

ORDINANCE NO. 062 - 2024

AN ORDINANCE AMENDING SECTION 13-13(B) OF THE CODE OF ORDINANCES TO CREATE FIVE (5) MEDICINAL CANNABIS BUSINESS (CULTIVATOR, DISPENSARY, PROCESSOR, PRODUCER, AND SAFETY COMPLIANCE FACILITY) SPECIAL FEES LICENSES AND SETTING THEIR FEES; CREATING SECTION 13-83 OF THE CODE TO DEFINE TERMS REGARDING THE REGULATION OF MEDICINAL CANNABIS BUSINESSES; CREATING SECTION 13-84 OF THE CODE TO REQUIRE AN ENTITY WHO OPERATES A MEDICINAL CANNABIS BUSINESS TO OBTAIN THE APPLICABLE SPECIAL FEES LICENSE(S), AS FURTHER DEFINED IN SECTIONS 13-85 THROUGH SECTION 13-89, AND TO PROVIDE THE INFORMATION REQUIRED IN THE APPLICATION FOR A MEDICINAL CANNABIS BUSINESS SPECIAL FEES LICENSE, AND TO SET THE CRITERIA BY WHICH THE DIRECTOR OF REVENUE MAY DENY AN APPLICATION, REFUSE TO RENEW A LICENSE, OR REVOKE A LICENSE; CREATING SECTION 13-90 TO REQUIRE PAYMENT OF OCCUPATIONAL LICENSE FEES ON NET PROFITS AND ON WITHHOLDINGS; CREATING SECTION 13-91 OF THE CODE TO PROVIDE THE AUTHORITY TO ISSUE SUBPOENAS TO THE ADMINISTRATIVE HEARING BOARD, CREATED PURSUANT TO SECTION 12-6 OF THE CODE, TO DETERMINE WHETHER VIOLATIONS OF THIS ORDINANCE HAVE OCCURRED, AND SETTING PENALTIES FOR VIOLATIONS, AND SPECIFYING THE MANNER OF APPEAL FOR CITATIONS; AND CREATING SECTION 13-92 OF THE CODE TO PROVIDE THE PROCEDURE TO USE BEFORE DENYING AN APPLICATION, REVOKING A LICENSE, OR REFUSING TO RENEW A LICENSE; AND AUTHORIZING THE DIVISION OF REVENUE TO AMEND ITS REGULATIONS CONSISTENT WITH THIS ORDINANCE.

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That a new Section 13-13(b)(19) of the Lexington-Fayette Urban County Code of Ordinances be and hereby is created, to read as follows, with subsequent subsections sequentially re-numbered consistent with the addition of new Section 13-13(b)(19):

	Subject to fee	Minimum fee	Date due
(19)	Medicinal cannabis business		
	Cultivator	\$500.00 per year	Yearly
	Dispensary	\$500.00 per year	Yearly
	Processor	\$500.00 per year	Yearly
	Producer	\$500.00 per year	Yearly
	Safety Compliance Facility	\$500.00 per year	Yearly

Section 2 – That Article VI of Chapter 13 of the Code of Ordinances be and hereby is created to read as follows:

Sec. 13-83. - Definitions.

For the purposes of this Article, the following definitions shall apply:

- (a) *Director* shall mean the Director of the Lexington-Fayette Urban County Government, Division of Revenue.
- (b) *Government* shall mean the Lexington-Fayette Urban County Government.

- (c) *Applicant* shall mean any person who applies for a special fees license pursuant to this Article.
- (d) *Licensee* shall mean any person who currently holds a special fees license(s) for any Medicinal Cannabis Business pursuant to this Article.
- (e) *Operator* shall mean any person who currently operates a Medicinal Cannabis Business, as defined in Chapter 218B of the Kentucky Revised Statutes, as may be amended.
- (f) *Commissioner of Finance* shall mean whoever is appointed by the Mayor, pursuant to Sec. 6.02 of the Charter, to fill that role.
- (g) *Sufficient Evidence* shall mean the type of substantial evidence sufficient to convince reasonable-minded people, which may include: (1) location map(s) that identify the proposed location for the Medicinal Cannabis Business and also identify all properties and current uses of same, located within 1,000 feet of the proposed site of the Medicinal Cannabis Business; and/or (2) plans submitted to the Division of Planning.
- (h) *Medicinal Cannabis Business* shall mean either a Cultivator, Dispensary, Processor, Producer, or Safety Compliance Facility, as defined in Chapter 218B of the Kentucky Revised Statutes, as may be amended.
- (i) *Cultivator* shall have the same meaning as provided in Chapter 218B of the Kentucky Revised Statutes, as may be amended.
- (j) *Dispensary* shall have the same meaning as provided in Chapter 218B of the Kentucky Revised Statutes, as may be amended.
- (k) *Processor* shall have the same meaning as provided in Chapter 218B of the Kentucky Revised Statutes, as may be amended.
- (l) *Producer* shall have the same meaning as provided in Chapter 218B of the Kentucky Revised Statutes, as may be amended.
- (m) *Safety Compliance Facility* shall have the same meaning as provided in Chapter 218B of the Kentucky Revised Statutes, as may be amended.

