

**ORDER OF THE BOARD FOR THE ADOPTION OF TEXT AMENDMENTS TO THE
DESOTO COUNTY ZONING ORDINANCE (THE “ZONING ORDINANCE”) FOR THE
PURPOSES OF ADDRESSING MEDICAL CANNABIS BUSINESSES**

WHEREAS, Senate Bill 2095, Mississippi Legislature, Regular Session 2022, "Mississippi Medical Cannabis Act" (the "Act"), passed by the Mississippi Legislature and signed into law by the governor of the State of Mississippi, 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, Medical Cannabis Activities can operate within DeSoto County, Mississippi as allowed by the Act, however, the Zoning Ordinance does not specifically address or regulate the establishment, location or operation of Medical Cannabis Activities; and

WHEREAS, the Mississippi Attorney General issued an official opinion to Mayor Darren Musselwhite, dated April 15, 2022, opining that local government authorities may implement reasonable zoning regulations to limit or guide the use of land use applicable to Medical Cannabis Activities; and

WHEREAS, Mississippi law permits DeSoto County, Mississippi to enact zoning regulations in order to conserve and promote the public health, safety and general welfare and regulate the use of buildings, structures and land; and

WHEREAS, the regulations, limitations and prohibitions established in the Zoning Ordinance are necessary to encourage safe, reasonable and responsible growth of 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 Miss. Code 17-1-3, the Governing Authority is vested with authority of regulatory controls over zoning and land uses, and may do all things, consistent with the laws of the state, which they deem necessary to protect the health and welfare of the residents; and

WHEREAS, these adopted text amendments to the Zoning Ordinance addressing Medical Cannabis Activities 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 where in the County the various types of Medical Cannabis Activities can occur and specify the permitting requirements, the application process and the approval criteria that will apply.

NOW, THEREFORE, BE IT ORDAINED by the Board as follows:

SECTION 1. The recitals set forth above are hereby incorporated as if fully set forth herein.

SECTION 2. For purposes of these text amendments and the Zoning Ordinance, unless the context requires otherwise, the Definitions of the Act are incorporated by reference as if specifically set forth herein in their entirety.

SECTION 3. The Zoning Ordinance is hereby amended as follows:

Amend Article II Definitions to include:

- i. All Definitions of the Act are incorporated by reference as if specifically set forth herein in their entirety.
- ii. 86. Site Plan: Shall mean permitted structure and site development and operations plan reviews as implemented by the Governing Authority or County planning department including, but not limited to, design review standards and additional requirements as may be adopted by the Governing Authority specific to Medical Cannabis Activities.

Amend Article **V AGRICULTURAL DISTRICTS**

1. "A" AGRICULTURAL DISTRICT

B. Permitted Uses:

ADD: Cannabis Cultivation Micro Cultivation Tiers 1-2 and Cultivation Facility Tiers 1-6, subject to and conditioned upon the following:

- (a) Not allowed in a platted and recorded subdivision.
- (b) Three acre minimum lot size required
- (c) Must have a minimum setback of one hundred (100) feet from a side property line.
- (d) Conditional Use required when there is a dwelling located on the property
- (e) Access road or driveway must be a hard surface.
- (f) Site Plan Review required.

ADD: Cannabis Cultivation Micro Processing Tiers 1-2 and Cannabis Processing Facility Tiers 1-6, subject to and conditioned upon the following:

- (a) Not allowed in a platted and recorded subdivision.
- (b) Three acre minimum lot size required
- (c) Must have a minimum setback of one hundred (100) feet from a side property line.
- (d) Conditional Use required when there is a dwelling located on the property
- (e) Access road or driveway must be a hard surface.

- (f) Site Plan Review required.

ADD: Cannabis Research Facility subject to and conditioned upon the following:

- (a) Must have a minimum setback of one hundred (100) feet from a side property line.
- (b) Site Plan Review required.

ADD: Cannabis Testing Facility subject to and conditioned upon the following:

- (a) Must have a minimum setback of one hundred (100) feet from a side property line.
- (b) Site Plan Review required.

C. Conditional Uses

ADD: Cannabis Micro Cultivation Facility Tiers 1-2 and Cultivation Facility Tiers 1-6, when dwelling is present, subject to and conditioned upon the following:

- (a) Three acre minimum lot size required
- (b) Must have a minimum setback of one hundred (100) feet from a side property line.
- (c) Access road or driveway must be a hard surface.
- (d) Site Plan Review required.

ADD: Cannabis Micro Processing Facility Tiers 1-2 and Processing Facility Tiers 1-6, when dwelling is present, subject to and conditioned upon the following:

- (a) Three acre minimum lot size required
- (b) Must have a minimum setback of one hundred (100) feet from a side property line.
- (c) Access road or driveway must be a hard surface.
- (d) Site Plan Review required.

ADD: Cannabis Transportation Facility subject to and conditioned upon the following:

- (a) Must have a minimum setback of one hundred (100) feet from a side property line.
- (b) Site Plan Review required.

ADD: *Cannabis Disposal Facility subject to and conditioned upon the following:*

- (a) Must have a minimum setback of one hundred (100) feet from a side property line.
- (b) Site Plan Review required.

ADD: Minimum lot area for any lot which contains a Cannabis Micro-Cultivation Facility Tiers 1-2, or Cannabis Cultivation Facility Tiers 1-6 shall be a minimum of three (3) acres.

