

BILL NO. 23-020

AN ORDINANCE AMENDING DIVISION 8. MEDICAL MARIJUANA FACILITIES OF ARTICLE II BUSINESS LICENSE TAXES OF CHAPTER 28 TAXATION OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI, DEALING GENERALLY WITH ADULT USE MARIJUANA BUSINESSES.

WHEREAS, on November 8, 2022, the voters of the State of Missouri approved Constitutional Amendment 3, legalizing adult use marijuana in the State; and,

WHEREAS, the recent changes to the State Constitution related to adult use marijuana require amending the City's Code of Ordinances; and,

WHEREAS, it is the desire of the City Council to continue to regulate the various business types provided for by and to the extent allowed by Article XIV of the Missouri Constitution

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That Chapter 28 Taxation; Article II Business License Taxes; Division 8 Medical Marijuana Facilities, of the Code of Ordinances of the City of Lee's Summit, Missouri, be and hereby is amended to read as follows:

"DIVISION 8. MARIJUANA FACILITIES¹

Sec. 28-221. Definitions.

The words, phrases and terms used in this Division 8 shall have the same meanings as defined in Section 17-236 of this Code of Ordinances. Any word, phrase or term defined in this section shall be in addition to those found in section 17-236.

Chief of Police means the City's Chief of Police or his or her designees.

Department means the Missouri Department of Health and Senior Services, or its successor.

Marijuana Business means any facility licensed by the Department of Health and Senior Services, or its successor, under the authority granted by Article XIV of the Constitution of the State of Missouri, as amended.

Marijuana dispensary facility shall mean either a Medical Marijuana Dispensary or a Comprehensive Marijuana Dispensary as those terms are defined in Article XIV of the Missouri Constitution and Section 17-236 of this code, as amended.

Marijuana cultivation facility shall mean either a medical marijuana cultivation facility or a comprehensive marijuana facility as those terms are defined in Article XIV of the Missouri Constitution and Section 17-236 of this code, as amended.

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Marijuana-infused products manufacturing facility shall mean either a medical marijuana infused products manufacturing facility or a comprehensive marijuana infused products manufacturing facility as those terms are defined by Article XIV of the Missouri Constitution and Section 17-236 of this code, as amended.

Medical marijuana transportation facility shall have the meaning assigned to such term as set forth in Title 19, Division 30, Chapter 95, Section 95.010 of the Code of State Regulations (19 CSR 30-95.010), as amended, which is a facility certified by the department to transport marijuana to a qualifying patient, a primary caregiver, a primary caregiver, a medical marijuana cultivation facility, a medical marijuana-infused products manufacturing facility, a medical marijuana dispensary facility, a medical marijuana testing facility, or another medical marijuana-transportation facility.

Sec. 28-222. Marijuana dispensary facility.

- A. It shall be unlawful for any person to operate or maintain a marijuana dispensary facility in the City of Lee's Summit without first obtaining a marijuana dispensary facility business license pursuant to this article. A complete application shall be submitted to the Director of Finance.
- B. *License.* An applicant for a marijuana dispensary facility business license must furnish the Director of Finance with the original marijuana dispensary facility business license issued to the applicant by the Department, and a fee as set forth in the City's Schedule of Fees and Charges for each marijuana dispensary facility.
- C. *Application review.* The Director of Finance shall obtain confirmation from the Department that the marijuana dispensary facility business license presented to the City by the applicant is not under suspension or revocation, and remains in good standing. Approval by the Director of Finance of a marijuana facility business license shall also be contingent on the following:
 1. *Location of facility.* The marijuana dispensary facility must be located in an appropriate zoning district and at a location that is allowed by the Unified Development Ordinance.
 2. *Compliance with State retail sales tax requirements.* All applicants with possession of a marijuana dispensary facility license as issued by the Department are required to submit a statement from the Missouri Department of Revenue that the licensee owes no tax due under RSMo 144.010 to 144.510 or 143.191 to 143.261, as amended. The date of issuance on the statement shall not be more than ninety days before the date of submission of the application or renewal of the City license.
- D. *License display.* The marijuana dispensary facility business license shall be displayed at all times by the licensee openly and conspicuously on the premises of the marijuana dispensary facility where sales take place.
- E. All marijuana facilities may be open to the public between the hours of 9:00 a.m. to 9:00 p.m. Monday through Friday, 9:00 a.m. to 6:00 p.m., Saturday and 10:00 a.m. to 6 p.m. Sunday; no persons not employed by the business shall be on the premises, and no sales or distribution of marijuana shall occur upon the premises outside of these times.
- F. All marijuana facilities shall be operated and comply with all the rules and regulations contained in Article XIV of the Missouri Constitution, all rules and regulations issued by the Department, and the Unified Development Ordinance.

