

ORDINANCE NO: 765

AN ORDINANCE AMENDING PART 18, MARIJUANA ESTABLISHMENTS, TO THE CITY OF GROVE CODE OF ORDINANCES TO BE CONSISTENT WITH STATE LAWS AND REGULATIONS; DIRECTING CODIFICATION; AND PROVIDING FOR SEVERABILITY AND THE REPEAL OF CONFLICTING ORDINANCES; AND DECLARING AN EMERGENCY.

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

SECTION ONE:

Part 18, Chapter 1, of the City of Grove Code of Ordinances shall be amended and shall read as follows:

PART 18

MEDICAL MARIJUANA ESTABLISHMENTS

Subject:	Chapter
Medical Marijuana Establishments	1

CHAPTER 1

MEDICAL MARIJUANA ESTABLISHMENTS

SECTION:

- 18-101: Definition
- 18-102: Occupation Tax Levied; License To Be Issued
- 18-103: Payment of Tax and Securing of License Required
- 18-104: Location Restrictions
- 18-105: Conditions of Operation
- 18-106: Smoking of Marijuana in Public is prohibited; Public Nuisance
- 18-107: Penalty
- 18-108: Revocation of License

18-101: DEFINITION:

Medical Marijuana Dispensary: 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 as defined herein.

Medical Marijuana Commercial Grower: 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. Growers shall not sell directly to consumers.

Medical Marijuana Processor: 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, prepared, manufacture, package, sell to and deliver medical marijuana products to a dispensary licenses or other processor licensee; and may process marijuana received from a qualified patient into a medical marijuana concentrate, for a fee.

Qualified Patient: A person that has been issued a medical marijuana license pursuant to 63 O.S. §420A *et seq.*

Caregiver: A person that has been issued a medical marijuana license pursuant to 63 O.S. §420A *et seq.*

Commercial Establishment License: 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.*

Medical Marijuana Growing Facility for Personal Use: The residence of a Qualified Patient as defined herein where marijuana is grown for personal medical use.

18-102: OCCUPATION TAX LEVIED; LICENSE TO BE ISSUED:

- A. There is hereby levied and assessed an annual occupation tax on all commercial Medical Marijuana Establishments as specifically enumerated herein and the amount herein stated:
 - 1. Medical Marijuana Dispensary \$600.00

- 2. Medical Marijuana Grower \$600.00
- 3. Medical Marijuana Processor \$600.00

The occupation tax subject to this chapter shall be prorated on a monthly basis for the year in which an occupation begins operations.

- B. Any state licensee originally entering upon any occupation herein listed shall pay the tax therefor at the office of the city clerk on or before the date upon which he enters upon such occupation. The licensee shall provide a copy of his current state license before payment of an occupation tax will be accepted. Thereafter, the licensee shall pay the tax annually on or before July 1.
- C. The city shall cause an inspection to be made to determine whether the premises proposed for licensed operations comply with the provisions of the zoning ordinance and any health, fire, building and other safety codes applicable to it.
- D. Upon payment of the occupation tax and finding the premise is compliant with all applicable zoning ordinances building, fire, safety and health codes, the city shall issue a receipt to the state licensee, which the licensee shall post in a conspicuous place on the premises where he carries on his occupation.
- E. Any person who engages in any of the occupations taxed by this chapter without paying the occupation tax imposed therefor in advance of such operation, is guilty of an offense against the city, and upon conviction thereof, shall be fined the sum of not more than five hundred dollars (\$500) including costs and penalties, if any. Each day of such violation shall constitute a separate offense.

18-103: PAYMENT OF TAX AND SECURING OF LICENSE REQUIRED:

It is unlawful for any person to engage in any of the business or occupations upon which this chapter levied an occupation tax without having paid the city occupation tax levied by this chapter and without having a valid license from the city clerk provided herein.

