

**AN ORDINANCE ALLOW FOR THE LICENSING OF AND ESTABLISHING
REGULATIONS FOR MEDICAL CANNABIS CULTIVATION FACILITIES IN THE
CITY OF CLEVELAND, MISSISSIPPI**

WHEREAS the State of Mississippi has authorized the use of medical cannabis by certain patients who have debilitating medical conditions and the cultivation of medical cannabis through licensed facilities;

WHEREAS the City of Cleveland, Mississippi, is authorized to require a medical cannabis cultivation facility to obtain a local license to operate;

WHEREAS the City of Cleveland, Mississippi, is authorized to enact ordinances and regulations governing the time, place, and manner of medical cannabis cultivation facilities within its jurisdictional limits

WHEREAS the City of Cleveland finds that the use of medical cannabis will have a positive impact on the health of its citizens who have certain debilitating medical conditions and a positive economic impact for the City

WHEREAS the City of Cleveland finds it is in the best interest of public health, safety, welfare, and convenience to authorize the operation of medical cannabis processing facilities within the City of Cleveland, subject to regulations to protect the public

WHEREAS the City of Cleveland states that nothing in this ordinance is intended to promote or condone the sale, distribution, or use of cannabis in violation of applicable state law or City of Cleveland ordinance. Because this ordinance and its contents effects the immediate preservation of the public peace, public health, and safety of the residents of the City of Cleveland, it is ordered that it shall go into effect immediately. The reasons for the immediate passage are that the sale of medical cannabis must be effectively controlled to ensure there is no illegal dispensing and that dispensing is performed in a safe, secure and orderly manner.

SECTION 1 – DEFINITIONS

“Cannabis cultivation facility” means a business entity licensed and registered by the Mississippi Department of Health that acquires, grows, cultivates, and harvests medical cannabis in an indoor, enclosed, locked, and secure area. The terms “cannabis cultivator”, “cultivator”, or “micro-cultivator” also have the same meaning

"Cannabis products" means cannabis flower, concentrated cannabis, cannabis extracts and products that are infused with cannabis or an extract thereof and are intended for use or consumption by humans. The term includes, without limitation, edible cannabis products, beverages, topical products, ointments, oils, tinctures and suppositories that contain tetrahydrocannabinol (THC) and/or cannabidiol (CBD) except those products excluded from control under Sections 41-29-113 and 41-29-136.

“Canopy” means the total surface area within a cultivation area that is dedicated to the cultivation of flowering cannabis plants. The surface area of the plant canopy must be calculated in square feet. Measurement must include all of the area within the boundaries where the cultivation of the

flowering cannabis plant occurs. If the surface area of the canopy consists of noncontiguous areas, each component area must be separated by identifiable boundaries. If a tiered or shelving system is used in the cultivation area, the surface of each tier or shelf must be included in the calculation. Calculation of the area of the plant canopy should not include: (1) the areas within the cultivation area that are used to cultivate immature cannabis plants and seedlings prior to flowering; and, (2) the areas within the cultivation area that are used to support mature cannabis plants.

“Certificate of Occupancy” means a certificate issued by the Department of Community Development setting forth the specific legal use and type of property and verifying that the premises and/or structure is compliant with housing and building codes, the property is suitable to be occupied. No property shall be occupied or used and no building shall be erected or structurally altered in whole or in part for any purpose whatsoever until a certificate of occupancy is issued by the Department of Community Development.

SECTION 2 -- ZONING AND DISTANCE RESTRICTIONS.

- A. The licensed premises shall be located only within a B-3 highway business district or M-1 Industrial District in the City of Cleveland, Mississippi.
- B. The main point of entry of the licensed premises shall be located no less than one-thousand (1,000) feet from the nearest property line of any school, church, or child care facility. Applicants may obtain a written waiver, provided by the Mississippi Department of Revenue, from the school, church, or licensed childcare facility. If a waiver is obtained from a school, church, or childcare facility, the main point of entry of the licensed premises shall be located no less than five-hundred (500) feet from the nearest property line of the school, church, or licensed childcare facility.

SECTION 3 – CITY OF CLEVELAND LICENSE APPLICATION.

