

CITY OF FLEMINGSBURG, KENTUCKY
ORDINANCE NO. 7-24-1

**AN ORDINANCE RELATING TO THE REGULATION OF CANNABIS
BUSINESS OPERATIONS WITHIN THE CITY OF FLEMINGSBURG,
KENTUCKY**

WHEREAS, on April 15, 2024, the Kentucky General Assembly adopted House Bill 829, signed into law by the Governor on April 17, 2024, amending KRS Chp. 218B, the Kentucky Medical Cannabis chapter; and

WHEREAS, KRS §§218B.130 authorizes local governments to regulate cannabis business operations within their territory through the passage of an ordinance; and

WHEREAS, it is necessary and appropriate, and in the best interest of the health, safety, and welfare of the City of Flemingsburg's residents and members of the public who visit, travel, or conduct business in the City of Flemingsburg to regulate all cannabis business operations within the City of Flemingsburg;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY
OF FLEMINGSBURG, KENTUCKY:**

SECTION 1: PURPOSE

- A. It is the purpose of this ordinance to authorize the establishment of certain types of medical cannabis businesses in the City of Flemingsburg, Kentucky and provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the character of the neighborhoods; and mitigate potential impacts on surrounding properties and persons. It is also the intent of this ordinance to help defray administrative and enforcement costs associated with the operation of a cannabis business in the City of Flemingsburg, Kentucky.
- B. Nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marijuana in any form that is not in compliance with Kentucky Revised Statutes or Kentucky Administrative Regulations.
- C. As of the effective date of this ordinance, marijuana remains classified as a Schedule I controlled substance under the Federal Controlled Substances Act, 21 U.S.C. Sec. 801 et seq., which makes it unlawful to manufacture, distribute, or dispense marijuana, or possess marijuana with intent to manufacture, distribute, or dispense marijuana. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under federal laws.

SECTION 2: DEFINITIONS

- A. For the purpose of this ordinance:

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- a. Any term defined by Kentucky Revised Statute 218B.010 or Kentucky Administrative Regulation 915 KAR 1:001 shall have the same definition for the purposes of this ordinance.

SECTION 3: AUTHORIZATION OF FACILITIES AND FEE

- A. The maximum number of each type of cannabis business allowed in the City of Flemingsburg shall be as follows:
 - a. Cultivator- One
 - i. Cultivator may be a Tier I, Tier II, Tier III, or Tier IV facility as defined by the Kentucky Medical Cannabis Program.
 - ii. This entity may also obtain a "Producer" license through the Commonwealth of Kentucky and operate under this license within the city limits.
 - b. Processor- One
 - c. Safety Compliance Facility- One
 - d. Dispensary- One

- B. At least every three years after the adoption of this ordinance, the Ewing, Flemingsburg, and Fleming County Planning Commission shall review the maximum number of each type of cannabis business allowed and determine whether this maximum number should be changed. This review and finding should be recorded in the minutes of the relevant meeting and submitted to the Flemingsburg City Council for consideration.

- C. A cannabis business operating within the city limits of Flemingsburg, Kentucky shall have a business license. In addition to the usual fee charged for a business license a cannabis business shall pay an annual nonrefundable fee of not more than \$5,000.00 to help defray the administrative and enforcement costs associated with the operation of a cannabis business.
 - a. The initial fees shall be set as follows:

i. Cultivator I-	Annual fee of \$1,200.00
ii. Cultivator II-	Annual fee of \$2,500.00
iii. Cultivator III-	Annual fee of \$5,000.00
iv. Cultivator IV-	Annual fee of \$5,000.00
v. Processor-	Annual fee of \$2,500.00
vi. Cultivator/ Producer-	Annual fee of \$5,000.00
vii. Dispensary-	Annual fee of \$3,000.00
viii. Safety Compliance Facility-	Annual fee of \$1,200.00

- v. The City Council of the City of Flemingsburg shall review this annual fee at least once every three (3) years to determine if a new fee schedule should be enacted.