Sec. 28-223. Marijuana cultivation facility business license.

- A. It shall be unlawful for any person to operate or maintain a marijuana cultivation facility in the City of Lee's Summit without first obtaining a marijuana cultivation facility business license pursuant to this article, as amended. A complete application shall be submitted to the Director of Finance.
- B. *License.* An applicant for a marijuana cultivation facility business license must furnish the Director of Finance with the original marijuana cultivation facility business license issued to the applicant by the department, and a fee as set forth in the City's Schedule of Fees and Charges for each marijuana cultivation facility.
- C. *Application review.* The Director of Finance shall obtain confirmation from the department that the marijuana cultivation facility business license presented by the applicant is not under suspension or revocation, and remains in good standing. Approval by the Director of Finance of a marijuana cultivation facility business license shall also be contingent on the following:
 - 1. *Location of facility.* The marijuana cultivation facility must be located in an appropriate zoning district and at a location that is allowed by the Unified Development Ordinance.
- D. *License display.* The marijuana cultivation facility business license shall be displayed at all times by the licensee openly and conspicuously on the premises of the marijuana cultivation facility where the cultivation takes place.
- E. All marijuana cultivation facilities shall be operated and comply with all the rules and regulations contained in Article XIV of the Missouri Constitution, all rules and regulations issued by the Department, and the Unified Development Ordinance.

Sec. 28-224. Marijuana-infused products manufacturing facility.

- A. It shall be unlawful for any person to operate or maintain a marijuana-infused products manufacturing facility in the City of Lee's Summit without first obtaining a marijuana-infused products manufacturing facility business license pursuant to this article, as amended. A complete application shall be submitted to the Director of Finance.
- B. *License.* An applicant for a marijuana-infused products manufacturing facility business license must furnish the Director of Finance with the original marijuana-infused products manufacturing facility business license issued to the applicant by the department, and a fee as set forth in the City's Schedule of Fees and Charges for each marijuana-infused products manufacturing facility.
- C. *Application review.* The Director of Finance shall obtain confirmation from the department that the marijuana-infused products manufacturing facility business license presented by the applicant is not under suspension or revocation, and remains in good standing. Approval by the Director of Finance of a marijuana-infused products manufacturing facility business license shall also be contingent on the following:
 - 1. *Location of facility.* The marijuana-infused products manufacturing facility must be located in an appropriate zoning district and at a location that is allowed by the Unified Development Ordinance.
- D. *License display.* The marijuana-infused products manufacturing facility business license shall be displayed at all times by the licensee openly and conspicuously on the premises of the marijuana-infused products manufacturing facility where the manufacturing is performed.
- E. All marijuana-infused products manufacturing facilities shall be operated and comply with all the rules and regulations contained in Article XIV of the Missouri Constitution, all rules and regulations issued by the Department, and the Unified Development Ordinance.

Sec. 28-225. Marijuana testing facility.

- A. It shall be unlawful for any person to operate or maintain a marijuana testing facility in the City of Lee's Summit without first obtaining a marijuana testing facility business license pursuant to this article, as amended. A complete application shall be submitted to the Director of Finance.
- B. *License.* An applicant for a marijuana testing facility business license must furnish the Director of Finance with the original marijuana testing facility business license issued to the applicant by the department, and a fee as set forth in the City's Schedule of Fees and Charges for each marijuana testing facility.
- C. *Application review.* The Director of Finance shall obtain confirmation from the department that the marijuana testing facility business license presented by the applicant is not under suspension or revocation, and remains in good standing. Approval by the Director of Finance of a marijuana testing facility business license shall also be contingent on the following:
 - 1. *Location of facility.* The marijuana testing facility must be located in an appropriate zoning district and at a location that is allowed by the Unified Development Ordinance.
- D. *License display.* The marijuana testing facility business license shall be displayed at all times by the licensee openly and conspicuously on the premises of the marijuana testing facility where the testing is performed.
- E. All marijuana testing facilities shall be operated and comply with all the rules and regulations contained in Article XIV of the Missouri Constitution, all rules and regulations issued by the Department, and the Unified Development Ordinance.