1. **Authority.** The City of Cleveland shall have authority to grant or deny licenses and to inspect the premises and business of a dispensary to confirm compliance with all licensure requirements.
2. **Application Requirements.** To obtain a medical cannabis cultivation facility license under this ordinance, the applicant shall file an application online located on the City of Cleveland’s website, www.cityofclevelandms.com, and submit a copy of the following additional information:
 - a) A copy of the deed reflecting the applicant's ownership of, or a lease reflecting the right of the applicant to possess the proposed premises for the proposed use;
 - b) Land survey by a Mississippi-licensed surveyor proving that the main entrance of the dispensary is not within 1,000 feet of a school, church, or childcare facility’s nearest property line; or land survey by a Mississippi-licensed surveyor proving that the main entrance of the dispensary is not within 500 feet of a school, church, or childcare facility’s nearest property line if Waiver is provided.
 - c) If applicable, Waiver of Minimum Distance Requirements from school, church, or childcare facility

- i. The City of Cleveland shall only accept a fully executed and notarized “Application for Waiver of Minimum Distance Requirements by A School, Church, or Childcare Facility” provided by the Mississippi Department of Revenue.
 - d) A "to scale" rendering of the floor plan of the proposed licensed premises indicating of all enclosed areas with clear identification of the main entrance, walls, all areas of ingress and egress, and all limited access areas. This map must provide accurate measurements that allow the Department, at a minimum, to determine the precise main entrance location in reference to the rest of the premises. This map must also clearly identify the distinct areas utilized for cultivation activities (i.e., growing, harvesting, drying, etc.);
 - e) A "to scale" site plan reflecting all structures and boundaries of the proposed licensed premises;
 - f) An elevation drawing or rendering of the exterior of the proposed licensed premises;
 - g) A description of safety and security plan listing the measures that will be taken by the processing facility to ensure that medical cannabis products are properly secured and safe. It shall include information relating to surveillance systems, camera placement, door security, alarm systems, and measures taken to secure manners of egress and ingress onto the premises; and
 - h) A description of operation plan demonstrating employment practices that include a plan of action to inform, hire, and educate minorities, women, veterans, and persons with disabilities, engage in fair labor practices and provide employee protections; record-keeping systems; hours of operation; preventing diversion of cannabis and/or cannabis products; types and quantities of cannabis products that will be produced at the cannabis processing facility; methods of processing cannabis and/or cannabis products; inventory control and tracking; procedures for proper labeling and packaging; transportation of cannabis and/or cannabis products; and disposal of cannabis waste.
3. **Application Processing Procedure.** The City of Cleveland shall abide by the following procedure for processing applications:
- a) The City of Cleveland shall begin receiving medical cannabis cultivation facility applications online only on June 27, 2022, at 8:00 a.m.
 - b) Applicants must apply online on the City of Cleveland, Mississippi’s website.
 - c) Applications shall be processed on a first come first serve basis.
 - d) The City of Cleveland will not accept incomplete applications for processing.
 - i. A complete application consists of:
 - 1. Fully completed Application Form provided on the City of Cleveland, Mississippi’s website; and
 - 2. A copy of **all** additional information as set forth in Section 3.2.
 - e) If approved, the City of Cleveland shall issue to the applicant a City of Cleveland Medical Cannabis Cultivation Facility License specifying the date of issuance, the period of licensure, the name of the licensee, the physical address

of the licensed premises, and a sworn statement certifying that the licensed establishment as proposed does not violate the city's enacted zoning restrictions and meets the distance requirements for submission to the Mississippi Department of Health.

SECTION 4 – CERTIFICATE OF OCCUPANCY

1. Once a city license is granted and the State has approved the application for the licensee, the licensee shall seek a valid Certificate of Occupancy from the City. The Office of Community Development shall issue a City of Cleveland Medical Cannabis Certificate of Occupancy pursuant to the following:

- a) Upon receipt of state approval of the licensee, the Director of Community Development shall review the document, plans, and descriptions submitted as part of the application to determine compliance with all applicable requirements of this division, the Code of Municipal Ordinances, and any applicable building codes and fire codes. The Director of Community Development shall (1) require inspection the proposed premises, and/or (2) request additional documentation to ensure compliance with all applicable requirements of this division and the Code of Municipal Ordinances, building codes, and fire codes.
- b) The Director of Community Development may, in his or her discretion, approve the issuance of an occupancy certificate to the licensee if the Director of Community Development (1) has fully inspected the licensed premises and determined that the establishment satisfies all requirements as set forth in this article, all applicable zoning requirements, and all other applicable federal, state, and local laws and regulations, building codes, and fire codes; (2) has determined that the licensed establishment is ready for occupancy with such equipment and security measures in place as may be necessary to comply with the applicable provisions of this article and state law and (3) has determined that the issuance is in the public's best interest. When the Director of Community Development considers a processing facility certificate of occupancy application, he or she may consider all contents and proposals within the application.
- c) If approved, the Office of Community Development shall issue to the applicant a City of Cleveland Medical Cannabis Processing Facility Certificate of Occupancy specifying the date of issuance, the period of licensure, the name of the licensee, the physical address of the licensed premises, and a sworn statement certifying that the licensed establishment as proposed is compliant with all applicable building and fire codes, Mississippi statutes, and City of Cleveland Code of Ordinances and suitable to be occupied.
- d) If the proposed premises does not meet inspection requirements, the applicant shall receive written notice of the specific deficiencies and reasonable time to cure such deficiencies. If such deficiencies are cured and the proposed premises

