

## **AN ORDINANCE FOR THE REGULATION OF MEDICAL CANNABIS BUSINESS ACTIVITIES**

### **I. Short Title.**

This Ordinance shall be known as the Lauderdale County Medical Cannabis Ordinance and referred to herein as the “Ordinance”.

**WHEREAS**, Senate Bill 2095, Mississippi Legislature, Regular Session 2022, "Mississippi Medical Cannabis Act" (the “Act”), passed by the Mississippi Legislature and signed into law by the governor of the State of Mississippi, provides for cannabis consumption, cultivation, disposal, manufacturing, possession, processing, purchase, research, testing and transportation, for medical purposes (collectively “Medical Cannabis Activities” but, for the purposes of these amendments, specifically excluding consumption); and

**WHEREAS**, it is the express intent of the Board of Supervisors (the “Governing Authority”) for Lauderdale County, Mississippi (the “County”) and of this Ordinance, to establish reasonable procedures and regulations for Medical Cannabis Activities to supplement the Act and to incorporate, and where applicable supplement, the rules and regulations adopted, or to be adopted, by the State of Mississippi Department of Revenue and the State of Mississippi Department of Health; and

**WHEREAS**, the regulations, limitations and prohibitions established in this Ordinance are necessary to encourage safe, reasonable and responsible growth of the Medical Cannabis Activities within the County in a manner that reduces negative impacts on the community and environment, increases public awareness, and protects community health, safety and wellbeing while creating a clear and attainable path for Medical Cannabis Activities to follow and authorities to enforce; and

**WHEREAS**, pursuant to § 19-3-40, Mississippi Code Annotated as amended, the Board of Supervisors of Lauderdale County has the authority to enact such ordinances as necessary and in the best interest of the public.

### **II. Legislative Intent.**

These adopted regulations are intended to ensure the public health, safety and welfare of residents of the County, persons engaged in Medical Cannabis Activities including their employees, neighboring property owners, and end users of medicinal cannabis. To this end, these regulations identify criteria and regulations of Medical Cannabis Activities in supplementation to such other laws, requirements and regulations that may be adopted by the State of Mississippi and the Governing Authority applicable to the Medical Cannabis Activities.

### **Section III. General Provisions Applicable to Medical Cannabis Activities**

#### **a. Required Permit in Accordance with State and Local Law:**

- i. Prior to the initiation of any Medical Cannabis Activities, a permit must be obtained from the County planning/permitting department.
- ii. The applicant shall submit to the County planning department such information as required herein, or otherwise reasonably requested by the planning department. The planning department may promulgate forms, and require the use thereof, to accomplish

the intent of this provision the proposed location of the establishment and confirm that such establishment is in compliance with the requisite buffer requirements under the Act.

- iii. The applicant shall further provide a copy of all documents it intends to submit to the Mississippi Department of Health (“DOH”) or Mississippi Department of Revenue (“DOR”), as appropriate, for the required State of Mississippi licensing, including license renewal applications. Unless otherwise waived by the County, applicant shall continue to timely supplement the filed documents with any additional documents provided to, or received from, DOH and DOR that were not originally filed with the County including, but not limited to, annual licenses, license revocations, reports, notices, etc.
- iv. A Medical Cannabis Activities permit may be denied or revoked for failure to comply with the requirements herein or any applicable state or local law, ordinance, code or regulation.

**b. Required Application and Permit Fee:** Due to the unique character of Medical Cannabis Activities including, but not limited to, legal compliance elements, security concerns, potential for nuisances arising from odors, potential for fire hazards, potential for soil and water contamination and like conditions, extensive review of applications not typically associated with other business, is required by multiple departments of the County. Therefore, applicant shall pay to the Planning Department a non-refundable business permit application fee of \$1,000.00 and it shall be renewed annually for a fee of \$500.00.

**c. Site Plans:** Prior to the initiation of any Medical Cannabis Activities, and in addition to any Design Review Application or other County standard development approval process required by the County planning department, the applicant shall submit to the County planning department a comprehensive site plan which, at a minimum, shall include the following:

- i. Property survey, shall meet the following requirements including those required by State law or regulation:
  - (a). Cannabis Cultivation Micro Cultivation Tiers 1-2 and Cultivation Facility Tiers 1-6, shall not be allowed in a platted and recorded subdivision; shall not be allowed in a residential subdivision; shall have a three-acre minimum lot size; shall have a minimum setback of one hundred (100) feet from a side property line; shall have a hard surface access road or driveway;
  - (b). Cannabis Research Facilities shall not be allowed in a platted and recorded subdivision; shall not be allowed in a residential subdivision; shall have a minimum setback of one hundred (100) feet from a side property line;
  - (c). Cannabis Testing Facilities shall not be allowed in a platted and recorded subdivision; shall not be allowed in a residential subdivision; shall have a minimum setback of one hundred (100) feet from a side property line;
  - (d). Cannabis Transportation Facilities shall not be allowed in a platted and recorded subdivision; shall not be allowed in a residential subdivision; shall have a minimum setback of one hundred (100) feet from a side property line; shall have a hard surface access road or driveway;
  - (e). Cannabis Disposal Facilities shall not be allowed in a platted and recorded subdivision; shall not be allowed in a residential subdivision; shall have a minimum setback of one hundred (100) feet from a side property line; shall have a hard surface access road or driveway;

(f). Cannabis Dispensaries shall not be allowed in a platted and recorded subdivision; shall not be allowed in a residential subdivision;

- ii. Odor and ventilation control plan demonstrating that no excessive odor, capable of being detected by persons of normal sense of smell, escapes to neighboring property
  - iii. Lighting plans demonstrating that no excessive light escapes to neighboring property between sunset and sunrise
  - iv. Security plans
  - v. Water and wastewater service plans
  - vi. Materials management plan for proper disposal of related waste at legally authorized disposal sites. If the activities involve storage and use of hazardous materials at a reportable quantity, applicants shall include a hazardous materials management plan.
- d. Remediation Plan: The County planning department may require the submission of a property remediation plan addressing site reclamation in the event the approved Medical Cannabis Activity ceases to remain active for 12 or more consecutive months. Such plan may require, in the discretion of the County, the posting of a surety bond or letter of credit in an amount sufficient to cover the costs of the proposed remediation plan.
- e. Inspections: All operators of Medical Cannabis Activities shall allow access by County code enforcement officers, law enforcement officers or other agents or employees requesting admission for the purpose of determining compliance with these standards, and further consent to an annual on-site compliance inspection, with at least 24 hours prior notice, to be conducted by appropriate County officials during regular business hours (Monday – Friday. 9:00 am – 5:00 pm. excluding holidays). Such inspections may include inspection of the facility, equipment, books, records, licenses and real and personal property that are a part of the Medical Cannabis Activities.

### **Section III. Hours of Operation**

Allowed hours of active operation for the following Medical Cannabis Activities shall be limited to the hours set forth below:

- i. Dispensary facility shall be limited to 8:00 a.m. to 7:00 p.m., Monday through Sunday.

Inactive operations of minimal activity, such as security surveillance are not limited by these hours of operation.

### **Section IV: Applicability**

This Ordinance shall apply to and be enforced within the unincorporated boundaries of the County.

All requirements of all state and local laws, ordinances, codes and regulations shall be met, and licenses for operation shall be obtained from Mississippi Department of Health or Mississippi Department of Revenue, and maintained in good standing at all times. To the extent state law or regulation are more restrictive and/or in direct conflict with the provisions herein, state law shall control.

Expressly incorporated herein are the following state regulations which are made a part of this ordinance:

1. Dispensary Regulations (DOR)
2. Work Permit Regulations (DOH)
3. Testing Facility Regulations (DOH)
4. Advertising and Marketing Regulations (DOH)
5. Cultivation Regulations (DOH)
6. Processing Facility Regulations (DOH)
7. Commercial Transportation Regulations (DOH)
8. Disposal Regulations (DOH)

**Section V: Enforcement**

1. A violation of any provision of this Ordinance or any state or local laws, regulations, ordinances or codes applicable to Medical Cannabis Activities shall be deemed to be a public nuisance and subject to enforcement as set forth herein.

Any Lauderdale County Deputy Sheriff who observes any violation of this ordinance, or finds probable cause exists that a violation of this ordinance has occurred, may issue a citation to operator of the Medical Cannabis Activities noting the offending conditions and charging him/her/it with a violation of this ordinance and setting a date and time certain for a hearing in the Lauderdale County Justice Court. Any such deputy may rely upon the sworn affidavit of any person he finds to be reliable as sufficient probable cause to proceed under this provision. Any deputy may, in lieu of issuing a citation, file an affidavit in the Lauderdale County Justice Court, specifically noting the offending conditions and charging a violation of this ordinance.

As an alternative to the procedures set forth above, any member of the public may swear out an affidavit with the Lauderdale County Justice Court setting forth the sufficient facts and details of the offending conditions and charging the operator of the Medical Cannabis Activities with a violation of this ordinance.