Sec. 28-226. Marijuana transportation facility.

- A. It shall be unlawful for any person to operate or maintain a marijuana transportation facility in the City of Lee's Summit without first obtaining a marijuana transportation facility business license pursuant to this article, as amended. A complete application shall be submitted to the Director of Finance.
- B. *License.* An applicant for a marijuana transportation facility business license must furnish the Director of Finance with the original marijuana transportation facility business license issued to the applicant by the department, and a fee as set forth in the City's Schedule of Fees and Charges for each marijuana transportation facility.
- C. *Application review.* The Director of Finance shall obtain confirmation from the Department that the marijuana transportation facility business license presented by the applicant is not under suspension or revocation, and remains in good standing. Approval by the Director of Finance of a marijuana transportation facility business license shall also be contingent on the following:
 - 1. *Location of facility.* The marijuana transportation facility must be located in an appropriate zoning district and at a location that is allowed by the Unified Development Ordinance.
- D. *License display.* The marijuana transportation facility business license shall be displayed at all times by the licensee openly and conspicuously on the premises of the marijuana transportation facility where the transportation is performed.
- E. All marijuana transportation facilities shall be operated and comply with all the rules and regulations contained in Article XIV of the Missouri Constitution, all rules and regulations issued by the Department, and the Unified Development Ordinance.

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Sec. 28-227. Microbusiness dispensary facility.

- A. It shall be unlawful for any person to operate or maintain a microbusiness dispensary facility as defined by section 17-236 of the Code of Ordinances of the City of Lee's Summit and Article XIV of the Missouri Constitution in the City of Lee's Summit without first obtaining a microbusiness dispensary facility business license pursuant to this article, as amended. A complete application shall be submitted to the Director of Finance.
- B. *License.* An applicant for a microbusiness dispensary facility business license must furnish the Director of Finance with the original microbusiness dispensary facility business license issued to the applicant by the department, and a fee as set forth in the City's Schedule of Fees and Charges for each microbusiness dispensary facility.
- C. *Application review.* The Director of Finance shall obtain confirmation from the department that the microbusiness dispensary facility business license presented to the City by the applicant is not under suspension or revocation, and remains in good standing. Approval by the Director of Finance of a microbusiness dispensary business license shall also be contingent on the following:
 - 1. *Location of facility.* The microbusiness dispensary facility must be located in an appropriate zoning district and at a location that is allowed by the Unified Development Ordinance.
 - 2. *Compliance with State retail sales tax requirements.* All applicants with possession of a microbusiness dispensary facility license as issued by the State are required to submit a statement from the Missouri Department of Revenue that the licensee owes no tax due under RSMo 144.010 to 144.510 or 143.191 to 143.261, as amended. The date of issuance on the statement shall not be more than ninety days before the date of submission of the application or renewal of the City license.
- D. *License display.* The microbusiness dispensary facility business license shall be displayed at all times by the licensee openly and conspicuously on the premises of the microbusiness dispensary facility where sales take place.
- E. All microbusiness dispensary facilities may be open to the public between the hours of 9:00 a.m. to 9:00 p.m. Monday through Friday, 9:00 a.m. to 6:00 p.m., Saturday and 10:00 a.m. to 6 p.m. Sunday; no persons not employed by the business shall be on the premises, and no sales or distribution of marijuana shall occur upon the premises outside of these times.
- F. All microbusiness dispensary facilities shall be operated and comply with all the rules and regulations contained in Article XIV of the Missouri Constitution, all rules and regulations issued by the Department, and the Unified Development Ordinance.

Sec. 28-228. Microbusiness wholesale facility.

