

Ordinance # 925(19)

AN ORDINANCE OF THE CITY OF MOORE, OKLAHOMA AMENDING PART 8, HEALTH AND NUISANCES, CHAPTER 12, MEDICAL MARIJUANA, SECTIONS 8-1201 DEFINITIONS, 8-1202 GENERAL REQUIREMENTS, 8-1203 MEDICAL MARIJUANA DISPENSARY, 8-1204 COMMERCIAL MEDICAL MARIJUANA GROWING FACILITY, 8-1205 COMMERCIAL MEDICAL MARIJUANA PROCESSING FACILITY, 8-1206 MEDICAL MARIJUANA TESTING LABORATORY FACILITY, 8-1207 MEDICAL MARIJUANA RESEARCH FACILITY, 8-1208 MEDICAL MARIJUANA EDUCATION FACILITY, 8-1209 MEDICAL MARIJUANA GROWING FOR PERSONAL USE, 8-1210 LEGAL NONCONFORMING CLAUSE; PROVIDING FOR REPEALER, SEVERABILITY AND DECLARING AN EMERGENCY.

NOW THEREFORE, BE IT ORDAINED BY THE City Council of the City of Moore, Oklahoma:

SECTION 1. Part 8, Chapter 12 Health and Nuisances shall be amended as follows, to-wit:

Sec. 8-1201. Definitions:

- A. **Medical Marijuana Dispensary:** An entity that has been licensed by the State of Oklahoma to purchase medical marijuana or medical marijuana products from a licensed medical marijuana commercial grower or medical marijuana processor, sell medical marijuana or medical marijuana products to patients and caregivers, or sell or transfer products to another dispensary.
- B. **Commercial Medical Marijuana Growing Facilities:** An entity licensed by the State of Oklahoma to cultivate, prepare and package medical marijuana and transfer or contract for transfer medical marijuana to a medical marijuana dispensary, medical marijuana processor, any other medical marijuana commercial grower, medical marijuana research facility, medical marijuana education facility and pesticide manufacturers. A commercial grower may sell seeds, flower or clones to commercial growers.
- C. **Commercial Medical Marijuana Processing Facilities:** An entity licensed by the State of Oklahoma to operate a business including the production, manufacture, extraction, processing, packaging or creation of concentrate, medical-marijuana-infused products or other medical marijuana products.
- D. **Medical Marijuana Transporter:** A person or entity that is licensed by the State of Oklahoma to transport medical marijuana. A medical marijuana transporter does not include a medical marijuana business that transports its own medical marijuana, medical marijuana concentrate or medical marijuana products to a property or facility adjacent to or connected to the licensed premises if the property is another licensed premises of the same medical marijuana business.
- E. **Medical Marijuana Waste:** Unused, surplus, returned or out-of-date marijuana, plant debris of the plant of the genus Cannabis, including dead plants and all unused plant parts and roots.

- F. **School:** A public or private preschool or a public or private elementary or secondary school used for school classes and instruction. A homeschool, daycare, or child-care facility shall not be considered a "school".
- G. **Medical Marijuana Growing for Personal Use:** Any individual licensed by the State of Oklahoma to grow up to six (6) mature marijuana plants and up to six (6) seedling plants within a single residence for personal medical use.
- H. **Medical Marijuana Education Facility:** A person or entity approved to operate a facility providing training and education to individuals involving the cultivation, growing, harvesting, curing, preparing, packaging or testing of medical marijuana, or the production of medical-marijuana-infused products or other medical marijuana products.
- I. **Medical Marijuana Research Facility:** A person or entity approved to conduct medical marijuana research.
- J. **Medical Marijuana Testing Lab:** A public or private laboratory licensed to conduct testing and research on medical marijuana and medical marijuana products.
- K. The City hereby adopts all other terms and definitions as established by State law or Department of Health regulations. In the event of a conflict between any definitions contained herein, the definition promulgated by the State or the Department of Health shall prevail.

Sec. 8-1202. General Requirements:

- A. Applicants for any license contained herein shall be required to possess a valid State of Oklahoma issued medical marijuana license prior to making application for the city license.
- B. The commercial licenses outlined in this ordinance will be subject to property inspection by an authorized City Inspector prior to issuance to insure compliance with all codes of the City.
- C. The property inspection will occur at a time scheduled and approved by both the applicant and the City Inspector.
- D. The applicant will be required to be present during the inspection.
- E. All structures, equipment, and apparatus shall comply with all building and fire codes currently adopted by the State of Oklahoma and the City of Moore.
- F. A Medical Marijuana Business License Application shall be filled out and signed by the property and business owner and submitted to the City Clerk prior to scheduling an inspection.
- G. A nonrefundable license fee, as established by this Chapter, shall be paid at the time the application is submitted.