18-104: LOCATION RESTRICTIONS:

- A. Medical Marijuana Dispensary will be allowed within all Commercial Zoned Districts and shall be prohibited from locating in any other zoning districts; AND Shall be prohibited from locating within one thousand feet (1,000') of any *entrance* of a private or public elementary school, middle school, or high school. The distance requirements shall be computed by direct measurement in a straight line from entrance to a school listed above to the nearest property line on which the medical marijuana dispensary is located.
- B. Marijuana Growing Facility for Personal Medical Use: All medical marijuana for personal use will be allowed to be grown only on the *primary residence* of the licensee, and shall be prohibited from all other locations. If a *primary residence* is on rented real property, licensee must provide written permission from the property owner authorizing the growth of medical marijuana on said premise. All Marijuana grown for personal medical use must be grown so that the marijuana is not accessible to a member of the general public and is only accessible to the licensee or caregiver. If grown outdoors, it must be grown behind an opaque fence that is at least six feet (6') 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.
 - 1. All individuals operating a Medical Marijuana Growth Facility for Personal Use are required to obtain a Registration Permit prior to beginning operations. The licensee shall provide a copy of a valid and current state license before a Registration Permit will be issued. Thereafter, the licensee shall renew their Registration Permit on or before July 1 of each year. There is no fee for the Registration Permit.
- C. Medical Marijuana Commercial Grower will be allowed within Agriculture and Industrial Zoned Districts and shall be prohibited from locating in any other zoning districts
- D. Medical Marijuana Processor will be allowed in Industrial Zoned Districts and shall be prohibited from locating in any other zoning districts.

18-105: CONDITIONS OF OPERATION:

- A. All Medical Marijuana Establishments shall comply with Oklahoma State law and Oklahoma Department of Health rules and regulations.
- B. Medical Marijuana Establishments shall implement appropriate security measure to deter and prevent unauthorized entrance and theft/diversion of marijuana, including during transit. (OAC 310:6 81-6-1)
- C. Medical Marijuana Establishments shall meet all applicable state and local electrical, fire, plumbing, waste and building specifications. (OAC 310:681-6-2)
- D. Buildings where marijuana is stored or dispensed must be equipped with ventilation/air filtration systems so that no odors are detectable off premises.

- E. The Medical Marijuana Dispensary must collect the city sales tax of three and fourth tenths (3.4) percent on all sales.

18-106: USE, SMOKING OF MARIJUANA; PUBLIC NUISANCE

- A. Smoking of marijuana is prohibited in public. Restrictions on smokable medical marijuana and medical marijuana products All smokable, vaporized, vapable and e-cigarette medical marijuana and medical marijuana products smoked by a patient license holder is subject to the same restrictions for tobacco under Section 1-1521 et. seq. of Title 63 of Oklahoma statutes, commonly referred to as the "Smoking in Public Places and Indoor Workplaces Act."
- B. Smoking or using marijuana shall be prohibited on all city property including vehicles, buildings, parks and other facilities.
- C. The smell or noxious odor emitted from smoking or consumption of marijuana by a person possessing a valid state issued medical marijuana license shall be treated as a public nuisance.
- D. It is the intent of the City of Grove that nothing in the Medical Marijuana Establishment Ordinance be construed to:
 - 1. Allow persons to engage in conduct that endangers or causes a public nuisances;
 - 2. Allow the use of marijuana for non-medical purposes;
 - 3. Allow any activity that is otherwise illegal and not permitted by state law.

18-107: PENALTY

- A. Failure to Comply.
Any person, firm or corporation who engages in any business, profession, trade or occupation, or exercises any privilege, for which a license or permit is required by this Ordinance without a valid license or permit as hereby required, or who otherwise violates any provisions of this Ordinance, shall be guilty of a misdemeanor and upon conviction, punished by a fines not to exceed five-hundred dollars (\$500.00), plus court costs and penalties, if any. Each day of such violation shall constitute a separate offense.

18-108: REVOCATION OF LICENSE:

- A. Any violations of this section will result in the revocation of a Medical Marijuana Establishment License.

SECTION TWO: If any section, paragraph, sentence, cause or phrase of this Ordinance is declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION THREE: 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 publication or posting.