

**ORDINANCE No. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF BROKEN ARROW AMENDING THE CITY OF BROKEN ARROW CODE OF ORDINANCES CHAPTER 7, ADDING ARTICLE XV MEDICAL MARIJUANA, BUSINESS REGULATIONS AND LICENSING, ESTABLISHING REGULATIONS FOR RETAIL MEDICAL MARIJUANA ESTABLISHMENTS, COMMERCIAL MARIJUANA GROWING FACILITIES, WHOLESALE MARIJUANA FACILITIES, MARIJUANA STORAGE FACILITIES; AND REPEALING ALL ORDINANCES TO THE CONTRARY AND DECLARING AN EMERGENCY**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BROKEN ARROW, OKLAHOMA:**

**SECTION I.** That Chapter 7 shall be amended by adding Article XV to the Broken Arrow City Code which shall read as follows, to wit:

**ARTICLE XV MEDICAL MARIJUANA**

**SECTION 7-363 Definitions**

The following terms are defined as set forth for use in this article:

- (1) Medical Marijuana Dispensary is defined as an entity that is licensed by the Oklahoma State Department of Health pursuant to Title 63 O.S. § 421A which allows the entity to purchase medical marijuana from a Commercial Grower or Processor and sell medical marijuana only to qualified patients and caregivers.
- (2) Commercial Grower is defined as an entity that is licensed by the Oklahoma State Department of Health pursuant to Title 63 O.S. § 422A, which allows the entity to grow, harvest, and package medical marijuana for the purpose of selling medical marijuana to a dispensary, processor or researcher.
- (3) Marijuana Processor is defined as an entity that is licensed by the Oklahoma State Department of Health pursuant to Title 63 O.S. § 423A which allows the entity to purchase marijuana from a commercial grower; prepare, manufacture, package, sell to and deliver medical marijuana products to a dispensary licensee or other processor licensee; and may process marijuana received from a qualified patient into a medical marijuana concentrate, for a fee.
- (4) Qualified Patient means a person that has been issued a medical marijuana license pursuant to 63 O.S. § 420A *et seq.*
- (5) Caregiver means a person that has been issued a medical marijuana license pursuant to 63 O.S. § 420A *et seq.*

- (6) Commercial Establishment License means a license issued to a Medical Marijuana Dispensary, Commercial Grower or Processor by the Oklahoma State Department of Health pursuant to 63 O.S. § 420A *et seq.*

#### SECTION 7-364 Medical Marijuana Dispensary Requirements

- A. State Licensing Requirement. All operators of a Medical Marijuana Dispensary within the City of Broken Arrow must maintain a valid commercial establishment license from the Oklahoma Department of Health. Each person operating a Medical Marijuana Dispensary within the City of Broken Arrow shall provide the City with a copy of their commercial establishment license issued by the Oklahoma Department of Health prior to commencing operation and shall further provide the City with a copy of any renewal of the commercial establishment license not later than August 25<sup>th</sup> of each calendar year.
- B. City Permit Requirement. All operators of a Medical Marijuana Dispensary within the City of Broken Arrow must obtain a Medical Marijuana Dispensary permit from the Municipal Clerk prior to commencing operation.
- C. Applications for Medical Marijuana Dispensary permit. Any person seeking to obtain a Medical Marijuana Dispensary permit shall submit a written application to the Development Services Department on a City prescribed form to include, at a minimum, the following:
1. The name of the establishment;
  2. Physical address of the establishment;
  3. Phone number of the establishment;
  4. Operating hours of the establishment;
  5. The applicant's first name, middle name, last name and suffix if applicable;
  6. The applicant's residence address and mailing address;
  7. The applicant's date of birth;
  8. The applicant's preferred telephone number and email address;
  9. An attestation that the information provided by the applicant is true and correct;
  10. An application submitted on behalf of a business organization shall include an attestation that the applicant is authorized to make application on behalf of the business organization, full name of the business organization, type of business organization, mailing address for the business organization,
  11. A statement signed by the applicant not to divert marijuana to any individual or entity that is not lawfully entitled to possess marijuana.
- D. Application Fees. Application processing fees for a Medical Marijuana Dispensary permit shall be as set forth in the Manual of Fees adopted by the Broken Arrow City Council. The fee shall be used to offset municipal expenses covering costs related to licensing, inspection, administration and enforcement of Medical Marijuana Dispensary establishments.