H. The license fee shall be set according to and used to offset municipal expenses covering costs related to licensing, inspection, administration, and enforcement of this Article.

I. License holder shall remit all required State and City sales tax.

J. It is the intent of the City of Moore that nothing in the Medical Marijuana Ordinance be construed to:

1. Allow persons to engage in conduct that endangers the health, safety, or welfare of the citizens of the City of Moore, or causes a public nuisance;
2. Allow the use of marijuana for non-medical purposes; or
3. Allow any activity that is otherwise illegal and not permitted by state law.

K. Additional Regulations:

1. Smoking and vaping marijuana shall be prohibited on all city property including vehicles, buildings, and parks as well as other property defined in Title 63 O.S. Section 1-1521 et seq. (2017) to be cited as the 'Smoking in Public Places and Indoor Workplace Act".
2. Revocation or suspension of Municipal issued marijuana license:
 - a. The city manager or designee shall revoke or suspend a license issued under this section on any of the following grounds:
 - i. The license was procured by fraudulent conduct or false statement of a material fact or a fact concerning the applicant was not disclosed at the time of the application, and such fact would have constituted just cause for refusal to issue the license;
 - ii. Violation of any City ordinance, State law, or Department of Health regulations governing medical marijuana;
 - iii. Or any acts deemed to be a public nuisance.
 - b. Prior to suspension or revocation, the permittee shall be given notice of the proposed action to be taken and shall have an opportunity to be heard before the city manager. If an employee has been designated by the city manager, such employee shall make a report to the city manager together with a recommendation as to whether the license should be suspended or revoked.
 - c. The operation of a commercial medical marijuana facility without achieving and maintaining a current applicable Municipal issued Medical Marijuana Business License shall be punishable by a fine not exceeding \$500 and each day the violation continues shall be deemed a separate offense.

3. Any person or entity applying for or issued a license by the City of Moore shall comply with all State law and Department of Health rules and regulations, as may be amended from time to time.
4. Revocation of the State issued license shall result in immediate revocation of the City issued license.

Sec. 8-1203. MEDICAL MARIJUANA DISPENSARY: Medical Marijuana Dispensaries are hereby allowed within the municipal boundaries of Moore, Oklahoma upon compliance of the above general requirements, issuance of a Retail Medical Marijuana Dispensary Business License and the following additional provisions:

- A. A Medical Marijuana Dispensary shall only be located within one of the following zoning districts:
 - (1) C-2, Neighborhood Commercial District
 - (2) C-3, General Commercial District
 - (3) C-4, Planned Shopping Center District
 - (4) C-5, Automotive and Commercial Recreation District
 - (5) C-6, Central Business District
 - (6) I-1, Light Industrial District
- B. Medical Marijuana Dispensary Business License shall not be granted to any applicant where the proposed location would be located within one thousand (1000) feet of any school entrance. The distance described shall be computed by direct measurement in a straight line from the nearest property line of the parcel of land on which the use described in herein is located to the nearest entrance of the building or unit of the school.
- C. Conditions of Operation:
 1. The retail establishment must maintain a valid sales tax permit issued by the State of Oklahoma.
 2. No on premises use of marijuana or its derivatives shall be allowed.
 3. Any violations of this section will result in the revocation of the Retail Medical Marijuana Business license.
- D. There shall be a business license fee and an annual renewal fee as set forth in Exhibit A.

Sec. 8-1204. COMMERCIAL MEDICAL MARIJUANA GROWING FACILITIES: Commercial Medical Marijuana Growing Facilities are hereby allowed within the municipal boundaries of Moore, Oklahoma upon compliance with the General Requirements above, issuance of a Commercial Medical Marijuana Growing License and the following provisions:

B. Commercial Medical Marijuana Growing Facilities shall only be located within one of the following zoning districts:

1. A-1 – Rural Agriculture.
2. A-2 – Suburban Agriculture.
3. I-1 – Light Industrial.
4. I-2 – Medium Industrial.
5. I-3 – Heavy Industrial.

C. Conditions of Operation:

1. The facility shall be a secure building with limited access. The secure area must be locked at all times.
2. The growing area including any lighting, plumbing or electrical components used shall comply with all building and fire codes adopted by the State of Oklahoma and the City of Moore.
3. The buildings/area where marijuana is grown must be properly ventilated so as to not create humidity, mold or other related problems and must be equipped with ventilation/air filtration systems so that no odors are detectible off premises.