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- w. No cannabis business shall operate within the City of Flemingsburg without first paying this annual fee.
- x. In addition to the annual, nonrefundable fee, licensed dispensary(s) shall collect a five percent (5%) regulatory fee on the sale of cannabis products and this fee shall be remitted to the City of Flemingsburg.
 - a. Regulatory fees shall be paid on or before the twentieth (20) day of the month for the preceding month.
- y. In accordance with KRS 218B.130 the reasonable established local fees shall be established, assessed, collected, and shared between the city and the county, in a manner to be negotiated between the city and the county.
- z. Nothing in this ordinance shall preclude the Fleming County Fiscal Court from assessing an additional reasonable fee on any cannabis business to compensate for any additional corrections impact caused by the approval of cannabis business operations.
 - a. This fee may be collected by the City of Flemingsburg and remitted to the County as part of an interlocal agreement.

SECTION 4: REQUIREMENTS AND PROCEDURE FOR ISSUING LICENSE

- A. No person or entity shall operate a cannabis business within the City of Flemingsburg without a valid business license issued by the City of Flemingsburg pursuant to the provisions of this ordinance.
- B. Every applicant for a business license to operate a cannabis business shall file an application with the Office of the City Clerk upon a form provided by the City of Flemingsburg.
- C. Every applicant for a business license to operate a cannabis business shall submit with the application a photocopy of the applicant's valid and current license issued by the Commonwealth of Kentucky in accordance with the Kentucky Medical Cannabis Program.
- D. Upon an applicant's completion of the above-provided form and furnishing of all required information and documentation, the City Clerk or their designee shall accept the application and assign it a business license number. This business license shall be considered a provisional license.
- E. A provisional license means only that the applicant has submitted a valid application for a business license, and the applicant shall not locate or operate a cannabis business without obtaining all other permits and approvals required by all other applicable ordinances and

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regulations of the City of Flemingsburg. A provisional license will lapse and be void if such permits and approvals are not completed within one hundred and eighty (180) days of the issuance of the provisional license.

- F. Within fourteen (14) days from the applicant submitting proof of obtaining all other required permits and approvals and payment of the license fee, the City Clerk or their designee shall approve a business license allowing the cannabis business to operate within the city limits of the City of Flemingsburg.
- G. Maintaining a valid cannabis business license issued by the Commonwealth of Kentucky is a condition for the issuance and maintenance of a cannabis business license under this ordinance and continued operation of any cannabis business.
- H. A business license to operate a cannabis business issued under this ordinance is not transferable.

SECTION 5: LICENSE RENEWAL

- A. A business license to operate a cannabis business shall be valid for one year from July 1st until June 30th, unless revoked as provided by law.
 - a. Business licenses for a cannabis business obtained after July 1st shall be valid until June 30th of the following year.
 - i. The fee for this business license shall not be prorated.
- B. A valid business license to operate a cannabis business may be renewed on an annual basis by submitting a renewal application upon a form provided by the City of Flemingsburg and payment of the annual fee.
 - a. This business license will be valid from July 1st of each year to June 30th of the following year.
- C. Application to renew a business license to operate a cannabis business shall be filed at least thirty (30) days prior to the date of its expiration.

SECTION 6: INSPECTIONS AND INVESTIGATIONS

- A. The Flemingsburg Police Department and/ or the Flemingsburg Code Enforcement Officer may conduct announced or unannounced inspections and investigations to determine the licensee's compliance with KRS Chapter 218B, 915 KAR Chapter 1, this ordinance and compliance with the International Building Code.
 - a. These inspections and investigations shall occur during regular working hours and at other reasonable times.

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SECTION 7: TIME, DATE AND PLACE OF OPERATION

- A. All cannabis business, with the exception of a dispensary, may operate twenty-four (24) hours a day, seven (7) days a week.
- B. Dispensary(s) may be open to the public between the hours of 8:00 a.m. to 6:00 p.m. Monday through Saturday. Dispensary(s) shall be closed to the public between 6:00 p.m. and 8:00 a.m. Monday through Saturday. Dispensary(s) shall remain closed to the public on Sunday.
- C. The site of a proposed cannabis business shall not be located within one thousand (1,000) feet of an existing elementary school, secondary school, or a daycare. For purposes of this ordinance, one thousand (1,000) feet shall be measured in a straight line from the nearest property line of an existing school, secondary school, or daycare center to the nearest property line of the applicant's proposed place of business.
- D. Cannabis businesses defined as a cultivator, processor or producer shall only be located in areas zoned by the City of Flemingsburg as either I-1 (light industrial) or I-2 (general/heavy industrial).
- E. Dispensary(s) shall only be located in areas zoned by the City of Flemingsburg as either C-1 (Commercial) or C-B-D (Central Business District).
- F. Safety Compliance Facility shall only be located in areas zoned by the City of Flemingsburg as either C-1 (Commercial), I-1 (light industrial) or I-2 (general/heavy industrial).

