

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BARTLESVILLE, OKLAHOMA AMENDING CHAPTERS 5, 12, AND 18 OF THE CODE OF THE CITY OF BARTLESVILLE, OKLAHOMA, PROVIDING REGULATIONS FOR THE ESTABLISHMENT OF A RETAIL MEDICAL MARIJUANA DISPENSARY WITHIN THE CITY OF BARTLESVILLE; PROVIDING REGULATIONS FOR GROWING MARIJUANA FOR PERSONAL USE; IDENTIFYING ACTS THAT ARE NOT AUTHORIZED; PROVIDING FOR THE COLLECTION OF SALES TAX; DECLARING AN EMERGENCY; AND PROVIDING FOR THE SEVERABILITY THEREOF.

WHEREAS, on June 26, 2018, the voters of the State of Oklahoma approved State Question 788, which was intended to legalize marijuana for medicinal use; and

WHEREAS, the State of Oklahoma codified a new section of law in Title 63, Sections 420A through 426, inclusive, cited "Medical Marijuana", which became effective on July 26, 2018; and

WHEREAS, this law impacts the City's regulation of a retail medical marijuana establishment, and as such, requires the City of Bartlesville to update its regulations concerning same to comply with Oklahoma State Law; and

WHEREAS, this law impacts the City's regulation of a person's medical growth, cultivation, and use of marijuana on private property, and, as such, requires the City of Bartlesville to update its regulations concerning same to comply with Oklahoma State Law.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BARTLESVILLE, OKLAHOMA:

- § 1. Code Amendment. That Chapter 5, Business Taxes, Licenses, and Regulations, Article IV, Reserved, Sections 5-56 through 5-70 of the Code of the City of Bartlesville shall be amended to read as follows:

Article IV. Medical Marijuana

Sec. 5-56. Adoption of State Statutes and Rules. The City of Bartlesville hereby adopts by reference all regulations now contained or hereafter contained in Title 63, Sections 420A through 426, inclusive, of the Oklahoma Statutes, concerning Medical Marijuana. Further, the City of Bartlesville hereby adopts by reference the final rules for the Oklahoma Medical Marijuana Control Program now contained or hereafter contained in Title 310, Chapter 681 of the Oklahoma Administrative Code.

Sec. 5-57. Medical Marijuana Establishments for Commercial Purposes.

(a) Retail Medical Marijuana Dispensary.

- 1) **Business License Required.** All establishments licensed by the State of Oklahoma as a retail medical marijuana dispensary shall obtain a business license and pay the required business tax as set forth in Article II of this Chapter prior to operating within the city limits.
- 2) **Location.** The location of any retail medical marijuana dispensary is permitted by right in any commercial zoning district that permits a drug store or pharmacy, however, such location is specifically prohibited if it is within one thousand (1,000) feet of any public or private school entrance.
- 3) **Regulations.** A licensed dispensary shall conform to all regulations set forth for those zoning districts, along with all other applicable building and development codes adopted by the City. All licensed dispensaries shall comply with all other applicable City, County, and State regulations.
- 4) **Home Occupation Prohibited.** Dispensing of medical marijuana as a home occupation is prohibited.
- 5) **Sales.** Only a State-licensed medical marijuana retail dispensary may conduct retail sales of marijuana, or marijuana derivatives in the form provided by State-licensed processors, and these products can only be sold to a State-licensed medical marijuana patient or caregiver.

(b) Paraphernalia. Any device used for the consumption of medical marijuana shall be considered legal to be sold, manufactured, distributed, and possessed. No merchant, wholesaler, manufacturer, or individual may unduly be harassed or prosecuted for selling, manufacturing, or possession of medical marijuana paraphernalia.

Sections 5-58 through 5-70, inclusive. Reserved.

§ 2. **Code Amendment.** That Chapter 12, Offenses, Article V, Controlled Substances, Sections 12-76, 12-77, and 12-80 of the Code of the City of Bartlesville shall be amended to read as follows:

Sec. 12-76. Medical Marijuana.

