

**AN ORDINANCE ALLOW FOR THE LICENSING OF AND ESTABLISHING
REGULATIONS FOR MEDICAL CANNABIS DISPENSARIES 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 sale of medical cannabis products to those patients through licensed dispensaries

WHEREAS the City of Cleveland, Mississippi, is authorized to require a medical cannabis dispensary 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 dispensaries 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 dispensaries 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 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.

“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.

"Medical cannabis dispensary" or "dispensary" means an entity licensed and registered with the MDOR that acquires, possesses, stores, transfers, sells, supplies or dispenses medical cannabis, equipment used for medical cannabis, or related supplies and educational materials to cardholders.

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.
- C. The licensed premises shall not be located within a one-thousand-five-hundred (1500) feet radius from the main point of entry of the dispensary to the main point of entry of another medical cannabis dispensary
- D. A medical cannabis dispensary shall not share office space with or refer a patient to a practitioner.

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 dispensary 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 including the defined boundaries of the premises and a scaled floorplan sketch

of all enclosed areas with clear identification of the main entrance, walls, all areas of ingress and egress, and all limited access areas.;

- 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 dispensary 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 how the applicant's proposed premises and business will comply with applicable laws and rules regarding employee qualifications, including background checks and training, record-keeping systems; hours of operation; preventing non-cardholders under the of 21 from entering the licensed premises; and preventing non-cardholders from obtaining or attempting to obtain any items sold by the dispensary.

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 dispensary 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) The first completed application shall trigger a 1500 ft. buffer zone around the proposed dispensary location and no other applicant that applies after the first completed application located within the 1500 ft zone will receive a license.
 - i. The City of Cleveland will continue to accept applications for additional medical cannabis dispensaries within the 1500 ft. buffer zone and keep them on file in order of application date and time.
 - ii. Should the original applicant be denied a certificate of occupancy from the City of Cleveland or a license from the State of Mississippi, the City of Cleveland will begin the approval process for the applicant next in line.
- f) If approved, the City of Cleveland shall issue to the applicant a City of Cleveland Medical Cannabis Dispensary 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 Revenue.

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 dispensary 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 Dispensary 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 Dispensary be maintained in accordance with the following facility standards.

1. **Alarm System.** The facility shall have a fully operational security alarm system, activated at all times when the dispensary is closed for business. The security alarm system must:
 - a. Be able to detect unauthorized entry onto the licensed premises and unauthorized activity within any limited access area where cannabis and/or cannabis products are present; and
 - b. Be programmed to notify the licensee, licensee representative, or authorized personnel and, unless properly deactivated by user, local law enforcement in the event of an unauthorized entry.
2. **Video Surveillance.** The facility shall have fully operational video surveillance recording system that must (1) have the capability of producing and printing a still photograph from any camera image; (2) be equipped with a failure notification system that provides, within one hour, notification to an authorized representative of surveillance interruption or failure for more than thirty (30) minutes; and (3) have sufficient battery backup to support a minimum of one-hour of recording in time in the event of a power outage. The video surveillance equipment must, at a minimum, consist of:
 - a. High-Definition Cameras that (1) record at a minimum resolution of HD1080p and at least 20 frames per second and (2) capable of recording in both high and low lighting conditions.
 - b. HD Cameras must continuously record, twenty-four (24) hours per day: (1) in all areas where cannabis products may be present, including but not limited to point of sales areas on the licensed premises; (2) all points of ingress and egress to and from areas where cannabis products may be present as well as any entrance or exit door from the premises; (3) all areas in which the dispensary provides parking for cardholders; and (4) all areas in which the dispensary receives medical cannabis products from a third party.
 - c. Video monitors
 - d. Digital archiving or cloud-based storage devices, which must securely archive high-definition 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. A minimum of one monitor on premises capable of viewing video; and

- f. Interface devices to adequately operate system or machinery such as a mouse and keyboard
 3. **Security Guard.** A security guard must be on the premises at all times during operational hours.
 4. **Cannabis Products.** All cannabis products on a dispensary's premises shall be kept in a locked, secured location or enclosure within any area such the cannabis products are not visible from any area outside the licensed premises. Cannabis products shall only be displayed in such a way that prevents access to persons who are not employees.
 5. **Exterior Doors.** The dispensary shall have commercial grade, non-residential door locks installed on every external door, and gate if applicable.
 6. **Exterior Lighting.** All exterior entrances and exits, all parking areas, and all sidewalks adjacent to the dispensary facility shall be lighted at all times after dark.
 7. **Access Control into Dispensary.**
 - a. A dispensary shall maintain control of the premises to ensure only authorized individuals are able to enter using one of the following arrangements:
 1. Stationing an employee at the entry door during all hours of public operation to check for valid identification and control entry to the premises; or
 2. Keeping entry doors locked and using a door buzzer or other means to alert employees that a person wants to enter the premises. An employee must check for valid identification before allowing entry.
 8. **Access Control Into Areas Designated for Retail Sales.** The dispensary shall have a breezeway or lobby area securely locked and partitioned from the dispensary sales floor wherein each customer must remain until the customer's identity, legal age, and registry identification card can be verified before each customer is admitted entry into the dispensary sales area.
 9. **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 dispensary shall be operated only in accordance with the following rules:
1. No person or business entity shall operate a medical cannabis dispensary within the jurisdictional limits of the City of Cleveland unless that person or business entity has (1) obtained a medical cannabis dispensary license from the City; (2) obtained a from the Mississippi Department of Revenue; 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. Dispensaries 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 dispensary shall be confined between the hours of 8:00 a.m. to 8:00 p.m. Monday through Sunday. During normal business hours, the dispensary will:
 1. Sell or transfer cannabis products, along with cannabis paraphernalia, on the licensed premises to individuals upon presentation of a card;
 2. Refuse to sell any item to any person; or
 3. Provide consultations between employees and cardholders.
 4. Dispensaries may conduct the following activities during normal business hours, or two hours before or two hours after normal business hours pursuant to Section 102 of the Mississippi Department of Revenue's Medical Cannabis Dispensary Regulations:
 1. Accept deliveries of permitted items and manage inventory;
 2. Enter transfers or deliveries into the tracking systems;
 3. Conduct employee training; or
 4. Perform administrative work, cleaning, and other maintenance.
 - b. Applicant must inform the Office of Community Development, in writing, and receive approval before conducting the above activities outside of the normal business hours.
 5. There shall be no consumption of cannabis products on the premises.
 6. Each dispensary shall operate in accordance with all applicable local and state laws concerning medical cannabis.
- C. **Inspection.** The dispensary 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 dispensary 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 amount \$2,500.00. 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.
- 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 Transferable.** 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, and begin the approval process for the next applicant.
- 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.

- C. **No other Applicants Considered During Pendency of Appeal.** The 1500 foot buffer zone shall remain in effect during the pendency of an applicant's appeal. The City of Cleveland shall not consider any other applications within the buffer zone during applicant's appeal. If license denial is affirmed by the Board of Aldermen or the Bolivar County Circuit Court, the City may consider the next applicant in line for approval.

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 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 the Director of Community Development, the Director of Community Development's Designee, or 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 cannabis.