

**COMMISSIONERS' ORDINANCE NO. O-xx-24**

AN ORDINANCE AMENDING CHAPTER 128 OF THE COVINGTON CODE OF ORDINANCES, TITLED "MEDICAL CANNABIS", CREATING A LICENSING STRUCTURE FOR MEDICINAL CANNABIS BUSINESSES PURSUANT TO THE AUTHORITY GRANTED IN KRS 218B.090 AND 218B.130.

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WHEREAS, on April 15, 2024, the Kentucky General Assembly adopted House Bill 829, which was signed into law by the Governor on April 17, 2024, amending KRS 218B, the Kentucky law permitting medical cannabis; and

WHEREAS, On August 13, 2024, the City of Covington Board of Commissioners created Chapter 128 of the Covington Code of Ordinances to permit the sale of medical cannabis and the operation of medical cannabis businesses within the City of Covington; and

WHEREAS, KRS 218B.130 permits local government to enact ordinances related to medical cannabis that are not less restrictive and relate to the time, place, and manner of cannabis business operations so long as the ordinance does not impose an undue burden or make cannabis business operations unreasonable or impractical; and

WHEREAS, KRS 218b.130(b)(2) authorizes local governments to establish and assess reasonable local fees to compensate for any additional costs caused by the operation of cannabis businesses within its territory, so long as those fees do not exceed the additional costs caused by the operation of cannabis businesses.

NOW THEREFORE,  
BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY AS FOLLOWS:

Section 1

Chapter 128 of the Covington Code of Ordinances is hereby amended to read as follows:

**CHAPTER 128: MEDICAL CANNABIS**

**§ 128.01 DEFINITIONS.**

The definitions within KRS 218B.010 are hereby adopted and incorporated by reference as if fully rewritten herein.

**APPLICANT. Any person who applies for a license under Chapter 128.**

**LICENSEE. Any person who has applied for and been granted a license to operate a medical cannabis business by the City of Covington.**

**CITY SOLICITOR. Shall mean the City Solicitor or his/her designee.**

§ 128.02 SALE OF MEDICAL CANNABIS AND OPERATION OF ALL MEDICAL CANNABIS BUSINESSES PERMITTED.

**§ 128.03 HOURS OF OPERATION.**

**A dispensary shall only dispense medicinal cannabis to a cardholder in an indoor, enclosed, secure facility between the hours of 8 a.m. and 8 p.m.**

**§ 128.04 USE OF REVENUE.**

**All moneys derived from the collection of licensure application fees, initial licensing fees, and licensure renewal fees provided for herein shall be paid into and become a part of the General Fund of the City to be used to compensate for any additional costs caused by the operation of cannabis businesses.**

**§ 128.05 CITY SOLICITOR TO ADMINISTER.**

**(A) Action on license application; appeals.**

**(1) When an application is filed with the City Solicitor for a license to do business in accordance with the provisions of this chapter, the City Solicitor shall either approve or disapprove the application in accordance with this Chapter.**

**(2) Appeals from order of the City Solicitor shall be heard by the Board of Commissioners.**

**§ 128.06 LICENSING AND FEES.**

**(A) Licenses required.**

**(1) Schedule of licenses and fees.**

**a. For the privilege of operating a Medicinal Cannabis Business in the City, there is hereby established a corresponding City license for each of the state licenses described in the following schedule.**

**b. The actions, business and transactions authorized and permitted thereby shall be the same as those of the state licenses to which the City licenses correspond and which are**

**indicated and described in the sections of state law indicated in the following schedule, and no person shall engage in any such action, business or transaction within the City without having first obtained the applicable state and City licenses to do so. The fees for such City licenses shall be as indicated in the following schedule and shall be per annum unless otherwise specified.**

<b><u>Cultivator.....</u></b>	<b><u>\$500</u></b>
<b><u>Dispensary.....</u></b>	<b><u>\$500</u></b>
<b><u>Processor.....</u></b>	<b><u>\$500</u></b>
<b><u>Producer.....</u></b>	<b><u>\$500</u></b>
<b><u>Cannabis safety compliance facility...</u></b>	<b><u>\$500</u></b>

**(2) Delinquent financial claims. No license for the sale, production, cultivation, or transport of medicinal cannabis shall be granted or renewed for the operation on any premises, or to any person, firm, partnership or corporation, who is not in compliance with City of Covington Code of Ordinances § 35.003.**