D. There shall be a business license fee and an annual renewal fee as set forth in Exhibit A.

Sec. 8-1205. COMMERCIAL MEDICAL MARIJUANA PROCESSING FACILITY: Commercial Medical Marijuana Processing Facilities are hereby allowed within the municipal boundaries of Moore, Oklahoma upon compliance with the General Requirements above, issuance of a Commercial Medical Marijuana Processing License and the following provisions:

A. Commercial Medical Marijuana Processing Facilities shall only be located within one of the following zoning districts:

1. A-1 – Rural Agriculture.
2. A-2 – Suburban Agriculture.
3. I-1 – Light Industrial.
4. I-2 – Medium Industrial.
5. I-3 – Heavy Industrial.

B. Conditions of Operation:

1. The facility shall be a secure building with limited access. The secure area must be locked at all times.

2. The processing area including any lighting, plumbing or electrical components used shall comply with all building and fire codes adopted by the State of Oklahoma and the City of Moore.
3. The buildings where medical marijuana is processed must be properly ventilated so as to not create humidity, mold or other related problems and must be equipped with ventilation/air filtration systems so that no odors are detectible off premises.

C. There shall be a business license fee and an annual renewal fee as set forth in Exhibit A.

Sec. 8-1206. MEDICAL MARIJUANA TESTING LABORATORY FACILITY: Medical Marijuana Testing Laboratory Facilities are hereby allowed within the municipal boundaries of Moore, Oklahoma upon compliance with the General Requirements above, issuance of a Medical Marijuana Testing Laboratory License and the following additional requirements:

A. Medical Marijuana Testing Laboratory Facilities shall only be located within one of the following zoning districts:

- (1) C-2, Neighborhood Commercial District
- (2) C-3, General Commercial District
- (3) C-4, Planned Shopping Center District
- (4) C-5, Automotive and Commercial Recreation District
- (5) C-6, Central Business District
- (6) I-1, Light Industrial District

B. Conditions of Operation:

1. The facility shall be a secure building with limited access. The secure area must be locked at all times.
2. The area shall comply with all building and fire codes adopted by the State of Oklahoma and the City of Moore.
3. The buildings where medical marijuana is stored or tested must be properly ventilated so as to not create humidity, mold or other related problems and must be equipped with ventilation/air filtration systems so that no odors are detectible off premises.

C. There shall be a business license fee and an annual renewal fee as set forth in Exhibit A.

Sec. 8-1207. MEDICAL MARIJUANA RESEARCH FACILITY: Medical Marijuana Research Facilities are hereby allowed within the municipal boundaries of Moore, Oklahoma upon compliance with the General Requirements above, issuance of a Medical Marijuana Research License and the following additional requirements:

A. Medical Marijuana Research Facilities shall only be located within one of the following zoning districts:

- (1) C-2, Neighborhood Commercial District
- (2) C-3, General Commercial District
- (3) C-4, Planned Shopping Center District
- (4) C-5, Automotive and Commercial Recreation District
- (5) C-6, Central Business District
- (6) I-1, Light Industrial District

B. Conditions of Operation:

1. The facility shall be a secure building with limited access. The secure area must be locked at all times.
2. The area shall comply with all building and fire codes adopted by the State of Oklahoma and the City of Moore.
3. The buildings where medical marijuana is stored or where research is being conducted must be properly ventilated so as to not create humidity, mold or other related problems and must be equipped with ventilation/air filtration systems so that no odors are detectible off premises.

C. There shall be a business license fee and an annual renewal fee as set forth in Exhibit A.

Sec. 8-1208. MEDICAL MARIJUANA EDUCATION FACILITY: Medical Marijuana Education Facilities are hereby allowed within the municipal boundaries of Moore, Oklahoma upon compliance with the General Requirements above, issuance of a Medical Marijuana Education License and the following additional requirements:

A. Medical Marijuana Education Facilities shall only be located within one of the following zoning districts:

1. A-1 – Rural Agriculture
2. A-2 – Suburban Agriculture
3. I-1 – Light Industrial
4. I-2 – Medium Industrial
5. I-3 – Heavy Industrial

B. Conditions of Operation:

1. The facility shall be a secure building with limited access. The secure area must be locked at all times.

2. The area shall comply with all building and fire codes adopted by the State of Oklahoma and the City of Moore.
 3. The buildings where medical marijuana is stored must be properly ventilated so as to not create humidity, mold or other related problems and must be equipped with ventilation/air filtration systems so that no odors are detectible off premises.
- C. There shall be a business license fee and an annual renewal fee as set forth in Exhibit A.