- E. **Renewal Fees.** Annual renewal fees of any Medical Marijuana Dispensary permit shall be as set forth in the Manual of Fees. The fee shall be used to offset municipal expenses covering costs related to licensing, inspection, administration and enforcement of Medical Marijuana Dispensary establishments.
- F. Application fees and annual renewal fees are non-refundable. The application fees shall be paid at the time of the submission of an application for a license and are not prorated.
- G. **Location Restrictions for Medical Marijuana Dispensary.**
  - 1. A Medical Marijuana Dispensary permit will not be granted to any applicant where the proposed location would be located within one thousand (1,000) feet from any public or private school entrance. The distance specified shall be measured from any entrance of the school to the nearest property point of the dispensary.
  - 2. A Medical Marijuana Dispensary Permit will not be granted to any applicant where the proposed location is not allowed by the Broken Arrow Zoning Ordinance.

#### SECTION 7-365 Commercial Grower Requirements

- A. **State Licensing Requirement.** All operators of a Commercial Grower within the City of Broken Arrow must maintain a valid commercial establishment license from the Oklahoma Department of Health. Each person operating a Commercial Grower within the City of Broken Arrow shall provide the City with a copy of their commercial establishment license issued by the Oklahoma Department of Health prior to commencing operation and shall further provide the City with a copy of any renewal of the commercial establishment license not later than August 25<sup>th</sup> of each calendar year.
- B. **City Permit Requirement.** All operators of a Commercial Grower within the City of Broken Arrow must obtain a Commercial Grower permit from the Municipal Clerk prior to commencing operation.
- C. **Applications for a Commercial Grower permit.** Any person seeking to obtain a Commercial Grower permit shall submit a written application to the Development Services Department on a City prescribed form to include, at a minimum, the following:
  - 1. The name of the establishment;
  - 2. Physical address of the establishment;
  - 3. Phone number of the establishment;
  - 4. Operating hours of the establishment;
  - 5. The applicant's first name, middle name, last name and suffix if applicable;
  - 6. The applicant's residence address and mailing address;
  - 7. The applicant's date of birth;
  - 8. The applicant's preferred telephone number and email address;
  - 9. An attestation that the information provided by the applicant is true and correct;

10. An application submitted on behalf of a business organization shall include an attestation that the applicant is authorized to make application on behalf of the business organization, full name of the business organization, type of business organization, mailing address for the business organization,
  11. A statement signed by the applicant not to divert marijuana to any individual or entity that is not lawfully entitled to possess marijuana.
- D. Application Fees. Application processing fees for a Commercial Grower permit shall be as set forth in the Manual of Fees adopted by the Broken Arrow City Council. The fee shall be used to offset municipal expenses covering costs related to licensing, inspection, administration and enforcement of Commercial Grower establishments.
- E. Renewal Fees. Annual renewal fees of any Commercial Grower permit shall be as set forth in the Manual of Fees. The fee shall be used to offset municipal expenses covering costs related to licensing, inspection, administration and enforcement of Commercial Grower establishments.
- F. Application fees and annual renewal fees are non-refundable. The application fees shall be paid at the time of the submission of an application for a license and are not prorated.
- G. Location Restrictions for Commercial Grower.
1. A Commercial Grower Permit will not be granted to any applicant where the proposed location is not allowed by the Broken Arrow Zoning Ordinance.