**(3) Required Business and Premises Security. No person shall cultivate, process, produce, possess, test, transfer, transport, or sell medicinal cannabis or otherwise operate a cannabis business without first taking reasonable measures to ensure the security and protection of the facility (and its contents) and persons working within the facility. All Medical Cannabis Businesses must take, at minimum, the following security measures:**

- a. 24/7 monitoring and continuously recording surveillance video cameras in 1080p quality or better, covering all areas inside the business where medicinal cannabis or coins/currency are located and the full perimeter outside the business premises in the case of a standalone building or, in the case where the business is not located in a standalone building, at all points of entry and exit, including windows;**
- b. Alarm systems covering interior and perimeter;**
- c. Badging and tracking of all employees and visitors;**
- d. Personnel security during non-business hours; and**
- e. Secure storage areas and entrances with locks.**

**(B) License application; contents.**

**(1) Any person desiring to engage in a Medicinal Cannabis Business, before so doing, shall file with the City Solicitor an application on forms provided by the City, which shall be verified and contain the following information:**

- (a) The name, age, email address, phone number, address and residence of each applicant and if there is more than one and they are partners, the partnership, names and their addresses; and, if the applicant is a corporation, the application shall contain the name and address of the corporate officers, the board of directors, any stockholder that owns more than 50% of the stock and the name and address of the agent for service of process;
- (b) The proposed legal name of the cannabis business;
- (c) Identification of each type of proposed Medicinal Cannabis Business operating at that location (Cultivator, Dispensary, Producer, Processor, Safety Compliance Facility);
- (d) Whether or not the applicant is a citizen and resident of the state and for what period of time;
- (e) The name and address of each person interested or to become interested in the business for which the license is being sought, together with the nature of that interest, and if the applicant is a corporation; the names, addresses and agents of each officer, director and managerial employee and the name of the state under the law of which such corporate applicant is incorporated;
- (f) The street and number of the premises to be licensed, whether or not the applicant is the owner of such premises or what interest he or she has therein and the name and address of any other person, either as principal or associate, who is interested with applicant either in the premises or in the business to be licensed;
- (g) A list (with sufficient evidence to confirm) of measures taken by the applicant to ensure the security and protection of the facility (and its contents) and persons working within the facility during and after business hours.
- (h) A statement that the applicant will, in good faith, abide by every statute, federal or state, and the ordinances of the City relating to Medicinal Cannabis that may or shall be in force pertaining thereto; and
- (i) Zoning approval in accordance with the Neighborhood Development Code;
- (j) An affidavit confirming that the applicant complies and shall continue to comply with all aspects of the applicable building

codes, fire codes, and all other applicable state and local laws or regulations.

**(k) An affidavit confirming that no prospective board members who managed or served on the board was convicted, fined, censured, or had a registration or license suspended or revoked in any administrative or judicial proceedings.**

**(l) An affidavit confirming that no principal officer, board member, agent, volunteer, or employee has been convicted of a disqualifying felony offense; or is younger than twenty-one (21) years of age and that no employee, board member, or owner, in part or in whole, is a medicinal cannabis practitioner.**

**(m) A copy of their State issued license for the same purpose and location as evidenced in the application. No person shall cultivate, process, produce, possess, test, transfer, transport, or sell medicinal cannabis or otherwise operate a cannabis business without first obtaining a license from the State pursuant to KRS 218B.080.**

**(2) If the City Solicitor is satisfied that the license should be granted, a license shall be issued to the applicant.**

**a. Contents of license. All licenses issued pursuant to this section shall contain the following information.**

**(1) The name and address of the Licensee;**

**(2) The type of license;**

**(3) A description by street and number of the licensed premises;**

**(4) The name and address of the owner of the building in which the licensed premises are located; and**

**(5) A statement in substance that the license shall not be a property or vested right and that it may be revoked or suspended at any time pursuant to law.**

**(6) The name and address of the owner of the building in which the licensed premises are located; and**

**b. Licenses; expiration date. All Medicinal Cannabis Business licenses and renewals shall expire upon the earlier of (1) December 31<sup>st</sup> following the most recent application or renewal; (2) the revocation of any licenses or permits issued**

by the Commonwealth of Kentucky authorizing the entity to operate the Medicinal Cannabis Business.

