

**ORDINANCE NO. 4053-A**

**AN ORDINANCE OF THE CITY OF MUSKOGEE, OKLAHOMA AMENDING CHAPTER 22, BUSINESS REGULATIONS, ADDING ARTICLE XVI, MEDICAL MARIJUANA, SECTIONS 22-674 DEFINITIONS, 22-675 GENERAL REQUIREMENTS, 22-676 MEDICAL MARIJUANA DISPENSARY ALLOWED AND LICENSE REQUIREMENTS, 22-677 COMMERCIAL MEDICAL MARIJUANA GROWING AND/OR PROCESSING FACILITIES ALLOWED AND LICENSE REQUIREMENTS, 22-678 MEDICAL MARIJUANA WHOLESALE AND/OR STORAGE FACILITIES ALLOWED AND LICENSE REQUIREMENTS, 22-679, PENALTY; BY PROVIDING FOR REPEALER, SEVERABILITY AND DECLARING AN EMERGENCY.**

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

**SECTION 1.** Chapter 22 shall be amended by adding Article XVI Medical Marijuana to the Muskogee City Code, which shall read as follows, to-wit:

**22-674.** Definitions:

- A. Medical Marijuana Dispensary: Any retail medical marijuana establishment licensed by the State of Oklahoma and the City of Muskogee to sell or dispense medical marijuana or medical marijuana products.
- B. Commercial Medical Marijuana Growing and/or Processing Facilities: Any medical marijuana growing or processing facility licensed by the State of Oklahoma to grow or process medical marijuana in excess of twelve (12) plants. Growing includes the cultivation, manufacturing, processing, packaging, and distribution of marijuana and marijuana products. Processing includes including but not limited to: drying, cleaning, curing, packaging, and extraction of active ingredients to create medical marijuana, medical marijuana products or concentrates.
- C. Medical Marijuana Wholesale and/or Storage Facility: Any wholesale or storage establishment licensed by the State of Oklahoma and the City of Muskogee that acquires, possesses, stores, delivers, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to the holder of a valid medical marijuana dispensary license.
- D. Medical Marijuana Growing for Personal Use: Any individual licensed by the State of Oklahoma and the City of Muskogee to grow up to twelve (12) plants within a single residence for personal medical use.

- E. 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.

**22-675.** 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 license 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 apparatuses shall comply with all building and fire codes adopted by the State of Oklahoma and the City of Muskogee.
- 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 in 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. For the distance requirements outlined in this ordinance, the distances 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 property line of the building or unit in which the proposed retail marijuana establishment would be located.
- J. All Medical Marijuana Dispensary, Commercial Medical Marijuana Growing and/or Processing Facilities, and Medical Marijuana Wholesale and/or Storage Facility establishments shall be located within an entirely enclosed and secure structure, as required by the Rules and Regulations of the Department of Health, as may be amended from time to time.

- K. License holder shall remit all required State and City sales taxes.
- L. The City issued license must be conspicuously posted at the place of business.
- M. It is the intent of the City of Muskogee 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 Muskogee, 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.
- N. Additional Regulations:
1. The smell of noxious odor emitted from smoking or consumption of medical marijuana by a person possessing a valid state issued medical marijuana license shall constitute a public nuisance.
  2. Smoking and vaping marijuana shall be prohibited on all city property including vehicles, buildings, parks or other facilities.
  3. Revocation or suspension of Municipal issued marijuana license; hearing.
    - 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 his application, and such fact would have constituted just cause for refusal to issue the license;
      - ii. Violation of City ordinance, State law, or Department of Health regulations governing medical marijuana.
    - 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.

