chapter 218B.

E. Static reproduction of statutory text.

The substantive MARIJUANA definition in the proposed amendment reproduces the statutory definition rather than cross-referencing it. If the General Assembly amends KRS 218A.010, the city's definition will diverge from the statute until the ordinance is separately amended. The current draft already demonstrates the risk of this approach: the drafter either worked from an outdated version of the statute or made transcription errors.

II. Recommended Approach

The Bellevue Zoning Code already uses pure cross-references for several terms whose definitions live in state statute or other code sections. Examples include:

A. UTILITY: "Has the meaning as defined in KRS 278.010(3)."

B. STORY: "As defined in Section R202 of the Kentucky Residential Code."

C. SEXUALLY ORIENTED BUSINESS: Defined and regulated by Section 110.700 et seq. of the City of Bellevue Code of Ordinances "and any subsequent amendments thereto."

The Sexually Oriented Business definition is the relevant model. The phrase "and any subsequent amendments thereto" is the language that allows the zoning code to follow future statutory changes without requiring a separate amendment to the ordinance.

III. Proposed Revisions

A. Article VII - Definitions.

Replace the seven proposed definitions with the following six entries, using "medicinal cannabis" as the descriptive prefix consistent with KRS Chapter 218B terminology:

1. MARIJUANA: Has the meaning given to that term in KRS 218A.010, and any subsequent amendments thereto.

2. MEDICINAL CANNABIS: Has the meaning given to that term in KRS 218B.010, and any subsequent amendments thereto.

3. MEDICINAL CANNABIS CULTIVATOR: A Cultivator as defined in KRS 218B.010, and any subsequent amendments thereto.

4. MEDICINAL CANNABIS DISPENSARY: A Dispensary as defined in KRS 218B.010, and any subsequent amendments thereto.

5. MEDICINAL CANNABIS PROCESSOR: A Processor as defined in KRS 218B.010, and any subsequent amendments thereto.

6. MEDICINAL CANNABIS PRODUCER: A Producer as defined in KRS 218B.010, and any subsequent amendments thereto.

7. SAFETY COMPLIANCE FACILITY: Has the meaning given to that term in KRS 218B.010, and any subsequent amendments thereto.

Note: The standalone CANNABIS entry ("See MARIJUANA") in the current proposed amendment is unnecessary under this approach and can be omitted. CANNABIS is not used as a regulated land use term anywhere in the ordinance.

B. Article X - Zones.

Conform the four zone amendments to use medicinal cannabis terminology consistently:

1. Section 10.13 (SC Zone), permitted use 83: "Medicinal cannabis dispensary."
2. Section 10.16 (I-1 Zone), permitted use 21: "Medicinal cannabis cultivators, processors, producers, and safety compliance facilities." (no change to current proposed language)
3. Section 10.20 (T-5 Zone), permitted use 16: "Medicinal cannabis dispensary with frontage on an Urban Minor Arterial or Urban Major Collector as defined by KYTC."
4. Section 10.22 (T5.5 Zone), permitted use 13: "Medicinal cannabis dispensary with frontage on an Urban Minor Arterial or Urban Major Collector as defined by KYTC."

EXHIBIT A

Relevant Kentucky Revised Statutes (Excerpted)

KRS 218A.010 - Definitions for chapter (Controlled Substances).

Subsection (28) - "Marijuana"

- (28) "Marijuana" means all parts of the plant Cannabis sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances. The term "marijuana" does not include:
- (a) Industrial hemp that is in the possession, custody, or control of a person who holds a license issued by the Department of Agriculture permitting that person to cultivate, handle, or process industrial hemp;
 - (b) Industrial hemp products that do not include any living plants, viable seeds, leaf materials, or floral materials;
 - (c) The substance cannabidiol, when transferred, dispensed, or administered pursuant to the written order of a physician practicing at a hospital or associated clinic affiliated with a Kentucky public university having a college or school of medicine;
 - (d) For persons participating in a clinical trial or in an expanded access program, a drug or substance approved for the use of those participants by the United States Food and Drug Administration;
 - (e) A cannabidiol product derived from industrial hemp, as defined in KRS 260.850;
 - (f) For the purpose of conducting scientific research, a cannabinoid product derived from industrial hemp, as defined in KRS 260.850;
 - (g) A cannabinoid product approved as a prescription medication by the United States Food and Drug Administration; or
 - (h) Medicinal cannabis as defined in KRS 218B.010.

KRS 218B.010 - Definitions for chapter (Medicinal Cannabis).

Effective: April 17, 2024

Excerpted: relevant subsections only. The full section contains thirty-nine (39) subsections.

For the purposes of this chapter, unless the context otherwise requires:

- (3) "Cannabis business" means an entity licensed under this chapter as a cultivator, dispensary, processor, producer, or safety compliance facility;
- (6) "Cultivator" means an entity licensed as such under KRS 218B.080, 218B.085, and 218B.090;

- (9) "Dispensary" means an entity licensed as such under KRS 218B.080, 218B.085, and 218B.090;
- (14) "Marijuana" has the same meaning as in KRS 218A.010;
- (15) "Medicinal cannabis":
- (a) Means 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;
- (18) "Medicinal cannabis product":
- (a) Means any compound, manufacture, salt, derivative, mixture, or preparation of any part of the plant Cannabis sp., its seeds or its resin; or any compound, mixture, or preparation which contains any quantity of these substances when cultivated, harvested, processed, produced, transported, dispensed, distributed, sold, possessed, or used in accordance with this chapter; and
 - (b) Does not include industrial hemp products as defined in KRS 260.850;
- (21) "Processor" means an entity licensed as such under KRS 218B.080, 218B.085, and 218B.090;
- (23) "Producer" means an entity licensed as such under KRS 218B.080, 218B.085, and 218B.090;
- (30) "Safety compliance facility" means an entity licensed as such under KRS 218B.080, 218B.085, and 218B.090;