

COMMONWEALTH OF KENTUCKY

COUNTY OF CALLOWAY

ORDINANCE NO. _____

**AN ORDINANCE FOR THE REGULATION OF MEDICAL CANNABIS BUSINESS
OPERATIONS IN CALLOWAY COUNTY**

I. Short Title.

This Ordinance shall be known as the Calloway County Medical Cannabis Ordinance and referred to herein as the "CCMCO."

WHEREAS, 24 RS HB 829, an "Act" relating to medicinal cannabis and declaring an emergency was enacted by the General Assembly of the Commonwealth of Kentucky. The Act passed by the General Assembly and signed into law by Governor, Andy Beshear on April 17, 2024, provides for cannabis consumption, cultivation, disposal, manufacturing, possession, processing, purchase, research, testing and transportation, for medical purposes (collectively "Medical Cannabis Activities" but, for the purposes of these amendments, specifically excluding consumption); and

WHEREAS, it is the express intent of the Calloway County Fiscal Court (the "County") and of this Ordinance, to establish reasonable procedures and regulations for Medical Cannabis Activities to supplement the Act and to incorporate, and where applicable supplement, the rules and regulations adopted, or to be adopted, by the Cabinet for Health and Family Services; and

WHEREAS, the regulations, limitations and prohibitions established in this Ordinance are necessary to encourage safe, reasonable and responsible growth of the Medical Cannabis Activities within the County 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 Activities to follow and authorities to enforce; and

WHEREAS, pursuant to KRS 218B.130, the County has the authority to enact such ordinances as necessary and in the best interest of the public.

II. Legislative Intent.

These adopted regulations are intended to ensure the public health, safety, and welfare of residents of the County, persons engaged in Medical Cannabis Activities including their employees, neighboring property owners, and end users of medicinal cannabis. To this end, these regulations identify criteria and regulations of Medical Cannabis Activities in supplementation to such other laws, requirements and regulations that may be adopted by the State of Kentucky and the County applicable to the Medical Cannabis Activities.

Section III. General Provisions Applicable to Medical Cannabis Activities

a. Required Permit in Accordance with State and Local Law:

i. Prior to the initiation of any Medical Cannabis Activities, a permit must be obtained through the Cabinet for Health and Family Service (CHFS) in accordance with 915 KAR 1:010, and other applicable law.

ii. Prior to the initiation of any Medical Cannabis Activities, a permit must be obtained from the County.

iii. The applicant shall submit to the County such information as required herein, or otherwise reasonably requested by the County. The County may promulgate forms, and require the use thereof, to accomplish the intent of this provision the proposed location of the establishment and confirm that such establishment is in compliance with the requisite buffer requirements under the Act.

iv. The applicant shall further provide a copy of all documents it intends to submit to the CHFS as appropriate, for the required State of Kentucky licensing, including license renewal applications. Unless otherwise waived by the County, applicant shall continue to timely supplement the filed documents with any additional documents provided to, or received from, CHFS that were not originally filed with the County including, but not limited to, annual licenses, license revocations, reports, notices, etc.

v. A Medical Cannabis Activities permit may be denied or revoked for failure to comply with the requirements herein or any applicable state or local law, ordinance, code, or regulation.

b. Required Application and Permit Fee: Due to the unique character of Medical Cannabis Activities 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 County. Therefore, applicants shall pay to the County Treasurer a non-refundable annual compliance inspection permit fee of \$3,000.00 for Tier I-IV Cultivators, Processors or Producers; \$2,000.00 for Cannabis Dispensary and \$1,000.00 for Cannabis Safety Compliance Facility.

c. Site Plans: Prior to the initiation of any Medical Cannabis Activities, and in addition to any Design Review Application or other County standard development approval process required by the County, the applicant shall submit to the County a comprehensive site plan which, at a minimum, shall include the following:

i. Property survey, shall meet the following requirements including those required by State law or regulation:

(a). Cannabis Cultivation Tiers I-IV shall not be allowed in a platted and recorded subdivision; shall not be allowed in a residential or historical district;; shall have a minimum setback of 50 feet from a side property line; shall be a minimum of 1000 feet from a school, daycare, or church; shall have a hard surface access road or driveway that adheres to County road standards; and provide proof of access to a well or water district source that can certify capacity usage standards.

(b). Cannabis Safety Compliance Facilities shall not be allowed in a platted and recorded subdivision; shall not be allowed in a residential or historical district; shall have a minimum setback of 50 feet from a side property line; shall

be a minimum of 1000 feet from a school, daycare, or church; shall have a hard surface access road or driveway that adheres to County road standards;

(c). Cannabis Processor Facilities shall not be allowed in a platted and recorded subdivision; shall not be allowed in a residential or historical district; shall have a minimum setback of 50 feet from a side property line; shall be a minimum of 1000 feet from a school, daycare, church; shall have a hard surface access road or driveway that adheres to our County road standards.

(d). Cannabis Producer Facilities shall not be allowed in a platted and recorded subdivision; shall not be allowed in a residential or historical district; shall have a minimum setback of 50 feet from a side property line; shall be a minimum of 1000 feet from a school, daycare, church; shall have a hard surface access road or driveway that adheres to our County road standards;

(e). Cannabis Dispensaries shall not be allowed in a platted and recorded subdivision; shall not be allowed in a residential or historical district; shall have a minimum set back of 50 feet from a side property line; shall be a minimum of 1000 feet from a school, daycare, church; shall not be within a mile from another dispensary, shall have a hard surface access road or driveway that adheres to our County road standards.