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

**22-676.** MEDICAL MARIJUANA DISPENSARY: Medical Marijuana Dispensaries are hereby allowed within the municipal boundaries of Muskogee, Oklahoma upon compliance with Section 22-675, 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-1" Local Commercial District, upon approval of the Board of Adjustments;
  2. "C-2" General Commercial District; or
  3. "C-3" Regional Commercial District; or
  4. "CBD" Central Business 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 public or private school.
- C. Conditions of Operation:
  1. Buildings where medical marijuana is stored or dispensed must be equipped with ventilation/air filtration systems so that no odors are detectable off premises.
  2. The retail establishment must maintain a valid sales tax permit issued by the State of Oklahoma.
  3. No on premises use of marijuana or its derivatives shall be allowed.
  4. 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 schedule A. The annual business license will expire on June 30<sup>th</sup> and shall be

renewed prior to July 1<sup>st</sup> each year. Failure to renew will result in a penalty fee of fifty percent (50%) of the annual fee and shall require re-inspection as required by City Code 22-675 (B).

**22-677.**

**COMMERCIAL MEDICAL MARIJUANA GROWING AND/OR PROCESSING FACILITIES:** Commercial Medical Marijuana Growing and/or Processing Facilities are hereby allowed within the municipal boundaries of Muskogee, Oklahoma upon compliance with Section 22-675, issuance of a Commercial Medical Marijuana Growing and/or Facility License and the following additional provisions.

A. Commercial Medical Marijuana Growing and/or Processing Facility shall only be located within one of the following zoning districts.

1. “A” Agricultural District;
2. “I-1” Light Industrial District; or
3. “I-2” Heavy Industrial District; or
4. “C-1” Local Commercial District, upon approval of the Board of Adjustments; or
5. “C-2” General Commercial District; or
6. “C-3” Regional Commercial District; or
7. “CBD” Central Business District.

B. Conditions of Operation:

1. The facility shall be secure with limited access.
2. The establishment must maintain a valid sales tax permit issued by the State of Oklahoma.
3. The facility must be constructed in such a manner that the growing of the medical marijuana plants cannot be seen by the public from the public right of way.
4. 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 Muskogee.

5. The growing area must be properly ventilated so as not to create humidity, mold or other related problems.
6. 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.

C. There shall be a business license fee and an annual renewal fee as set forth in schedule A. The annual business license will expire on June 30<sup>th</sup> and shall be renewed prior to July 1<sup>st</sup> each year. Failure to renew will result in a penalty of fifty percent (50%) of the annual fee and shall require re-inspection as required by City Code 22-675 (B).

**22-678. MEDICAL MARIJUANA WHOLESALE AND/OR STORAGE FACILITIES:** Medical Marijuana Wholesale and/or Storage Facilities are hereby allowed within the municipal boundaries of Muskogee, Oklahoma upon compliance with Section 22-675, issuance of a Medical Marijuana Wholesale and/or Storage Facility License and the following additional requirements.

A. Medical Marijuana Wholesale or Storage Facility shall only be located within one of the following zoning districts.

1. "A" Agricultural District;
2. "I-1" Light Industrial District; or
3. "I-2" Heavy Industrial District; or

B. Conditions of Operations:

1. The facility shall be secure with limited access.
2. Buildings where medical marijuana is stored or dispensed must be equipped with ventilation/air filtration systems so that no odors are detectable off premises.
3. The retail establishment must maintain a valid sales tax permit issued by the State of Oklahoma.

D. There shall be a business license fee and an annual renewal fee as set forth in schedule A. The annual business license will expire on June 30<sup>th</sup> and shall be

renewed prior to July 1<sup>st</sup> each year. Failure to renew will result in a penalty fee of fifty percent (50%) of the annual fee.

**22-679** PENALTY: In addition license revocation or suspension, a violation of any of the provisions contained in this chapter shall also be deemed an offense and punishable, as provided in City Code 1-14.

*Reserved 22-680 to 22-750*

SECTION 2. CODIFICATION. The City Clerk is hereby directed to enter the added section into the appropriate place in The Muskogee City Code of Muskogee, Oklahoma, 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 COUNCIL OF THE CITY OF MUSKOGEE,  
OKLAHOMA, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2018.**

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JOHN R. COBURN, Mayor

ATTEST:

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TAMMY L. TRACY, City Clerk

Approved as to form and legality this \_\_\_\_ day of \_\_\_\_\_, 2018.

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ROY D. TUCKER, City Attorney