- A. It shall be unlawful for any person to operate or maintain a microbusiness wholesale facility as defined by section 17-236 of the Code of Ordinances of the City of Lee's Summit and Article XIV of the Missouri Constitution in the City of Lee's Summit without first obtaining a microbusiness wholesale facility business license pursuant to this article, as amended. A complete application shall be submitted to the Director of Finance.
- B. *License.* An applicant for a microbusiness wholesale facility business license must furnish the Director of Finance with the original microbusiness wholesale facility business license issued to the applicant by the department, and a fee as set forth in the City's Schedule of Fees and Charges for each microbusiness wholesale facility.
- C. *Application review.* The Director of Finance shall obtain confirmation from the department that the microbusiness wholesale facility business license presented to the City by the applicant is not under suspension or revocation, and remains in good standing. Approval

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by the Director of Finance of a microbusiness wholesale facility business license shall also be contingent on the following:

1. *Location of facility.* The microbusiness wholesale facility must be located in an appropriate zoning district and at a location that is allowed by the Unified Development Ordinance.
 2. *Compliance with State retail sales tax requirements.* All applicants with possession of a microbusiness wholesale facility license as issued by the State are required to submit a statement from the Missouri Department of Revenue that the licensee owes no tax due under RSMo 144.010 to 144.510 or 143.191 to 143.261, as amended. The date of issuance on the statement shall not be more than ninety days before the date of submission of the application or renewal of the City license.
- D. *License display.* The microbusiness wholesale facility business license shall be displayed at all times by the licensee openly and conspicuously on the premises of the microbusiness wholesale facility where sales take place.
- F. All microbusiness wholesale facilities shall be operated and comply with all the rules and regulations contained in Article XIV of the Missouri Constitution, all rules and regulations issued by the Department, and the Unified Development Ordinance.

Sec. 28-229. No transfer of license.

- A. A business license for any Marijuana Business is not transferable to any other person or entity and the authority granted by the license is conferred only at the location and for the person identified on such license.
- B. Fees paid and licenses obtained pursuant to this article shall be in addition to and not in lieu of any other fees or licenses required to be paid or obtained pursuant to this Code or any other ordinances of this City for the operation of the medical marijuana facility or marijuana facility.

Sec. 28-230. Inspections, immediate right of entry.

- A. The Lee's Summit Police Department and/or the Health Officer may from time to time inspect a Marijuana Business to determine compliance with any provisions of this article.
- B. It shall be unlawful for any person holding a license for any Marijuana Business, or an employee of such licensee, to refuse an inspection officer's immediate access to the premises or to hinder such officer in any manner. A refusal or hindrance on the part of any license holder or employee shall be grounds for the immediate revocation or suspension of the business license for any medical marijuana facility or marijuana facility.

Sec. 28-231. Suspension and revocation.

In addition to the provisions in Section 28-41 of this code regarding the suspension or revocation of a business license by the City Council, the following additional regulations shall apply to the suspension or revocation of a business license for the operation of a Marijuana Business.

- A. Action by the Director of Finance.
 1. If the Director of Finance determines, during an inspection or otherwise, that a Marijuana Business is not in compliance with the department's regulations or the City's regulations regarding the operation, upkeep, maintenance and licensing of such facility, then the Director of Finance will issue an initial notice of violation to the license holder that explains how the license holder has violated the applicable regulations and what remedial actions the City expects the license holder to take to correct the violations.