meets all requirements set forth in this Section, the Office of Community Development shall issue the applicant a City of Cleveland Medical Cannabis Certificate of Occupancy.

- e) Applicant may appeal the denial of an occupancy certificate pursuant to Section 7 of this division.

SECTION 5 – FACILITY STANDARDS, RULES OF OPERATION, AND INSPECTIONS

A. **Facility Standards.** The City of Cleveland requires that each Medical Cannabis Cultivation Facility be maintained in accordance with the following facility standards.

1. **Processing Activities.** All processing activities must take place in indoor, enclosed, locked, and secure facilities. Outdoor cultivation is prohibited.
2. **Facility Requirements.** All cultivation activities must take place within a building or secure structure that meets all state and local electrical, fire, plumbing, and building codes and specification in addition to the following requirements:
 - a. Has complete roof enclosure, supported by connecting permanent walls, constructed of solid materials extending from the ground to the roof;
 - b. Is secure against unauthorized entry;
 - c. Has a foundation, slab, or equivalent base to which the floor is securely attached;
 - d. Has commercial grade door locks on all external doors that are locked at all times;
 - e. restricts access to only authorized personnel to locked and secure areas identified with signage and daily records of entry and exit;
 - f. Plumbing is adequate to carry sufficient quantities of water to locations through the facility and convey sewage and waste from the facility without cross contamination of potable water and waste;
 - g. Water supplied sufficient for cultivation activities and derived from a source that is a regulated water system;
 - h. HVAC system that has been determined to be energy efficient;
 - i. Toxic cleaning compounds, sanitizing agents, solvents, and pesticides must be identified and stored in a manner that is in accordance with applicable local, state, or federal law, rule, or regulations; and
 - j. Maintain an open aisle on all sides of each plant group to allow for unobstructed travel, observation, and inventory of each plant group.
3. **Facility Perimeter Requirements.** The perimeter of all cannabis processing facilities must be designed and maintained to discourage theft and diversion of cannabis and/or cannabis products. In addition to any local zoning requirements, all cannabis processing facilities must:
 - a. Maintain adequate lighting to facilitate video surveillance at all times;
 - b. Landscaping that does not allow for a person or persons to conceal themselves for sight or video surveillance;

- c. Fencing or permanent walls that ensure that all stages and cultivation and cultivation activities are not visible or accessible to the public;
 - d. Signage posted in a conspicuous location at each entrance of the cultivation facility that reads “PERSONS UNDER 21 YEARS OF AGE NOT PERMITTED ON THE PREMISES.”
 - e. Signage posted in a conspicuous location at each entrance of the cultivation facility that reads “THESE PREMISES ARE UNDER CONSTANT VIDEO SURVEILLANCE”
4. **Alarm System.** All cannabis cultivation facilities must have alarm systems that meet the following requirements:
- a. Upon attempted unauthorized entry, the alarm system shall transmit a signal directly to a central protection company or a law enforcement agency that has a legal authority to respond. A designated employee of the cannabis processing facility must also be notified;
 - b. Provide continuous, uninterrupted coverage (24 hours/7days) for all points of ingress and egress to the facility, including without limitation doorways, windows, and loading areas;
 - c. Provide continuous, uninterrupted coverage (24 hours/7 days) of any room with an exterior wall, any room containing cannabis (of any type or stage of growth) and any room used for cannabis processing activities of any type;
 - d. Equipped with a failure notification system to notify the cannabis processing facility and law enforcement of any failure in the alarm system; and
 - e. The ability to remain operational during a power outage.
5. **Video Surveillance.** All cannabis processing facilities must have video surveillance that meets the following:
- a. Provide continuous, uninterrupted coverage (24 hours/7 days) for (1) all points of ingress and egress, including but not limited to doorways, windows, loading, and parking areas, (2) any room with an exterior wall; (3) any room containing cannabis (of any type or stage of growth), and (4) any room used for cannabis cultivation activities of any type.
 - b. On-site and off-site monitoring capabilities;
 - c. At least one video monitor, on site, of at least twelve inches, connected to the system at all times;
 - d. Digital archiving or cloud-based storage devices, which must securely archive camera footage for no less than 120 calendar days. Surveillance recordings shall be in a format in which they can be easily accessed for viewing and easily reproduced;
 - e. Surveillance recordings that have the time and date embedded on all recordings without significantly obstructing the picture; and
 - f. Cameras that are capable of recording in both high and low lighting conditions.