Sec. 13-84. – Medicinal Cannabis Business special fees license.

- (a) No person or entity shall operate a Medicinal Cannabis Business at any location in Lexington-Fayette County unless that entity first possesses a valid business license and the required special fees license(s) for each type of Medicinal Cannabis Business operating at that location, as provided in Section 13-13 of the Code and further specified in Sec. 13-85 through 13-89 of this Article.
- (b) The Director is authorized to promulgate such forms and implement procedures as reasonably necessary and consistent with state law and this Article for the orderly and efficient processing of Medicinal Cannabis Business special fees license applications and renewals. Provided, however, that an applicant shall be required to provide the following information as part of its application for the initial special fees license and each renewal:
 - (1) Address of each proposed Medicinal Cannabis Business;
 - (2) Identification of each type of proposed Medicinal Cannabis Business operating at that location (Cultivator, Dispensary, Producer, Processor, Safety Compliance Facility);
 - (3) Name, address, phone number, and email address of the Applicant;

- (4) Name, address, phone number, and email address of the Operator, if different from the Applicant;
 - (5) 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;
 - (6) A Zoning Compliance Permit issued by the Division of Planning;
 - (7) 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.
- (c) All applications for a special fees license and renewal shall be accompanied by the fee referenced in Section 13-13 of the Code for Medicinal Cannabis Business special fees license and shall be conditioned upon issuance of a valid license issued by the appropriate Cabinet pursuant to Chapter 218B of the Kentucky Revised Statutes, as may be amended.
- (d) The Operator of the Medicinal Cannabis Business may apply on behalf of the owner of the Medicinal Cannabis Business, with the express written permission of the owner.
- (e) All Medicinal Cannabis Business special fees licenses and renewals shall expire upon the earlier of (1) December 31st 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.
- (f) The Director may refuse to issue a license or renew the license of an existing Medicinal Cannabis Business in the following circumstances:
- (1) When the Applicant intentionally or knowingly makes a false statement as to a material matter in an application;
 - (2) When the Applicant fails to complete any part of the application;
 - (3) When the Licensee has failed to pay any fee, tax, fine, or penalty related to a violation of this Article;
 - (4) When the Medicinal Cannabis Business is subject to unsatisfied penalties, fines, or liens assessed or levied by the Government, for any reason;
 - (5) When the Applicant of the Medicinal Cannabis Business cannot provide Sufficient Evidence that its proposed location is more than 1,000 feet from 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;
 - (6) 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, maintenance, health, sanitation, fire, electrical, plumbing, and mechanical codes.
- (g) The Director may revoke the special fees license held by any Licensee of any Medicinal Cannabis Business for any of the following reasons:
- (1) When any one of the circumstances provided in subsection (f), above, occurs; or

- (2) When the Licensee has been found to be in violation of this Article two (2) or more times during the relevant license term.

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

- (h) Relevant divisions and departments with necessary information for the Director to perform his or her responsibilities under this article should provide such information to the Director at his or her request. Members of the public may also provide complaints and relevant evidence indicating violation of this article to the Director.

Sec. 13-85. – Cultivator.

No entity shall engage as a Cultivator of medicinal cannabis at any location within Lexington-Fayette County unless that entity first possesses a valid special fees license, as required by Section 13-84 of this Article, providing that it intends to operate a Medicinal Cannabis Business as a Cultivator at that location.

Sec. 13-86. – Dispensary.

No entity shall operate a Dispensary of medicinal cannabis at any location within Lexington-Fayette County unless that entity first possesses a valid special fees license, as required by Section 13-84 of this Article, providing that it intends to operate a Medicinal Cannabis Business as a Dispensary at that location.

Sec. 13-87. – Producer.

No entity shall operate as a Producer of medicinal cannabis at any location within Lexington-Fayette County unless that entity first possesses a valid special fees license, as required by Section 13-84 of this Article, providing that it intends to operate a Medicinal Cannabis Business as a Producer at that location.

Sec. 13-88. – Processor.