Upon receipt of any charging affidavit, as described above, the Lauderdale County Justice Court shall then process the affidavit, in the same manner as affidavits asserting a violation of a criminal statute, so as to bring about the enforcement of this ordinance.

2. Any person violating any provision of this Ordinance, for which no penalty is otherwise specifically provided for, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than one hundred (\$100.00) nor more than two hundred dollars (\$250.00) for a first offense. For any second offense occurring within a two (2) year period of time, a fine in the amount of not less than two hundred-fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00), and/or a period of incarceration not to exceed thirty (30) days shall be imposed. For any third or subsequent offense occurring within a two (2) year period of time there shall be assessed a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) and/or a period of incarceration not to exceed one hundred and eighty (180) days. No portion of any fines assessed may be suspended. Each violation of any provision of this ordinance shall be deemed a separate offense.

The Court, in addition to the penalties provided herein, may order the person violating this ordinance to pay restitution to any person suffering damages resulting from the violation.

3. The County may seek to abate the violation of this Ordinance or any state or local laws, regulations, ordinances or codes applicable to Medical Cannabis Activities by the prosecution of a civil action, including an action for injunctive relief. Such injunctive relief may take the form of a court order prohibiting ongoing violations and/or requiring compliance with this Ordinance.

In the event the County is the prevailing party, the Court, in addition to the penalties provided herein, the County will be entitled to the recovery of the cost of prosecuting the civil action including, but not limited to, the administrative costs of the County to inspect, investigate, and pursue compliance with this Ordinance, Court filing fees, expert witness expenses and reasonable attorney fees.

4. In addition to the penalties above, there shall be imposed a civil fine of two hundred dollars (\$200.00) per day, per violation of this Ordinance or any state or local laws, regulations, ordinances or codes applicable to Medical Cannabis Activities, which shall continue to accrue for each day of each violation until the violation is abated. Such fine shall begin to run 72 hours after proper notice of a violation has been provided to the operator of the Medical Cannabis Activities and continue for so long as the noticed violation continues to occur. Notice of the fine assessment shall be provided by personal notice hand delivered to the operator, or certified mail, or the notice is posted upon the property in a conspicuous place.
5. The remedies and penalties above are cumulative to all other remedies available to the County by law.

#### **Section VI: Effective Date**

Due to the immediate need to protect the health, safety and welfare of the public, **this Ordinance shall be in force and effect from and after its passage** and shall remain in effect until such time as it is properly repealed or amended.

#### **Section VII: Severability**

If any provision of this Ordinance is ruled illegal, unconstitutional or otherwise unenforceable by a Court of competent jurisdictions, the remaining provisions shall continue in full force and effect.

#### **Section VIII: Conflict**

Any other ordinances of the County which are conflicting or inconsistent with this ordinance, are hereby repealed to the extent of any inconsistencies or conflicts.

#### **Section XI: Ordinance Cumulative**

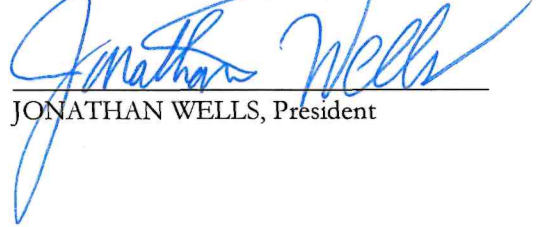
This Ordinance shall be cumulative and in addition to any other laws in force.

#### **Section X: Repealer**

All ordinances and amendments prior hereto establishing guidelines and regulations for Abandoned Property within Lauderdale County, Mississippi, are repealed by the enacting of this ordinance.

SO ORDERED AND ADOPTED by the Board of Supervisors of the County of Lauderdale, Mississippi, on and effective this the 15<sup>th</sup> day of December, 2022.

LAUDERDALE COUNTY, MISSISSIPPI


  
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JONATHAN WELLS, President

  
ATTEST:  
  
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Clerk, Board of Supervisors

STATE OF MISSISSIPPI  
COUNTY OF LAUDERDALE

I, the undersigned Clerk of the Board of Supervisors of Lauderdale County, Mississippi, do hereby certify that the above and foregoing Ordinance was passed by the Lauderdale County Board of Supervisors on the day above mentioned.

IN TESTIMONY WHEREOF, witness my hand and official seal of the Lauderdale County Board of Supervisors on this the 15<sup>th</sup> day of December, 2022.

  
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CLERK, BOARD OF SUPERVISORS