#### SECTION 7-366 Marijuana Processor Requirements

- A. State Licensing Requirement. All operators of a Marijuana Processor within the City of Broken Arrow must maintain a valid commercial establishment license from the Oklahoma Department of Health. Each person operating a Marijuana Processor within the City of Broken Arrow shall provide the City with a copy of their commercial establishment license issued by the Oklahoma Department of Health prior to commencing operation and shall further provide the City with a copy of any renewal of the commercial establishment license not later than August 25<sup>th</sup> of each calendar year.
- B. City Permit Requirement. All operators of a Marijuana Processor within the City of Broken Arrow must obtain a Marijuana Processor permit from the Municipal Clerk prior to commencing operation.
- C. Applications for a Marijuana Processor permit. Any person seeking to obtain a Marijuana Processor permit shall submit a written application to the Development Services Department on a City prescribed form to include, at a minimum, the following:
1. The name of the establishment;
  2. Physical address of the establishment;
  3. Phone number of the establishment;

4. Operating hours of the establishment;
  5. The applicant's first name, middle name, last name and suffix if applicable;
  6. The applicant's residence address and mailing address;
  7. The applicant's date of birth;
  8. The applicant's preferred telephone number and email address;
  9. An attestation that the information provided by the applicant is true and correct;
  10. An application submitted on behalf of a business organization shall include an attestation that the applicant is authorized to make application on behalf of the business organization, full name of the business organization, type of business organization, mailing address for the business organization,
  11. A statement signed by the applicant not to divert marijuana to any individual or entity that is not lawfully entitled to possess marijuana.
- D. Application Fees. Application processing fees for a Marijuana Processor permit shall be as set forth in the Manual of Fees adopted by the Broken Arrow City Council. The fee shall be used to offset municipal expenses covering costs related to licensing, inspection, administration and enforcement of Marijuana Processor establishments.
- E. Renewal Fees. Annual renewal fees of any Marijuana Processor permit shall be as set forth in the Manual of Fees. The fee shall be used to offset municipal expenses covering costs related to licensing, inspection, administration and enforcement of Marijuana Processor establishments.
- F. Application fees and annual renewal fees are non-refundable. The application fees shall be paid at the time of the submission of an application for a license and are not prorated.
- G. Location Restrictions for Marijuana Processor.
1. A Marijuana Processor Permit will not be granted to any applicant where the proposed location is not allowed by the Broken Arrow Zoning Ordinance.

#### SECTION 7-367 Medical Marijuana Growing Facilities for Personal Use

- A. All medical marijuana grown at home by a Qualified Patient or Caregiver patient medical marijuana license holders can only be grown on residential real property owned by the patient license holder or on rented real property for which the patient license holder has the property owner's written permission to grow medical marijuana on the property.
- B. All homegrown medical marijuana plants must be grown so that the marijuana is not accessible to a member of the general public and is only accessible to the patient or caregiver. If grown outdoors, it must be grown behind an opaque fence that is at least six (6) feet in height. The marijuana plants must be completely enclosed by the fence and the fence must be secured with a lock and key. No marijuana plants may be visible from any street adjacent to the property.

**SECTION II.** Any ordinance or parts of ordinances found to be in conflict herewith are hereby repealed.

**SECTION III.** An emergency exists for the preservation of the public health; peace and safety and therefore this ordinance shall become effective from time of its passage and approval.

**SECTION IV.** Nothing in this Ordinance is intended to permit or assist in the violation of either the Federal Controlled Substances Act or Oklahoma's Uniform Controlled Dangerous Substances Act. Furthermore, nothing in this Ordinance is intended to prevent or frustrate Federal and State enforcement of any laws or regulations applicable to the possession, use or distribution of marijuana or act as a defense to the commission of any act prohibited by Federal or State law.

**SECTION V.** If any provisions of this Ordinance, or of its application to any person or circumstance is declared invalid or unenforceable, as determined by a court of competent jurisdiction, the invalidity or unenforceability shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or circumstance, and to this end, the provisions of this Ordinance are severable.

**PASSED AND APPROVED** and this \_\_\_\_\_ day of August, 2018.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
(seal) CITY CLERK

APPROVED:

\_\_\_\_\_  
ACTING CITY ATTORNEY