

**MINUTE BOOK NO. E-3 - CITY OF BATESVILLE, MISSISSIPPI**

JULY 19, 2022

**IN RE: APPROVAL TO ADOPT ORDINANCE - MEDICAL CANNABIS ESTABLISHMENTS**

Upon motion of Alderman Morrow and second of Alderman Harrison and upon unanimous vote taken, the following Ordinance was adopted, with changes as discussed:

**AN ORDINANCE FOR THE REGULATION OF MEDICAL CANNABIS BUSINESS ESTABLISHMENTS****SECTION I. Short Title**

This Ordinance shall be known as the City of Batesville 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 certain Medical Cannabis Establishments, namely: Cannabis Cultivation Facilities, Cannabis Disposal Entities, Cannabis Processing Facilities, Cannabis Research Facilities, Cannabis Testing Facilities, Cannabis Transportation Entities, and Medical Cannabis Dispensaries (collectively "Medical Cannabis Establishments"), and

**WHEREAS**, it is the express intent of the Mayor and Board of Aldermen (the "Governing Authority") for the City of Batesville, Mississippi (the "City") and of this Ordinance, to establish reasonable time, place, and manner procedures and regulations for Medical Cannabis Establishments 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 ["DOR"] and the State of Mississippi Department of Health ["DOH"], and

**WHEREAS**, the regulations, procedures, limitations, and prohibitions established in this Ordinance are necessary to encourage safe, reasonable and responsible operation of Medical Cannabis Establishments within the City 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 Establishments to follow and authorities to enforce, and

**WHEREAS**, pursuant to § 21-19-1 et seq., Mississippi Code Annotated as amended, the Board of Aldermen of the City of Batesville has the authority to enact such ordinances as necessary and in the best interest of the public.

**SECTION II. Legislative Intent**

These adopted regulations are intended to ensure the public health, safety and welfare of residents of the City, persons engaged in Medical Cannabis Establishments including their employees, neighboring property owners, and end users of medical cannabis. To this end, these regulations identify criteria and regulations of Medical Cannabis Establishments 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 Establishments.

**SECTION III. General Provisions Applicable to Medical Cannabis Establishments****a. Required Privilege Permit in Accordance with State and Local Law:**

- i. Prior to the initiation of any Medical Cannabis Establishments, a business privilege license as required by state law must be obtained from the City Clerk.

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- ii. Prior to the initiation of any Medical Cannabis Establishments, a Medical Cannabis Permit must be obtained from the City Clerk.
  - iii. An applicant seeking a Medical Cannabis Permit shall submit information to the City Clerk in conformity with such forms and procedures as the Clerk may prescribe. The Clerk is hereby authorized to promulgate forms to accomplish the intent of this provision.
  - iv. 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 City, 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 City including, but not limited to, annual licenses, license revocations, reports, notices, etc.
  - v. A Medical Cannabis Establishment Permit may be denied or revoked for failure to comply with the requirements herein or any applicable state law or regulation.
- b. Required Application and Permit Fee: Due to the unique character of Medical Cannabis Establishments 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 City. Therefore, applicant shall pay to the City Clerk a non-refundable application fee of Two Thousand Five Hundred and no/100 Dollars (\$2,500.00) and it shall be renewed annually for a non-refundable fee of One Thousand and no/100/Dollars (\$1,000.00).
- c. Site Plans: Prior to the initiation of any Medical Cannabis Establishments, and in addition to any other standard development approval or Design Review Application required by the City of Batesville Code Office, the applicant shall submit to the City Planning Commission a comprehensive site plan which, at a minimum, shall include the following:
- i. Property survey
  - 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.

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- vii. There shall be no outdoor storage, display, sales, or dispensing of Medical Cannabis. All signage and advertising of any nature shall conform to the City Sign Ordinance and applicable State Medical Cannabis regulations.
  
- viii. Medical Cannabis Establishments shall have sufficient off-street parking for Medical Cannabis Establishments. No on-street parking by customers will be allowed. State regulations and the City's Parking Ordinance are applicable.
  
- d. Remediation Plan: The City Planning Commission [City Code Office ?] may require the submission of a property remediation plan addressing site reclamation in the event the approved Medical Cannabis Establishments ceases to remain active for twelve (12) or more consecutive months. Such plan may require, in the discretion of the City, 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 Establishments shall allow access by City Code Office officers, law enforcement officers or other agents or employees requesting access for the purpose of determining compliance with these standards and other applicable City standards and regulations, and further consent to an annual on-site compliance inspection, with at least 24 hours prior notice, to be conducted by appropriate City 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, permits and real and personal property that are a part of the Medical Cannabis Establishments and a business conducted at the Establishment.

