

ORDINANCE REGULATING CITY OF FULTON CODE TO ADDRESS THE 2022
MISSISSIPPI MEDICAL CANNABIS ACT (SB 2095)

WHEREAS, as enacted by the 2022 Mississippi Legislature, Governor Tate Reeves signed into law Senate Bill 2095 (SB 2095), titled the Mississippi Medical Cannabis Act, effective February 3, 2022; and

WHEREAS, SB 2095 recognized the local authority of counties and municipalities to provide for governance of their political subdivisions to achieve the purposes listed above in development and zoning codes;

WHEREAS, SB 2095, given the authority to the City of Fulton to regulate Medical Cannabis is as follows:

1.1.0 SECTION: Medical Cannabis Establishments; Definitions

MEDICAL CANNABIS ESTABLISHMENT - a cannabis cultivation facility, cannabis processing facility, cannabis testing facility, cannabis dispensary, cannabis transportation entity, cannabis disposal entity or cannabis research facility licensed and registered by the appropriate agency. .

1.1.1 CANNABIS CULTIVATION FACILITY - business entity licensed and registered by the Mississippi Department of Health that acquires, grows, cultivates and harvests medical cannabis in an indoor, enclosed, locked and secure area. Tier 1. A cannabis cultivation facility with a canopy space of not less than two thousand (2,000) square feet but not more than five thousand (5,000) square feet, Tier 2. A cannabis cultivation facility with a canopy space of not less than five thousand (5,000) square feet but not more than fifteen thousand (15,000) square feet; (iii) Tier 3. A cannabis cultivation facility with a canopy space of not less than fifteen thousand (15,000) square feet but not more than thirty thousand (30,000) square feet shall; (iv) Tier 4. A cannabis cultivation facility with a canopy space of not less than thirty thousand (30,000) square feet but not more than sixty thousand (60,000) square feet; Tier 5. A cannabis cultivation facility with a canopy space of not less than sixty thousand (60,000) square feet but not more than one hundred thousand (100,000) square feet; Tier 6. A cannabis cultivation facility with a canopy space of one hundred thousand (100,000) square feet

1.1.2 CANNABIS CULTIVATION AND PROCESSING FACILITY – any collocated cannabis processing and cannabis cultivation facility or business conducting cultivation and processing of cannabis in a shared location or parcel

1.1.3 CANNABIS DISPOSAL ENTITY - business licensed and registered by the Mississippi Department of Health that is involved in the commercial disposal or destruction of medical cannabis.

1.1.1.4 CANNABIS MICRO-CULTIVATION FACILITY - a business entity that is licensed and registered by the Mississippi Department of Health that acquires, grows, cultivates and harvests medical cannabis in an indoor, enclosed, locked and secure area and, according to the Mississippi Medical Cannabis Act has a canopy space of less than 2,000 square feet according to the following designations: Tier 1. A cannabis cultivation facility with a canopy space of one thousand (1,000) square feet or less (ii) Tier 2. A cannabis cultivation facility with a canopy space of more than one thousand (1,000) square feet but not more than two thousand (2,000) square feet

1.1.5 CANNABIS MICRO-PROCESSING FACILITY - a business entity that is licensed and registered by the Mississippi Department of Health and adheres to the definition of a cannabis processing facility according to the definition laid out in this code with the exception that less than 3,000 pounds of dried biomass is processed annually according to the following designations set forth by the Mississippi Medical Cannabis Act: Tier 1. A cannabis processing facility which processes less than two thousand (2,000) pounds of dried biomass; Tier 2. A cannabis processing facility which processes not less than two thousand (2,000) pounds but less than three thousand (3,000) pounds of dried biomass cannabis material

1.1.6 CANNABIS RESEARCH FACILITY - or "research facility", a research facility at any university or college in this state or an independent entity licensed and registered by the Mississippi Department of Health pursuant to this chapter that acquires cannabis from cannabis cultivation facilities and cannabis processing facilities in order to research cannabis, develop best practices for specific medical conditions, develop medicines and provide commercial access for medical use.

