

ORDINANCE NO. 3507

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BARTLESVILLE, OKLAHOMA AMENDING CHAPTER 5, ARTICLE IV, OF THE CODE OF THE CITY OF BARTLESVILLE, OKLAHOMA, PROVIDING REGULATIONS FOR MEDICAL MARIJUANA BUSINESS ESTABLISHMENTS, INCLUDING DISPENSING, GROWING, PROCESSING, AND RESEARCH FACILITIES WITHIN THE CITY OF BARTLESVILLE; IDENTIFYING ACTS THAT ARE NOT AUTHORIZED; 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 legalized 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 commercial medical marijuana establishments as well as the 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; and

WHEREAS, on September 4, 2018, the Bartlesville City Council passed Ordinance #3499, which established regulations for those who have a State-approved patient or caregiver license and for those who have a State-approved retail dispensary license; and

WHEREAS, this law also impacts the City's regulation of those who have a State-approved license as a medical marijuana grower, processor, or research facility, 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, Sections 5-57 and 5-58 of the Code of the City of Bartlesville shall be amended to read as follows:

Article IV. Medical Marijuana

Sec. 5-57. Purpose.

- A. It is the purpose of this Chapter to adopt reasonable regulations governing the operation of State-licensed medical marijuana business establishments which include dispensaries, grower, processors, and researchers, consistent with the provisions of Oklahoma Statutes as amended from time to time. The objectives of this Chapter include, but are not limited to:
- 1) Requiring that any medical marijuana business be operated in a safe manner that does not endanger the public health, safety, morals or general welfare;
 - 2) Mitigating potential negative impacts that medical marijuana businesses might cause on surrounding properties and persons; and
 - 3) Establishing a non-discriminatory mechanism by which the City can control, through appropriate regulation, the location and operation of medical marijuana businesses within the City.
- B. Nothing in this Chapter allows a person to:
- 1) Engage in conduct that endangers others or causes a public nuisance;
 - 2) Possess, cultivate, grow, use or distribute marijuana that is otherwise illegal under applicable law; or
 - 3) Engage in any activity related to the possession, cultivation, growing use, or distribution of marijuana that is not otherwise permitted under the laws of the City of the State of Oklahoma.
- C. The provisions in this Chapter that are different from Oklahoma State law are consistent with the City's responsibility to protect the public health, safety, morals or general welfare of the community as authorized by Title 11, Article 43 of the Oklahoma Statutes. The City intends that both Oklahoma State law and this Chapter apply within the City. Where this Chapter conflicts with State law, the most stringent regulation shall apply.

Section 5-58. Medical Marijuana Business Establishments.

The following regulations shall apply to the location and operation of medical marijuana business establishments within the City of Bartlesville, to include, but not limited to, a retail medical marijuana dispensary, commercial grower, commercial processor, and researcher. Additionally, all such establishments shall comply with all regulations set forth by the Zoning Regulations, as well as all other applicable building, development, environmental, health, and safety codes adopted by the City, State or Federal Government.

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) **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.

- 4) 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.

B. Commercial Medical Marijuana Grower.

- 1) Business License Required. All establishments licensed by the State of Oklahoma as a commercial medical marijuana grower 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 commercial medical marijuana growing facility shall be classified as an agricultural activity, and as such, shall be permitted by right in any zoning districts that permits agriculture field crops, except as follows:
 - i. Commercial medical marijuana growers are specifically prohibited in the following zoning districts: any RS, Single-Family Residential District; any RM-Multi-Family Residential District; or any RT, Mobile Home Residential District;
 - ii. This use shall not be permitted if it is to be located within 200-feet of any residentially zoned (RS, RM, or RT) area.
- 3) Sales. A State-licensed medical marijuana grower may only sell marijuana to an Oklahoma-licensed medical marijuana dispensary or to an Oklahoma-licensed medical marijuana processor. These sales shall be considered wholesale sales and not subject to taxation.

C. Commercial Medical Marijuana Processor or Researcher.

- 1) Business License Required. All establishments licensed by the State of Oklahoma as a commercial medical marijuana processor or a researcher 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 commercial medical marijuana processing or research facility shall be classified as an industrial activity, and as such, shall be permitted in any Industrial Zoning District in accordance with Section 6 of the Zoning Regulations, however, such uses shall not be permitted if it is to be located within 200-feet of any residentially zoned (RS, RM, or RT) area.
- 3) Sales. A State-licensed medical marijuana processor may only sell marijuana to an Oklahoma-licensed medical marijuana dispensary or to other licensed processors. These sales shall be considered wholesale sales and not subject to taxation. Sales of any medical marijuana product by a licensed medical marijuana researcher are prohibited.

D. General Requirements.

- 1) All medical marijuana business establishments shall comply with the following

requirements:

- i. Shall be equipped with a proper ventilation system that filters out the odor of marijuana so that the odor is not capable of being detected by a person with a normal sense of smell at the exterior of the structure or on any adjoining business, parcel, or tract of real property.
 - ii. Shall provide a security system for unauthorized entry to the site and all buildings thereon that includes a professionally monitored twenty-four (24) hour security surveillance camera system that shows the primary and emergency entrances and exits which support video and audio recording inside the building and video outside the building, and a professionally designed, maintained, and monitored alarm system on all perimeter entry points and perimeter windows. Said security system and all components shall have the ability to remain operational during a power outage.
- 2) Home Occupations Prohibited. Medical marijuana business establishments shall not be permitted to operate as a home occupation.

§ 2. 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.

§ 3. 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, as provided by law.

PASSED by the City Council and **APPROVED** by the Mayor of the City of Bartlesville, Oklahoma this 3rd day of December, 2018.

ATTEST:


City Clerk




Dale Copeland, Mayor

VOTE:

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

aye	no
aye	no
aye	no
aye	no
aye	no