**SECTION IV. Hours of Operation**

Hours of active operation of Medical Cannabis Establishments shall not exceed the hours set forth below, unless the Governing Authority determines different hours of operation as stated in the City Permit.

- i. Cannabis Cultivation Facilities shall be limited to 7:00 o'clock a.m. to 7:00 o'clock p.m., Monday through Sunday.
- ii. Cannabis Processing Facilities shall be limited to 7:00 o'clock a.m. to 7:00 o'clock p.m., Monday through Sunday.
- iii. Cannabis Testing Facilities shall be limited to 7:00 o'clock a.m. to 7:00 o'clock p.m., Monday through Sunday.
- iv. Cannabis Research Facilities shall be limited to 7:00 o'clock a.m. to 7:00 o'clock p.m., Monday through Sunday.
- v. Cannabis Disposal Facilities shall be limited to 7:00 o'clock a.m. to 7:00 o'clock p.m., Monday through Sunday.
- vi. Medical Cannabis Dispensary Facilities shall be limited to 7:00 o'clock a.m. to 7:00 o'clock p.m., Monday through Saturday (closed Sunday).
- vii. Cannabis Transportation Facilities shall be limited to 7:00 o'clock am. to 7:00 o'clock p.m., Monday through Sunday.

Inactive or passive operations of minimal activity, such as security surveillance, automated irrigation and "grow lighting," are not limited by these hours of operation.

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**SECTION V. Applicability**

- a. All requirements of all state and local laws, ordinances, codes and regulations shall be met, and licenses for operation shall be obtained from the Mississippi Department of Health or Mississippi Department of Revenue as applicable, and maintained in good standing at all times. To the extent state law or regulations are more restrictive and/or in direct conflict with the provisions herein, state law shall control.
- b. Expressly incorporated herein are the following state regulations which are made a part of this ordinance:
  1. Medical Cannabis Dispensary Regulations (DOR)
  2. Work Permit Regulations (DOH)
  3. Cannabis Testing Facility Regulations (DOH)
  4. Advertising and Marketing Regulations (DOH)
  5. Cannabis Cultivation Facility Regulations (DOH)
  6. Cannabis Processing Facility Regulations (DOH)
  7. Cannabis Transportation Entity Regulations (DOH)
  8. Cannabis Disposal Regulations (DOH)
- c. "Medical Cannabis Establishment", "Cannabis Cultivation Facility", "Cannabis Processing Facility", "Cannabis Testing Facility", "Medical Cannabis Dispensary", "Cannabis Transportation Entity", "Cannabis Disposal Entity", and "Cannabis Research Facility" have the meanings as set forth in the Act.

**VI. Location of Medical Cannabis Dispensaries.**

No Medical Cannabis Dispensary may be located within a three thousand feet (3,000') radius from the main point of entry of the Dispensary to the main point of entry of another Medical Cannabis Dispensary.

**VII. Enforcement**

1. A violation of any provision of this Ordinance or any state or City laws, regulations, ordinances, or codes applicable to Medical Cannabis Establishments shall be deemed to be a public nuisance and subject to enforcement as set forth herein.
2. Any person violating any provision of this Ordinance or any other ordinance or regulation of the City of Batesville for which no penalty is otherwise specifically provided for, or violating any provision of any applicable state laws or regulations for which no penalty is otherwise specifically provided for, shall be deemed guilty of a misdemeanor and shall be punished by a fine of Two Hundred Fifty and no/100 Dollars (\$250.00) for the first offense. For a second offense occurring within a two (2) year period of time, a fine in the amount of Five Hundred and no/100 Dollars (\$500.00), and/or a period of incarceration not to exceed thirty (30) days shall be imposed. For a third or subsequent offense occurring within a two (2) year period of time there shall be assessed a fine of One Thousand and no/100 Dollars (\$1,000.00) and/or a period of incarceration not to exceed one hundred and eighty (180) days. Each violation of any provision of this ordinance shall be deemed a separate offense. Each day of violation is a separate, continuing 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 City may seek to abate the violation of this Ordinance or any state or local laws, regulations, ordinances or codes applicable to Medical Cannabis Establishments by

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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. The City may also proceed as necessary under Miss. Code Ann. Section 21-19-11

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

4. The remedies and penalties above are cumulative to all other remedies available to the City by law.

**SECTION VIII. Effective Date**

Due to the immediate need to protect and preserve the peace, 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 IX. 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 X. Conflict**

Any other ordinances of the City 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, ordinances, and regulations in force.

Passage of this Ordinance is now official and the same shall take effect upon passage and be enforced as provided by law.

ADOPTED, ORDAINED AND APPROVED this 19th day of July, 2022.

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HAL FERRELL, Mayor

ATTEST:

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SUSAN S. BERRYHILL, CITY CLERK