Sec. 8-1209. MEDICAL MARIJUANA GROWING FOR PERSONAL USE: Medical Marijuana Growing for Personal Use is hereby allowed within the municipal boundaries of Moore, Oklahoma upon compliance with the General Requirements above and the following additional provisions:

- A. All medical marijuana grown by medical marijuana patient license holders or caregivers may only be grown on real property owned by the patient license holder/caregiver or on real property for which the patient license holder/caregiver has the property owner's written permission to grow marijuana on the property.
- B. All medical marijuana plants grown by a patient or caregiver shall be grown so that the marijuana is not accessible to a member of the general public. No marijuana plants shall be visible from any street adjacent to the property. For purposes of this section, "visible" means viewable by a normal person with 20/20 eyesight without the use of any device to assist in improving viewing distance or vantage point.
- C. It is expressly prohibited to operate extraction equipment or utilize extraction processes if the equipment or process utilizes butane, propane, carbon dioxide or any other potentially hazardous material in a residential property.
- D. Growing medical marijuana shall not be conducted in a manner that constitutes a public nuisance. A public nuisance may be deemed to exist if growing marijuana produces light, glare, heat, noise, odor or vibration that is detrimental to public health, safety or welfare or interferes with the reasonable enjoyment of life and property.
- E. The primary use of the residential property in which medical marijuana is grown shall remain at all times a residence, with legal and functioning cooking, eating, sleeping, and sanitation/bathing facilities with proper ingress and egress. No room shall be used for growing marijuana where such cultivation will impair or prevent the primary uses of cooking, eating, sleeping or sanitation/bathing.

Sec. 8-1210. LEGAL NON-CONFORMING CLAUSE:

- A. Any commercial medical marijuana business that has filed for a Certificate of Occupancy by January 1, 2020 and is in possession of a State issued medical marijuana license indicating the business activity being performed, yet is not zoned in compliance with the zoning restrictions contained

in this chapter, will be allowed as legal nonconforming for purposes of the state required Certificate of Compliance.

B. If the entity is not in possession of an appropriate State issued medical marijuana license at the time of the filing of the Certificate of Occupancy by the January 1, 2020 deadline, and is not zoned in compliance with the zoning restrictions contained in this chapter, the proposed activity will be allowed as legal non-conforming for purposes of the state required Certificate of Compliance. The legal non-conforming status indicated on the Certificate of Compliance is subject to the entity providing an appropriate State of Oklahoma issued commercial medical marijuana license issued to that entity at the address indicated on the Certificate of Occupancy by June 1, 2020.

Once in possession of the state issued medical marijuana license, legal nonconforming status may continue so long as the use remains otherwise lawful, subject to the following provisions:

(1) No such legal nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied after January 1, 2020.

(2) No such legal nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied as of January 1, 2020.

(3) If the legal nonconforming use ceases for any reason for a period of more than 30 days, any subsequent use of land shall conform to the zoning regulations contained in this section.

SECTION 2. CODIFICATION. The City Clerk is hereby directed to enter the added section into the appropriate place in the City of Moore Code as authorized and approved by this Ordinance.

SECTION 3. SEVERABILITY. If any provision, paragraph, word, section of article of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

SECTION 4. REPEALER. All other Ordinances and parts of other Ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

SECTION 5. EMERGENCY CLAUSE. An immediate necessity existing for the preservation of the public peace health and safety, an emergency is hereby declared to exist by reason of which this ordinance shall be in full force and effect from and after passage, approval and publication or posting.

PASSED AND APPROVED BY THE CITY OF MOORE CITY COUNCIL OF THE CITY OF MOORE, OKLAHOMA,
THIS 2 DAY OF December 2019.



Glenn Lewis, Mayor
Danielle McKenzie, Vice Mayor

ATTEST:

Vanessa Kemp, City Clerk
Vanessa Kemp, City Clerk

Approved as to form and legality this 2nd day of December 2019.

Randy Brink
Randy Brink, City Attorney

Exhibit A –

| <u>License</u> | <u>Fee (Initial/Renewal)</u> |
|---|------------------------------|
| Medical Marijuana Dispensary License | \$600/600 |
| Commercial Medical Marijuana Growing License | \$900/900 |
| Commercial Medical Marijuana Processing License | \$900/900 |
| Medical Marijuana Testing Lab | \$900/900 |
| Medical Marijuana Research Facility | \$500/500 |
| Medical Marijuana Education Facility | \$500/500 |