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2. Once a license holder has been notified of violations, the license holder shall correct the violations within fifteen (15) days, and the Director of Finance will conduct a follow-up inspection within fifteen (15) to thirty (30) days to confirm the license holder has corrected the violations. The license holder shall notify the Director of Finance if the license holder believes that additional time is needed to correct the violations, which the Director of Finance may grant for good cause.
 3. If the Director of Finance's follow-up inspection reveals the violations have not been corrected, the Director of Finance will issue a final notice of violation to the license holder explaining how the license holder continues to violate the department's or the City's regulations, what remedial actions the Director of Finance expects the facility to take, and notifying the license holder that the license or certification will be suspended if the specified remedial action is not taken and the violations corrected within thirty (30) days after issuance of the notice.
 4. If the violations have not been corrected thirty (30) days after a final notice of violation was sent, the license holder's license or certification will be suspended, the facility will be required to cease operations, and the license holder must sign a corrective action plan designed to bring the facility into compliance.
 5. If the license holder thereafter fails to complete the corrective action plan in the required time, then the Director of Finance may revoke the business license and the operations at the medical marijuana facility or marijuana facility shall permanently cease.
 6. A license holder may appeal the decision to revoke a business license by filing with the City Clerk a notice of appeal within thirty (30) days after the date that the Director of Finance issued the order to revoke the business license.
- B. Upon receipt of a complaint against a Marijuana Business, the Director of Finance will determine whether an inspection is warranted to investigate the allegations in the complaint, and, if so, the Director of Finance will, at the time of inspection, provide the license holder with a copy of the complaint and an opportunity to respond to the complaint. Employees of a Marijuana Business who report potential violations at a facility to the Director of Finance shall not be subjected to retaliation of any kind, including termination, because of their report.
- C. If, at any time, the Director of Finance or the Chief of Police determines that a Marijuana Business presents an immediate and serious threat to the health, safety or welfare of the public or of the employees at the facility or an immediate threat to life, property or the preservation of peace, the Director of Finance or the Chief or Police may order the facility to immediately suspend all or a part of its operations for up to ten (10) days or for such longer period as deemed necessary to address the issue and eliminate the threat.
- D. If the state license associated with any Marijuana Business is revoked for any reason, the business license granted pursuant to this chapter shall be deemed to be automatically revoked at the time that the state license is revoked, unless the Director of Finance finds that such business license should not be revoked for any reason that he or she shall set forth in writing.

Sec. 28-232. Renewal of licenses.

- A. A business license for a Marijuana Business must be obtained annually. The first license shall be effective upon approval. Renewal notices will be mailed by the Director of Finance

at least two (2) months prior to expiration of the current license to the licensee at the address appearing on the licensee's most recent application, or the most recent address the licensee has provided to the Director of Finance.

- B. Renewal applications must be received by the Director of Finance no later than thirty (30) days prior to expiration of the current license. Applications to renew a business license for a Marijuana Business shall satisfy the requirements of an original application and, in the case of an application to renew a business license, be accompanied by confirmation from the department that the State certificate or license presented by the applicant is not under suspension or revocation and remains in good standing.
- C. If any renewal application contains information that, in the Director of Finance's opinion, does not warrant renewal, or if other information known to the Director of Finance indicates that renewal is not allowed pursuant to all applicable State and City regulations, then the Director of Finance shall notify the applicant in writing, mailed by United States mail within ten (10) days after receipt of the renewal application. Notice of such denial will be mailed to the applicant at the address on the renewal application. After receipt of such denial, the applicant may contact the Director of Finance within fifteen (15) days from the date that the notice was mailed and request a public hearing before City Council. Upon receipt of such notice, the Director of Finance shall schedule the hearing and City Council shall decide the matter.
- D. If a licensee fails to obtain renewal in the manner required and within the time limits prescribed by this division, then the business license shall expire at midnight on the day before the end of the current license term.

Sec. 28-233. Persons under age eighteen (18).

No person shall permit any unemancipated person under the age of eighteen (18) years without a valid medical marijuana card to purchase medical marijuana. No person shall permit any person under the age of twenty-one (21) years to come or remain on the premises of an adult use marijuana facility except as expressly allowed pursuant to state law or state regulation.”

SECTION 2. It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Lee’s Summit, Missouri, and the sections of this Ordinance may be renumbered to accomplish such intention as deemed appropriate by the City Clerk or the codifier of the City’s Code.

SECTION 3. That this Ordinance shall be in full force and effect from and after its passage, adoption, and approval by the Mayor.

SECTION 4. Should any section, sentence, or clause of this Ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences or clauses.

PASSED by the City Council of the City of Lee's Summit, Missouri, this _____ day of _____, 2023.

Mayor *William A. Baird*

ATTEST:

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City Clerk *Trisha Fowler Arcuri*

APPROVED by the Mayor of said city this ____ day of _____, 2022.

Mayor *William A. Baird*

ATTEST:

City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

City Attorney *Brian W. Head*