6. **Security Guard.** A security guard must be on the premises at all times during operational hours.
 7. **Sanitation.** All processing facilities must maintain sanitary conditions that include the following:
 - a. Sufficient hand-washing areas that are adequate and convenient to employees that shall include running water at a suitable temperature and a suitable sanitary towel service or drying device;
 - b. Adequate screening or other protection to prevent against the entry of pests.
 8. **Miscellaneous.** The facility shall conform to the prevailing building, plumbing, electrical, mechanical, fuel gas and fire codes adopted by the City of Cleveland at the time of licensure. This includes, but is not limited to, codes regarding accessibility, egress and life safety.
- B. Rules of Operation.** Each cultivation facility shall be operated only in accordance with the following rules:
1. No person or business entity shall operate a medical cannabis cultivation facility within the jurisdictional limits of the City of Cleveland unless that person or business entity has (1) obtained a medical cannabis processing facility license from the City; (2) obtained a license from the Mississippi Department of Health; and (3) received a Certificate of Occupancy and Privilege License from the City of Cleveland. Such licenses shall be kept current at all times, and the failure to maintain current license a shall constitute a violation of this section.
 2. Cultivation facilities shall display the license issued by the City of Cleveland and the State of Mississippi in a prominent location within the licensed premises;
 3. The normal business hours of each processing facility shall be confined between the hours of 8:00 a.m. to 8:00 p.m. Monday through Sunday.
 4. There shall be no consumption of cannabis products on the premises.
 5. Each processing facility shall operate in accordance with all applicable local and state laws concerning medical cannabis.
- C. Inspection.** The facility is subject to inspection by the Director of Community Development, the Director of Community Development's Designee, Code Compliance Officers, and the Fire Chief at any time during normal business hours. Inspection is **required** yearly upon license renewal.

SECTION 6 – LICENSING FEES, TRANSFERS, DEADLINES, AND PRIVILEGE LICENSES/CERTIFICATES OF OCCUPANCY

- A. Annual Licensing Fee.** Within fourteen (14) days of receiving a medical cannabis cultivation facility license from the State of Mississippi, and at the time an applicant files a renewal application, the licensee shall tender to the city an annual license fee in an amounts listed below. The annual license fee shall be paid on the basis of a full calendar year regardless of the date of issuance, and no proration or discount shall be given. This fee defrays administrative, enforcement, and public safety costs.

- a. **Micro-Cultivators** (facilities with a canopy of no more than 2,000 square feet): \$1,500.00 annual fee.
 - b. **Cultivators:** (facilities with a canopy of no less than 2,000 square feet): \$3,000.00 annual fee.
- B. **Term of License.** Each license issued under this Section shall be effective upon issuance and shall terminate on the 31st day of December of the year issued. There shall be no pro rata reduction in costs for permits granted after January 1st of each year or abandoned before December 31st of each year. Licensee must provide the Department of Community Development proof of state licensure each year upon renewal.
- C. **License Not Transferrable.** Licenses issued under this ordinance shall not be transferable to any other person, business entity, or location and shall lapse automatically upon a change of ownership or location. A license issued under this ordinance is not a property right.
- D. **Additional Permits and Licenses.** A license issued pursuant to this article is in addition to and does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the medical cannabis dispensary including, without limitation, the registration issued by the State of Mississippi, and any zoning related permits, plat approvals, or building or construction-related permits required by the Cleveland Code of Municipal Ordinances or Mississippi law.
- E. **Deadlines.** Within thirty (30) days of receiving a City of Cleveland Medical Cannabis License, each applicant shall provide the Department of Community Development with proof that they have completed and submitted their application to receive a license from the State of Mississippi. If applicant fails to do so within thirty (30) days, the City of Cleveland may revoke its license.
- F. **Notification of State Licensure.** The applicant must inform the Director of Community Development within seven (7) days of the issuance or denial of the State of Mississippi License. If applicant is denied a State of Mississippi License, the City of Cleveland reserves the right to revoke its License.
- G. **Privilege License and Certificate of Occupancy.** Licensee shall not begin operation or open its doors to the public until it receives a Privilege License and a Certificate of Occupancy from the City of Cleveland. The city shall not issue a certificate of occupancy until the Director of Community Development or the Director of Community Development's designee and Fire Chief have fully inspected the licensed premises and determined that the establishment satisfies all requirements of licensure as set forth in this article, all applicable zoning requirements, and all other applicable federal, state, and local laws and building codes, and that the licensed establishment is ready for occupancy with such equipment and security measures in place as may be necessary to comply with the applicable provisions of this article and state law.