Amend Article **ARTICLE VII COMMERCIAL DISTRICTS**

1. "C-1" NEIGHBORHOOD COMMERCIAL DISTRICT

B. Permitted Uses:

ADD: *Cannabis Dispensary subject to and conditioned upon the following:*

- (a) Site Plan Review required.

2. "C-2" HIGHWAY COMMERCIAL DISTRICT

B. Permitted uses:

ADD: *Cannabis Dispensary* subject to and conditioned upon the following:

- (a) Site Plan Review required.

ADD: *Cannabis Research Facility subject to and conditioned upon the following:*

- (a) Site Plan Review required.

ADD: *Cannabis Testing Facility subject to and conditioned upon the following:*

- (a) Site Plan Review required.

ADD: *Cannabis Transportation Facility*

- (a) Site Plan Review required.

3. "C-3" GENERAL COMMERCIAL DISTRICT

B. Permitted uses:

ADD: *Cannabis Dispensary* subject to and conditioned upon the following:

- (a) Site Plan Review required.

ADD: *Cannabis Research Facility* subject to and conditioned upon the following:

- (a) Site Plan Review required.

ADD: *Cannabis Testing Facility* subject to and conditioned upon the following:

- (a) Site Plan Review required.

ADD: *Cannabis Transportation Facility* subject to and conditioned upon the following:

- (a) Site Plan Review required.

4. "C-4" PLANNED COMMERCIAL DISTRICT

B. Permitted uses:

ADD: *Cannabis Research Facility* subject to and conditioned upon the following:

- (a) Site Plan Review required.

ADD: *Cannabis Testing Facility* subject to and conditioned upon the following:

- (a) Site Plan Review required.

4. "0" OFFICE DISTRICT

B. Permitted Uses:

ADD: *Cannabis Research Facility* subject to and conditioned upon the following:

- (a) Site Plan Review required.

ADD: *Cannabis Testing Facility* subject to and conditioned upon the following:

- (a) Site Plan Review required.

Amend Article **ARTICLE IX PLANNED AND OVERLAY DISTRICTS**

2. "P-B" Planned Business District

B. Permitted Uses:

ADD: *Cannabis Dispensary* subject to and conditioned upon the following:

- (a) Site Plan Review required.

ADD: *Cannabis Research Facility* subject to and conditioned upon the following:

- (a) Site Plan Review required.

ADD: *Cannabis Testing Facility* subject to and conditioned upon the following:

- (a) Site Plan Review required.

Amend Article **ARTICLE VIII INDUSTRIAL DISTRICTS**

1. "M-1" LIGHT INDUSTRIAL DISTRICT

B. Permitted Uses:

ADD: Cannabis Micro Cultivation Facility Tiers 1-2 and Cannabis Cultivation Facility Tiers 1-6 subject to and conditioned upon the following:

- (a) Site Plan Review required.

ADD: Cannabis Micro Processing Facility Tiers 1-2 and Cannabis Processing Facility Tiers 1-6 subject to and conditioned upon the following:

- (a) Site Plan Review required.

ADD: *Cannabis Transportation Facility* subject to and conditioned upon the following:

(a) Site Plan Review required.

ADD: Cannabis Disposal Facility subject to and conditioned upon the following:

(a) Site Plan Review required.

C. Conditional Uses:

ADD: Cannabis Research Facility

(a) Site Plan Review required

ADD: Cannabis Testing Facility

(a) Site Plan Review required

2. "M-2" HEAVY INDUSTRIAL DISTRICT

B. Permitted Uses:

ADD: Cannabis Micro Cultivation Facility Tiers 1-2 and Cannabis Cultivation Facility Tiers 1-6 subject to and conditioned upon the following:

(a) Site Plan Review required.

ADD: Cannabis Micro Processing Facility Tiers 1-2 and Cannabis Processing Facility Tiers 1-6 subject to and conditioned upon the following:

(a) Site Plan Review required.

ADD: Cannabis Transportation Facility subject to and conditioned upon the following:

(a) Site Plan Review required.

ADD: Cannabis Disposal Facility subject to and conditioned upon the following:

(a) Site Plan Review required.

C. Conditional Uses:

ADD: Cannabis Research Facility

(a) Site Plan Review required

ADD: Cannabis Testing Facility

(a) Site Plan Review required

SECTION 4. Other than as enumerated hereinabove, Medical Cannabis Activities are prohibited in any zoning districts other than those expressly permitted.

SECTION 5. To the maximum extent permitted by law, the property owner and the Medical Cannabis Activities owner/s shall indemnify and hold harmless the County and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by affected property owners or other third parties due to the Commercial Cannabis Activities and for any claims brought by any person for problems, injuries, damages, or liabilities of any kind that may arise out of these uses.

SECTION 6. Failure to comply with any requirement of the Zoning Ordinance, regulations of the State of Mississippi, and/or any regulation or ordinances of the County shall be, and the same hereby is declared to be, a public nuisance and unlawful and shall be subject to stop work order, injunction, abatement or any other administrative, civil, or criminal remedy available to the County under the applicable state and county laws, ordinances and regulations.

SECTION 7. 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 8. If any provision of these text amendments are ruled illegal, unconstitutional or otherwise unenforceable by a Court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

SECTION 9. Any provisions of the Zoning Ordinances which are conflicting or inconsistent with these text amendments, are hereby superseded by these text amendments and repealed but only to the extent of such inconsistencies or conflicts.

