



City of Broken Arrow

Request for Action

File #: 22-743, Version: 1

**Broken Arrow City Council
Meeting of: 06-06-2022**

Title:

Consideration, discussion and possible adoption of Ordinance No. 3732 amending Section 3.2.C.7 (Specific Use Permit Standards: Commercial Uses); Section 10.3.D.9 (Definitions: Commercial Uses) Definitions of General Use Categories and Specific Use Types of the Broken Arrow Zoning Ordinance; and repealing all ordinances or parts of ordinances in conflict herewith and declaring an emergency

Background:

Modifications to the Broken Arrow Zoning Ordinance are being proposed that would amend regulations and associated definitions for retail medical marijuana dispensaries and medical marijuana commercial growing/cultivating facilities.

Proposed Modifications

Chapter 3.2 Specific use permit standards:

The following provisions pertain to obtaining a specific use permit for a dispensary, commercial grower, or processor are outlined below.

7. Medical Marijuana

a. Dispensary

- i. A medical marijuana dispensary shall not be located within 1,000 feet of any public or private school, preschool, or state licensed commercial childcare facility
 1. The distance specified in this subsection shall be measured from the nearest public entrance of such public or private school, preschool, or state licensed commercial childcare facility to the nearest public entrance of the medical marijuana dispensary.
 2. If any public or private school, preschool, or state licensed childcare facility is established within 1,000 feet of any medical marijuana dispensary after a permit has been issued by the City of Broken Arrow for that location, the permitted location shall be grandfathered in as to the minimum separation requirements of this subsection as long as the property is used in accordance with the original permitted purpose.
- ii. A medical marijuana dispensary shall not be located within 1,000 feet of any other medical marijuana dispensary.

1. The distance specified in this subsection shall be measured from the nearest public entrance of the proposed medical marijuana dispensary to the nearest public entrance to an existing medical marijuana dispensary.
 - iii. Drive-through windows and drive-through lanes are prohibited for medical marijuana dispensaries.
- b. Commercial grower
 - i. A commercial grower shall not be located within 1,000 feet of any public or private school.
 1. The distance specified in this subsection shall be measured from the nearest public entrance of any public or private school to the nearest entrance of the commercial growing facility.
 2. If any public or private school is established within 1,000 feet of a commercial grower after a permit has been issued by the City of Broken Arrow for that location, the permitted location shall be grandfathered in as to the minimum separation requirements of this subsection so long as the property is used in accordance with the original permitted purpose.
- c. Marijuana Processor
 - i. A marijuana processor shall not be located within 1,000 feet of any public or private school.
 1. The distance specified in this subsection shall be measured from the nearest public entrance of any public or private school to the nearest entrance of the marijuana processor facility.
 2. If a public or private school is established within 1,000 feet of a marijuana processor facility after a permit is issued by the City of Broken Arrow for that location, the permitted location shall be grandfathered in as to the minimum separation requirements of this subsection so long as the property is used in accordance with the original permitted purpose.
- d. The minimum separation provisions of subsection (a) - (c) above shall not be applied to limit the location of a medical marijuana dispensary, commercial grower, or marijuana dispensary whose license for that particular location has been grandfathered in pursuant to Oklahoma State statutes and/or the Oklahoma State Department of Health.

Chapter 10.3 Definitions of general use categories and specific use types:

Medical Marijuana, retail sales definitions are proposed as follows:

9. Retail (sales). Establishments engaged in the sale, lease, or rent of new or used products to the public. No outdoor display of merchandise is permitted unless specifically authorized by this Ordinance. Accessory uses may include offices, parking, storage of goods, and assembly, repackaging, or repair of goods for on site sale. Specific use types include, but are not limited to:
 - a. Alcoholic beverages, retail sales. A retail establishment, such as a liquor store, licensed to sell alcoholic beverages such as beer, wine, and liquor. No on-site consumption is allowed.

b. Medical marijuana, retail sales.

- i. Medical marijuana dispensary is an establishment licensed by the Oklahoma State Department of Health pursuant to 63 O.S. § 421A which allows the dispensary to purchase medical marijuana or medical marijuana products from a licensed processor, grower, or dispensary; to sell medical marijuana and medical marijuana products to a licensed patient, to the licensed patient's parent(s) or legal guardian(s) if licensed patient is a minor, and a licensed caregiver; and to sell, transfer, and transport or contract with a commercial transporter to transport medical marijuana or medical marijuana products to another licensed dispensary, a research facility, and an educational facility; and to transfer to testing laboratories.
- ii. Commercial grower is an establishment licensed by the Oklahoma State Department of Health pursuant to 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.
- iii. Marijuana processor is an establishment licensed by the Oklahoma State Department of Health pursuant to 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.

During a regular meeting on April 28, 2022, the Planning Commission held a public hearing and unanimously recommended approval (4-0) of the modifications to the ordinance with a condition that the term “setback” to a “minimum separation” requirement. This change is reflected in the attached proposed ordinance. No one from the audience spoke in favor of or in opposition to the modifications.

This ordinance was previewed by the City Council on May 17, 2022 and set for adoption at this meeting.

Cost: \$0

Funding Source: N/A

Requested By: Larry Curtis, Director of Community Development

Approved By: City Manager’s Office

Attachments: Ordinance No. 3732

Recommendation:

Adopt Ordinance No. 3732 and approve the emergency clause