(C) Certified check required; refund on rejection. All applications filed for a license pursuant to this section shall be accompanied by a certified check in the amount of the cost of the license applied therefor. If the application for the license shall be rejected, the check shall be immediately returned to the applicant.

(D) Change in fact situation after issuance of license; supplemental statements. If, after a license has been issued, there is a change in any of the facts required to be set forth under this section, a verified supplemental statement, in writing, giving notice of such change shall be filed with the City Solicitor within twenty (20) days after such change occurs.

(E) Conditions of premises.

(1) No license for a Medicinal Cannabis Business shall be issued for any premises, unless the applicant for the license is the owner of the premises or is in possession of the premises under a written lease for a term not less than the license period.

(2) Location of premises to be licensed. No license for a Medicinal Cannabis Business shall be issued for any premise that is located within 1,000 feet of an existing child-care center, as defined by KRS Chapter 199.894(3), family child-care home, as defined in KRS Chapter 199.894(5), or a registered childcare provider in the Child Care Assistance Program, as regulated by 922 KAR 2:180;

(F) Display of license; duplicate licenses.

(1) Before commencing or doing any business for the time for which a license has been issued, the license shall be posted and at all times displayed in a conspicuous place in the room or principal room where the business is carried on so that all persons visiting the place may readily see the license.

(2) Whenever a license is lost or destroyed without the fault of the Licensee or his or her agent or employee, a duplicate license shall be issued on proof of loss satisfactory to the City Solicitor and upon the payment of a fee of \$5.

(G) Refusal or Revocation of a License

(1) Qualification of Licensee. The City Solicitor shall refuse to issue a license or renew the license of an existing

**Medicinal Cannabis Business in the following circumstances:**

- i. When the Applicant intentionally or knowingly makes a false statement as to a material matter in an application;**
- ii. When the Applicant fails to complete any part of the application;**
- iii. When the Licensee has failed to pay any fee, tax, fine, or penalty related to a violation of this Article;**
- iv. When the Medicinal Cannabis Business is subject to unsatisfied penalties, fines, liens assessed or levied by the Government, for any reason;**
- v. When the Applicant of the Medicinal Cannabis Business cannot provide Sufficient Evidence that the location of the proposed Medicinal Cannabis Business is not within 1,000 feet of an existing child-care center, as defined by KRS Chapter 199.894(3), family child-care home, as defined in KRS Chapter 199.894(5), or a registered childcare provider in the Child Care Assistance Program, as regulated by 922 KAR 2:180;**
- vi. When the Operator of the Medicinal Cannabis Business fails to comply with any applicable state or local law or regulation, including, without limitation, mandatory zoning, building, safety, a maintenance, health, sanitation, fire, electrical, plumbing, and mechanical codes**
- vii. When the renewal of a Medicinal Cannabis Business License is denied by the State for any reason up to and including failure to successfully achieve minimal performance standards as outlined in KRS 218B.140.**

**(2) The City Solicitor may revoke the Medicinal Cannabis Business license for any of the following reasons:**

- i. When any one of the circumstances provided in subsection (G) above, occurs; or**
- ii. When the Licensee has been found to be in**

violation of this Chapter, two (2) or more times during the relevant license term.

(3) A Licensee whose Medicinal Cannabis Business license has been revoked is not eligible to apply for another Medicinal Cannabis Business license at the location for which the license was revoked for a period of one (1) year.

(4) Procedure to deny, revoke, or refuse renewal of a Medicinal Cannabis Business license.

- i. Upon finding that a condition exists to deny an application, revoke a license, or refuse to renew a Medicinal Cannabis Business license, the City Solicitor shall issue a letter to the Licensee or Applicant requiring that it come forward and show cause why the above action should not be taken.
- ii. The Licensee or Applicant shall have ten (10) calendar days to respond to the City Solicitor's letter in writing and present evidence showing that the proposed action should not be taken.
- iii. The City Solicitor shall determine whether the Licensee or Applicant has produced sufficient evidence to contest the proposed action. If sufficient evidence has been provided, the license shall be granted. In the event that sufficient evidence has not been presented the license shall be denied, refused or revoked. Notice of a denial, refusal, or revocation shall be provided to the Applicant/Licensee.
- iv. An Applicant/Licensee aggrieved by the City Solicitor's decision may request a hearing before the Board of Commissioners within thirty (30) days of the order.