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 including alarms and cameras

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.

d. Remediation Plan: The County may require the submission of a property remediation plan addressing site reclamation in the event the approved Medical Cannabis Activity ceases to remain active for 12 or more consecutive months. Such plan may require, in the discretion of the County, 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 Activities shall allow access by County enforcement officers, law enforcement officers or other agents or employees requesting admission for the purpose of determining compliance with these standards, and further consent to an annual on-site compliance inspection, with at least 24 hours prior notice, to be conducted by appropriate County officials during regular business hours (Monday – Friday, 8:00 am – 4:00 pm, excluding holidays). Such inspections may include inspection of the facility, equipment,

books, records, licenses, and real and personal property that are a part of the Medical Cannabis Activities.

Section III. Hours of Operation & Allowable Fees

Allowed hours of active operation for the following Medical Cannabis Activities shall be limited to the hours set forth below:

- a. Dispensary facilities shall be limited to 8:00 a.m. to 8:00 p.m., Monday through Sunday. Inactive operations of minimal activity, such as security surveillance are not limited by these hours of operation.

Section IV: Applicability

This Ordinance shall apply to and be enforced within the boundaries of the County. All requirements of all state and local laws, ordinances, codes, and regulations shall be met, and licenses for operation shall be obtained from the Cabinet for Health & Family Services, and maintained in good standing at all times. To the extent state law or regulation are more restrictive and/or in direct conflict with the provisions herein, state law shall control. Expressly incorporated herein are the following state regulations which are made a part of this ordinance:

1. KRS Chapter 218B
2. 915 KAR Chapter 1

Section V: Enforcement

1. A violation of any provision of this Ordinance or any state or local laws, regulations, ordinances, or codes applicable to Medical Cannabis Activities shall be deemed to be a public nuisance and subject to enforcement as set forth herein. Any Calloway County law enforcement officer who observes any violation of this ordinance, or finds probable cause exists that a violation of this ordinance has occurred, may issue a citation to operator of the Medical Cannabis Activities noting the offending conditions and charging him/her/it with a violation of this ordinance and setting a date and time certain for a hearing in the Calloway County Judicial Court. Any such officer may rely upon the sworn affidavit of any person he finds to be reliable as sufficient probable cause to proceed under this provision. Any such officer may, in lieu of issuing a citation, file an affidavit in the Calloway County Judicial Court, specifically noting the offending conditions and charging a violation of this ordinance. As an alternative to the procedures set forth above, any member of the public may swear out an affidavit with the Calloway County Judicial Court setting forth the sufficient facts and details of the offending conditions and charging the operator of the Medical Cannabis Activities with a violation of this ordinance. Upon receipt of any charging affidavit, as described above, the Calloway County Judicial Court shall then process the affidavit, in the same manner as affidavits asserting a violation of a criminal statute, so as to bring about the enforcement of this ordinance.

2. Any person violating any provision of this Ordinance, for which no penalty is otherwise specifically provided for, shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than one thousand (\$1,000.00) nor more than two thousand dollars (\$2,000.00) for a first offense. For any second offense occurring within a two (2) year period of time, a fine in the amount of not less than two thousand dollars (\$2,000.00) nor more than five thousand dollars (\$5,000.00), and/or a period of incarceration not to exceed thirty (30) days shall be

imposed. For any third or subsequent offense occurring within a two (2) year period of time there shall be assessed a fine of not less than five thousand dollars (\$5,000.00) nor more than 10 thousand dollars (\$10,000.00) and/or a period of incarceration not to exceed one hundred and eighty (180) days. No portion of any fines assessed may be suspended. Each violation of any provision of this ordinance shall be deemed a separate 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 County may seek to abate the violation of this Ordinance or any state or local laws, regulations, ordinances, or codes applicable to Medical Cannabis Activities by 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. In the event the County is the prevailing party, the Court, in addition to the penalties provided herein, the County will be entitled to the recovery of the cost of prosecuting the civil action including, but not limited to, the administrative costs of the County to inspect, investigate, and pursue compliance with this Ordinance, Court filing fees, expert witness expenses and reasonable attorney fees.

4. In addition to the penalties above, there shall be imposed a civil fine of two hundred dollars (\$200.00) per day, per violation of this Ordinance or any state or local laws, regulations, ordinances or codes applicable to Medical Cannabis Activities, which shall continue to accrue for each day of each violation until the violation is abated. Such fine shall begin to run 72 hours after proper notice of a violation has been provided to the operator of the Medical Cannabis Activities and continue for so long as the noticed violation continues to occur. Notice of the fine assessment shall be provided by personal notice hand delivered to the operator, or certified mail, or the notice is posted upon the property in a conspicuous place.

5. The remedies and penalties above are cumulative to all other remedies available to the County by law.

Section VI: Effective Date

Due to the immediate need to protect the 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 VII: 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 VIII: Conflict

Any other ordinances of the County 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 in force.

Date of First Reading: 8-20-2025

This Ordinance was published not more than seven (7) days nor more than twenty-one (21) days prior to passage on:

Date of Publication: _____

Date of Second Reading and Passage: _____

Motion by: _____

Seconded by: _____

Vote: _____

APPROVED, RESOLVED, ADOPTED AND EXECUTED ON THIS ____ DAY OF _____, 2025.

KENNETH C. IMES,
Calloway County Judge-Executive

RICKY STEWART,
Magistrate, District 1

LARRY CRUTCHER,
Magistrate, District 2

DON CHERRY,
Magistrate, District 3

PAUL RISTER,
Magistrate, District 4

Attested to by: ANTONIA D. FAULKNER,
Clerk of Calloway County