SECTION 7 – APPEAL

- A. **Denial.** If a licensee is denied a City of Cleveland Certificate of Occupancy, an applicant shall have seventy-two (72) hours to notify the Director of Community Development, in writing, that the denial be submitted for reconsideration. The City of Cleveland Planning Commission shall consider the application on its merits and take action on the appeal at a

properly noticed public meeting no later than ten (10) days following the Director of Community Service's receipt of a timely written request for appeal. The Planning Commission shall use the same criteria governing the issuance of an occupancy certificate by the Director of Community Development. Notwithstanding anything to the contrary no medical cannabis dispensary occupancy certificate shall be issued until the applicant has demonstrated compliance with this article, the city zoning ordinance, applicable state and local laws and regulations, building codes, and fire codes.

- B. Appeal.** Should the Planning Commission affirm the denial of a certificate of occupancy, an applicant may appeal the Planning Commission's determination to the Board of Aldermen, pursuant to Section 201(B) of the Land Development Ordinance. An applicant shall have seventy-two (72) hours to notify the City Clerk, in writing, that the denial be submitted for reconsideration. The Board of Aldermen shall consider the application on its merits and take action on the appeal at a properly noticed public meeting no later than ten (10) days following the City Clerk's receipt of a timely written request for appeal. The Board of Aldermen shall use the same criteria governing the issuance of an occupancy certificate by the Director of Community Development. Notwithstanding anything to the contrary no medical cannabis dispensary occupancy certificate shall be issued until the applicant has demonstrated compliance with this article, the city zoning ordinance, applicable state and local laws and regulations, building codes, and fire codes. If the Board of Aldermen affirm the Planning Commission's determination, the applicant may appeal pursuant to Mississippi Code Annotated Section 11-51-75.

SECTION 8 – VIOLATIONS AND PENALTIES UNDER THIS ARTICLE.

- A.** The following penalties shall apply to all licensees addressed in this Article. For any violation, the licensee shall receive:
- i.** First Offense: \$500.00 fine.
 - ii.** Second Offense: \$1,000.00 fine and one week license suspension.
 - iii.** Third Offense: \$1,000.00 fine and two-week license suspension.
 - iv.** Fourth Offense: Revocation of License.
- B.** Any person operating a dispensary without a license is subject to a civil fine of up to \$1,000.00, or up to thirty (30) days in jail.
- C.** Any offense of this article shall be considered a misdemeanor and is subject to being cited by any authorized law enforcement official in the City of Cleveland and a cease and desist notice may be issued.
- D.** Violation of this article may result in the revocation or suspension of any city license or permit issued to the licensee, at the total discretion of the City of Cleveland.
- E.** Each day on which an infraction of this ordinance occurs shall be considered a separate and distinct violation.
- F.** All fines collected shall go to the City's general fund.
- G.** Operating a dispensary without a license shall be deemed a public nuisance. Such nuisance may be abated in any manner permitted by ordinance or other applicable law, including, but not limited to, an action for injunctive relief.

H. By accepting a license issued pursuant to this division, the licensee waives any claim concerning, and releases the city, its officers, elected officials, employees, attorneys and agents from, any liability for injuries or damages of any kind that result from any arrest or prosecution of business owners, operators, employees, clients or customers of the licensee for a violation of state or federal laws, rules or regulations.

By accepting a license issued pursuant to this division, all licensees, jointly and severally if more than one (1), agree to indemnify, defend and hold harmless the city, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the medical cannabis dispensary that is the subject of the license.

The issuance of a license pursuant to this section shall not be deemed to create an exception, defense or immunity for any person in regard to any potential criminal liability the person may have under state or federal law for the cultivation, possession, sale, distribution, or use of marijuana.