(H) Hearings.

(1) Notice of hearings. The City Solicitor shall provide written notice, via regular United States mail or hand delivery to the Licensee, of any hearing related to the possible suspension or revocation of the Licensee's Medicinal Cannabis License. The address provided by the Licensee to the City on its license application shall be deemed the address for notice of hearing. The Licensee shall notify the City of any change of address

subsequent to the submission of an application for license. Notice to the Licensee must be postmarked at least seven days prior to the hearing. Notice of any hearing shall be publicly posted at City Hall at least 24 hours prior to the hearing.

(2) Procedure.

(a) The Mayor shall be the hearing officer for any proceeding related to the possible suspension or revocation of any Medicinal Cannabis license.

(b) Any hearing before the Board of Commissioners shall be a public hearing and conducted in accordance with the procedural guidelines indicated in KRS 13B.080 and 13B.090.

(c) The City Solicitor, or his or her designee, shall represent the City at the hearing. The Applicant or Licensee has a right to retain counsel for representation at the hearing.

(d) The Board of Commissioners shall issue a written decision, including findings of fact and conclusions of law, within seven days of the conclusion of the hearing.

(e) An appeal from any final order issued by the Board of Commissioners following a hearing conducted pursuant to §128.06 of this chapter may be made to the Kenton County District Court within 30 days after the date when the order is issued by the Board of Commissioners.

§ 128.07 DISPENSARY WARNING SIGNS.

A dispensary shall post a sign in a conspicuous location at each entrance of the facility that reads: "THESE PREMISES ARE UNDER CONTINUOUS VIDEO SURVEILLANCE. NO ONE UNDER THE AGE OF 18 IS PERMITTED TO ENTER." The letters on the signs are required to be at minimum one (1) inch in height. The sign must also conform to the zoning requirements under the Neighborhood Development Code.

§ 128.99 PENALTIES

(A) (1) Any person who operates a Medicinal Cannabis Business without a license as provided in §§ 128.01 through 128.07 shall be issued a citation by a City Code Enforcement Officer, and ordered to cease operations until a valid license is obtained. Operating a Medicinal Cannabis Business without a license shall constitute a civil offense and any person, firm or corporation who operates a Medicinal Cannabis Business without a license shall be subject to a civil fine of \$1,000, per day for each day that a

**Medicinal Cannabis Business is operated without a valid license. The fine shall be increased to \$2,000 per day starting on the eighth day that a Medical Cannabis Business is operated without a valid license and shall continue at that rate thereafter. At any time the City may file suit for an injunction in Kenton Circuit Court to force closure of a Medical Cannabis Business operating without a valid license. Citations and enforcement proceedings shall be pursued in accordance with Ch. 92 of this code of ordinances. Each day of such violation(s) shall constitute a separate offense.**

**(2) Operating a licensed Medicinal Cannabis Business in a manner that violates the provisions of §§ 128.01 through 128.07 shall constitute a civil offense and any person, firm or corporation who operates a licensed Medicinal Cannabis Business in a manner that violates the provisions of §§ 128.01 through 128.07 shall be subject to a civil fine of \$1,000 per day for each day that a licensed Medicinal Cannabis Business is operated in a manner that violates this code. Citations and enforcement proceedings shall be pursued in accordance with Ch. 92 of this code of ordinances. Each day of such violation(s) shall constitute a separate offense.**

**(B) A person found to have committed a violation of this code shall be personally responsible for the amount of the civil fines assessed for the violation and for all charges, fees and abatement costs incurred by the City in connection with the enforcement. The City may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.**

### Section 3

The provisions of this chapter are severable. If any section, clause, sentence, part, or provision of this chapter shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts or provisions of this chapter. It is hereby declared to be the intent of the Board of Commissioners that this chapter would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence, part, or provision had not been included herein.

### Section 4

That this Ordinance shall take effect and be in full force upon its passage, approval, and publication as required by law.

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MAYOR

ATTEST:

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CITY CLERK

Passed: \_\_\_\_\_, 2024 (Second Reading)

\_\_\_\_\_, 2024 (First Reading)