SECTION 8: EXTERIOR SIGNAGE OF CANNABIS DISPERSARY

- A. Exterior signage may only, at most, include text that is the licensee's (1) business or trade name; (2) location and contact information; and (3) business type. Exterior signage cannot include a licensee's logo, symbol, branded colors, or any images, including, but not limited to, depicting cannabis/ cannabis products or the imagery or action of smoking/ vaping. Exterior signs also cannot include mottos, selling messages, or any other non-essential text. Exterior signs must be on the same parcel as the store and affixed to a building or permanent structure (e.g., signpost). Exterior signage cannot be larger than necessary to reasonably display the information on the sign to individuals within or near the licensed premises and cannot be illuminated by neon lights.

SECTION 9: APPLICABILITY

- A. The provisions of this ordinance shall be applicable to all persons, entities and facilities described herein.

SECTION 10: PENALTIES AND ENFORCEMENT

- A. Any person who violates any of the provisions of this ordinance shall be responsible for a civil

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fine of not more than \$500.00 for each violation. Each day a violation of this ordinance continues to exist constitutes a separate violation. A violator of this ordinance shall also be subject to such additional sanctions, remedies, and judicial orders as are authorized by Kentucky law.

- B. A violation of this ordinance is deemed to be a nuisance per se. In addition to any other remedy available at law, the City of Flemingsburg may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this ordinance.
- C. This ordinance may be enforced and administered by any officer of the City of Flemingsburg Police Department, the Code Enforcement Officer, or other such official as may be designated from time to time by the Mayor of Flemingsburg.

SECTION 11: SEVERABILITY

- A. In the event that any one of more sections, provisions, phrases, or words of this ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or enforceability of the remaining sections, provisions, phrases, or words in this ordinance.

SECTION 12: EFFECTIVE DATE

- A. This Ordinance shall be effective upon two (2) readings thereof, passage by roll call vote adopting same, mayoral approval, and publication in full.

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FIRST READING

The first reading of this Ordinance was had on the 10th day of June, 2024.



Katie Adamson, City Clerk

SECOND READING

The second reading of this Ordinance was had on the 8th day of July 2024, and upon a roll call vote was adopted by the City Council of the City of Flemingsburg, Kentucky.

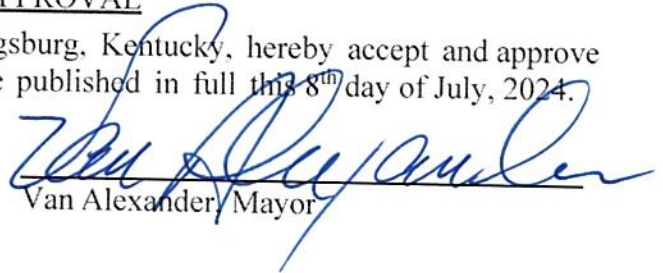
Marty Voiers	<u>For</u>
Alan Davis	<u>For</u>
Meredith Story	<u>For</u>
Danny Carpenter	<u>For</u>
Angie Graham	<u>For</u>
Terry McKee	<u>For</u>



Katie Adamson, City Clerk

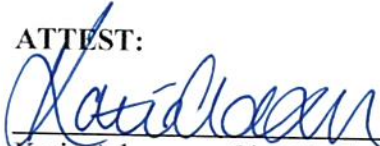
MAYORAL APPROVAL

I, Van Alexander, Mayor of the City of Flemingsburg, Kentucky, hereby accept and approve the foregoing Ordinance and direct same to be published in full this 8th day of July, 2024.



Van Alexander, Mayor

ATTEST:



Katie Adamson, City Clerk

PREPARED BY:



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