(a) Adoption of State Statutes and Rules. The City of Bartlesville hereby adopts by reference all regulations now contained or hereafter contained in Title 63, Sections 420A through 426, inclusive, of the Oklahoma Statutes, concerning Medical Marijuana. Further, the City of Bartlesville hereby adopts by reference the final rules for the Oklahoma Medical Marijuana Control Program now contained or hereafter contained in Title 310, Chapter 681 of the Oklahoma Administrative Code.

(b) Cultivation of Marijuana for Personal Medical Use. A person in possession of a State-issued medical marijuana patient license or caregiver license shall be able to legally possess

marijuana on their person and in their legally zoned and occupied full-time permanent private residence, and cultivate marijuana for personal medical use, in quantities as allowed by applicable Oklahoma Statutes and Rules. The following regulations shall apply to the cultivation of medical marijuana for personal use as an accessory use within the City of Bartlesville:

- (1) All homegrown medical marijuana plants shall be grown in such a manner to be accessible only to the patient or caregiver.
- (2) If grown outdoors, plants shall be enclosed on all sides by an opaque fence or wall with a minimum height of six (6) feet and shall be secured at all times with a commercial quality lock and key that is accessible only to the patient or caregiver.
- (3) No marijuana plants, whether grown indoors or outdoors, shall be visible from any street or public right-of-way.
- (4) All indoor or outdoor areas used for medical marijuana growth shall comply with all applicable Codes as adopted by the City of Bartlesville.
- (5) The primary use of the residential property in which marijuana is grown for personal medical use 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 use of cooking, eating, sleeping, or sanitation/bathing.
- (6) If the residence is rented, consent of the property owner shall be obtained prior to any commencing any cultivation of marijuana for personal medical use. This consent must be evidenced by a signed and notarized statement from the property owner permitting the growth of marijuana for personal medical use in the residence.

(c) Restriction on Smoking of Medical Marijuana Products. Smoking of medical marijuana products shall be restricted as set forth in:

- (1) Section 12-120 of this Code; and
- (2) In Section 13-6 of this Code; and
- (3) As per Title 63 of the Oklahoma Statutes, Section 1-1521 et. seq., commonly referred to as the “Smoking in Public Places and Indoor Workplaces Act.”

(d) Public Intoxication Prohibited. Any person who shall be under the influence of medical marijuana or any other medical marijuana product at a level that presents a danger to others or creates a disturbance of the peace in or upon any public or private road, in any vehicle, any public place or building, at any public gathering, place accessible to the public or open to being viewed by others, shall be guilty of an offense.

(e) Medical Marijuana Waste Disposal. All medical marijuana waste shall be stored, managed, and disposed of in accordance with all applicable local and State statutes and rules.

Sec. 12-77. Non-Medical Marijuana. The possession, use, cultivation, distribution, or transportation, including growing, manufacturing, extracting, or delivering, of any marijuana or marijuana-derived product in any form by any person or establishment, unless otherwise licensed by the City of Bartlesville and the State of Oklahoma for medical purposes and verified by possession of a State issued medical marijuana license, shall be illegal within the City of Bartlesville and regulated pursuant to the Uniform Controlled Dangerous Substances Act of the State of Oklahoma, hereby adopted by reference.

Sec. 12-80. Possession of Drug Paraphernalia. Except as otherwise provided by the Uniform Controlled Dangerous Substances Act of the State of Oklahoma and Title 63, Sections 420A through 426, inclusive, of the Oklahoma Statutes, concerning Medical Marijuana, it shall be unlawful for any person to possess drug paraphernalia.

§ 3. Code Amendment. That Chapter 18, Taxation and Finance, Article II, Sales Tax, Sections 18-20, Tax Rate – Sales Subject to Tax, shall be amended by adding the following paragraph (12):

(12) Retail sales of medical marijuana, medical marijuana-derived products, related paraphernalia.

§ 4. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance, except that the effective date provision shall not be severable from the operative provisions of the ordinance.

§ 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 its passage, approval, and public or posting.

PASSED by the City Council and **APPROVED** by the Mayor of the City of Bartlesville, Oklahoma this 4th day of September, 2018

VOTE:

MR. DORSEY
MR. GENTGES
MR. CURD
VICE MAYOR KANE
MAYOR COPELAND

(aye)	no
(aye)	no
(aye)	no
(aye)	no
(aye)	no


Dale Copeland, Mayor

ATTEST:


City Clerk