1.1.7 CANNABIS TESTING FACILITY – or “testing facility”, an independent entity licensed and registered by the Mississippi Department of Health that analyzes the safety and potency of cannabis.

1.1.8 CANNABIS TRANSPORTATION ENTITY - an independent entity licensed and registered by the Mississippi Department of Health that is involved in the commercial transportation of medical cannabis.

1.1.9 CANNABIS PROCESSING FACILITY - a business entity that is licensed and registered by the Mississippi Department of Health that: (i) Acquires or intends to acquire cannabis from a cannabis cultivation facility; (ii) Possesses cannabis with the intent to manufacture a cannabis product; (iii) Manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and (iv) Sells or intends to sell a cannabis product to a medical cannabis dispensary, cannabis testing facility or cannabis research facility. Cannabis processing facilities process not less than three thousand (3,000) pounds of biomass cannabis material annually.

1.1.10 CANOPY SPACE - the total surface area within a cultivation area that is dedicated to the cultivation of flowering cannabis plants. The surface area of the plant canopy must be calculated in square feet and measured and must include all of the area within the boundaries where the cultivation of the flowering cannabis plants occurs. If the surface area of the plant canopy consists of noncontiguous areas, each component area must be separated by identifiable boundaries. If a tiered or shelving system is used in the cultivation area the surface area of each tier or shelf must be included in calculating the area of the plant canopy. Calculation of the area of the plant canopy may not include the areas within the cultivation area that are used to cultivate immature cannabis plants and seedlings, prior to flowering, and that are not used at any time to cultivate mature cannabis plants.

1.1.11 MAIN POINT OF ENTRY – primary entrance to a building; regarding business establishments the entrance by which customers or guests are primarily led to enter

1.1.12 MEDICAL CANNABIS - cannabis products and edible cannabis that are intended to be used by registered qualifying patients as provided Mississippi Medical Cannabis Act of 2022

1.1.13 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.

1.1.14 PARAPHERNALIA – any equipment, product or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance

1.1.15 PUBLIC PLACE – any are to which the general public is invited or in which the general public is permitted, regardless of the ownership of the area, and any area owned or controlled by a municipality, county, state, or federal government, including, but not limited to streets, sidewalks, or other forms of public transportation. Such term shall not include a private residential dwelling.

1.1.16 PROTECTED PLACE – *a school, church, nursing/assisted living facility, childcare facility, or funeral home.*

1.1.2 Sale or distribution

As established by the Mississippi Medical Cannabis Act of 2022, medical cannabis establishments (cultivation facilities, cannabis processing facilities, cannabis transportation entities, cannabis disposal entities, cannabis research facilities, and cannabis testing facilities), are such entities issued license by the Mississippi Department of Health and conforming to the Medical Cannabis Act of 2022 and this ordinance to engage in the sale, distribution,

transportation, disposal, research, testing, cultivation, and processing of medical cannabis to qualifying entities and individuals.

1.1.2.1 Hours of Operation

The hours of operation of a medical cannabis dispensary shall be from no earlier than 10:00am to no later than 6:00pm.

1.1.3 Distance Requirement

All medical cannabis establishments must be 1,000(main entry points) from protected places or from another medical cannabis establishment.

1.1.3.1 Calculation of Measurement

Measurements related to this subsection shall be made in a straight line, without regard to intervening objects or structures, from the main point of entry, as defined in this code, of the building or structure used as part of the premises where a medical cannabis establishment is conducted to the nearest property line of the premises of a protected place listed in Subsection 1.1.16 above. The property boundary of a protected place operating within a leased or rented space as part of a shared structure or parcel in which other commercial establishments are located, such as a shopping center, strip mall, plaza, etc., will be measured from the boundary of the leased or rented space in which the protected place operates. The presence of a city jurisdictional boundary shall be irrelevant for the purposes of calculating and applying the distance requirements of this subsection.