No entity shall operate as a Processor of medicinal cannabis at any location within Lexington-Fayette County unless that entity first possesses a valid special fees license, as required by Section 13-84 of this Article, providing that it intends to operate a Medicinal Cannabis Business as a Processor at that location.

Sec. 13-89. – Safety Compliance Facility.

No entity shall operate a Safety Compliance Facility of medicinal cannabis at any location within Lexington-Fayette County unless that entity first possesses a valid special fees license, as required by Section 13-84 of this Article, providing that it intends to operate a Medicinal Cannabis Business as a Safety Compliance Facility at that location.

Sec. 13-90. – Taxes.

Pursuant to Article I of this Chapter, Licensees are responsible for payment of occupational license fees on net profits earned from the operation of a Medicinal Cannabis Business and on withholdings from employee compensation paid for work done or services performed in the urban county, subject to any applicable exemptions, including for rental property.

Sec. 13-91. – Enforcement and Appeals.

- (a) Pursuant to Section 14-10 of the Code, this Article shall be enforced by the Director of Revenue, citation officers within the Division of Revenue, and the Administrative Hearing Board established in Sec. 12-6 of the Lexington-Fayette County Code of Ordinances in accordance with the rules and procedures established therein.
- (b) Pursuant to KRS 65.8821, the Administrative Hearing Board established in Sec. 12-6 of the Lexington-Fayette County Code of Ordinances and assigned hearing officer(s) shall have the authority to subpoena information from any person to determine whether there has been a violation of any ordinance that the Board or hearing officer has jurisdiction to enforce. Any such subpoena shall:
 - (1) Be served upon the person, or its registered agent, if applicable, via certified mail;
 - (2) Identify the provision(s) of any ordinance that the Government has reason to believe may have been violated; and
 - (3) Describe with reasonable specificity the evidence supporting the Government's reasonable belief that a violation of said ordinance has occurred.
- (c) Any person that violates Section 13-84(a) through 13-89 of this Article shall be subject to civil penalties, as imposed by a citation officer within the Division of Revenue in accordance with Section 2B-6 of the Lexington-Fayette County Code of Ordinances, in the amount of \$500 per offense.
- (d) Any person that violates Sec. 13-90 of the Lexington-Fayette Urban County Code of Ordinances shall be subject to the civil penalty provided in Article I of this Chapter for failure to pay the applicable tax or occupational license fee.
- (e) Any person issued civil penalties for violations of Section 13-84 through Sec. 13-90 of this Article may appeal to the Administrative Hearing Board in accordance with Section 12-6 and Section 2B of the Code of Ordinances.
- (f) Each day that a violation continues after notice of the offense has been served shall constitute a separate offense.
- (g) The Government shall possess a lien on the property owned by the Licensee in accordance with section 2B-9 of the Code of Ordinances for all final citations issued under this Section.
- (h) In addition to the penalties provided herein, the Director is authorized, with the assistance of the Department of Law, to bring and prosecute civil actions for violations of this Article as appropriate, including, without limitation, actions for injunctive relief and declarations of rights, in any court of competent jurisdiction.
- (i) Nothing provided herein shall limit the power of the Director, as provided in Sec. 13-84, to deny, revoke, or fail to renew the registration of a Medicinal Cannabis Business.

Section 13-92. – Procedure to deny, revoke, or fail to renew a special fees license.

- (a) Upon finding that a condition exists to deny an application, revoke a license, or fail to renew a special fees license, the Director 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.

- (b) The Licensee or Applicant shall have ten (10) calendar days to respond to the Director's letter in writing and present evidence showing that the proposed action should not be taken.
- (c) The Director shall determine whether the Licensee or Applicant has produced sufficient evidence to contest the proposed action and shall request review by the Commissioner of Finance, if such evidence exists.
- (d) Within thirty (30) days, the Commissioner of Finance shall review all evidence and hold a hearing at which the Licensee or Applicant shall be allowed to present witnesses on its behalf. The Commissioner's decision whether to deny an application, revoke a special fees license, or fail to renew a license shall be final. The Licensee or Applicant may then pursue appeal through the Circuit Court.
- (e) Failure to respond to the Director's letter or otherwise present evidence shall result in the Director taking the proposed action described in his or her letter.

Section 3– That the Division of Revenue be and hereby is authorized to amend the Lexington-Fayette Urban County Government, Division of Revenue, License Fee Regulations (5th Edition) as necessary to implement this Ordinance.

Section 4 – That if any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unlawful by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 5 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: June 27, 2024

Linda Gorton

 MAYOR

ATTEST:

[Signature]

 CLERK OF THE URBAN COUNTY COUNCIL

PUBLISHED: July 3, 2024-1t

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