1.1.3.2 Protected Places

Per the Mississippi Medical Cannabis Act of 2022, medical cannabis dispensaries are hereby prohibited from locating within a distance of one thousand (1000) feet from the main point entry of the dispensary to the nearest property boundary of any protected place. As the Mississippi Medical Cannabis Act, Section 19-1, provides that the local municipality may enact ordinances to govern the time, place, and manner of medical cannabis establishment operations, protected places include any school, church, or childcare facility as defined by this code in Section 2.4.

1.1.3.3 Medical Cannabis Dispensary Distance Requirement

No medical cannabis dispensary may be located within one-thousand-five-hundred feet radius from the main point of entry of the dispensary to the main point of entry of another medical cannabis dispensary. If two or more Medical Cannabis Dispensaries are within 1,500 feet of one another or area within the same structure or parcel, the adult entertainment establishment that was first established in an otherwise permissible location shall be considered to be a conforming use, and the later-established business shall be considered to be a nonconforming use.

1.1.4 Prohibitions

A medical cannabis establishment may not share office space with or refer patients to a practitioner and may not include a drive through, curbside pickup, or delivery services.

1.1.5 Signage

All medical cannabis establishments are subject to sign regulations as defined by ordinance and all provisions for advertising and marketing set forth in the Mississippi Medical Cannabis Act of 2022 and established criteria by the Mississippi State Department of Health as set forth in Title 15, Par 22, Subpart 3. No medical cannabis establishment may advertise or market on posted signage which

- is enlarged so as to violate the provisions of this ordinance
- depicts cartoon or other imagery that would attract or appeal to minors
- displays paraphernalia or the use of paraphernalia
- is located in zones where medical cannabis establishments are unable to locate
- is mobile or provided through unsolicited leaflets, brochures, or handbills
- is located on public transit, publicly owned property, or within 1,000 feet of protected places
- is located off-premises of the establishment
- makes advertised claims which are not backed by research/science or in which sources can be used out of context
- depicts cannabis consumption or imagery of the cannabis plant, including bud and leaf imagery

2.1.1 Variance in distance restrictions.

Variance in the distance restrictions may be granted by right only when a medical cannabis establishment has received written approval from the school, church, child care facility, nursing/assisted living facility, or funeral home, has applied for a waiver with its respective licensing agency, and provided that the main point of entry of the cannabis establishment is not located within five hundred (500) feet of the nearest property boundary of any school, church, child care facility, assisted living/nursing home facility, or funeral home.

2.1.2 Permitting.

In addition to any other applications and permits required under the development or construction codes, medical cannabis establishments shall apply to the City of Fulton Privilege License for a Medical Cannabis Establishment Permit on forms prescribed by the department and pay an amount not to exceed the cost of \$5,000 per year renewed annually as established by the City of Fulton Board of Aldermen in this ordinance.

2.1.3 On-Premise Security Requirements.

All medical cannabis establishments must have 24-hour video surveillance that can be made available to the Fulton Police Department for review upon the Fulton Police Departments written request for review. Cannabis Cultivation Facility, Cannabis Processing Facility, Cannabis Micro-Cultivation, Cannabis Micro-Processing, Cannabis Research Facility, Cannabis Testing Facility, Cannabis Transportation Entity, Cannabis Processing Facility, or Cannabis Canopy Space must have 24-hour on-site in person security along with 24-hour video surveillance that can be made available to the Fulton Police Department for review up the Fulton Police Departments written request. *On-premise security requirements cannot be waived.*

2.1.4 Violation of this Ordinance

Any medical cannabis establishments to be found in violation of this ordinance by any of the following of the City of Fulton Board of Aldermen, City of Fulton Police Department, MS Department of Revenue, or the MS ABC Office will be fined up to \$5,000.00 for the first violation. If establishments are found in violation more than once they will be fined additional \$10,000 per violation up to the third violation. After three violations the City of Fulton will revoke their privilege license.