

ORDINANCE NO. 39

AN ORDINANCE ESTABLISHING THE LOCAL REGULATION OF COMMERCIAL MEDICAL MARIJUANA OPERATIONS WITHIN THE TOWN LIMITS BY ESTABLISHING AN ANNUAL COMMERCIAL MEDICAL MARIJUANA PERMIT APPLICATION, AND ANNUAL PERMIT FEE TO BE SET BY RESOLUTION; AND SO AS TO COMPORT WITH STATE LAW, BEING: TITLE 63 OKLA. STAT. SEC. 420 *ET SEQ.*, AND OKLA. ADMIN. CODE 310: 681-1-1 *ET SEQ.*; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

WHEREAS, the Board of Trustees has determined that establishing a provision in the Code of Ordinances regarding commercial medical marijuana is necessary and in the best interest of the health and safety of the citizens of the Town of Pink, and for the efficient operations of municipal governance.

THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF PINK, OKLAHOMA, THE FOLLOWING:

SECTION 1: CITATION.

This Ordinance and the following language shall hereby establish the regulations of medical marijuana for the Town of Pink, Oklahoma, and shall hereafter be known, cited and referred to as "Medical Marijuana Permit Regulations."

SECTION 2: DEFINITIONS.

The following words and terms, when used in this Code/Chapter/Article/Section herein below, shall have the following meaning, unless the context clearly indicates otherwise, and in accordance with, and pursuant to the rules adopted by the Oklahoma State Department of Health, Oklahoma Administrative Code 310:681-1-1, et seq., and as they may be amended from time to time, to wit:

"Applicant" means the natural person or entity in whose name a license would be issued.

"Commercial Establishment" ("Establishment") or "Commercial Licensee" means an individual or entity licensed under this Chapter as a medical marijuana dispensary, grower, processor, or researcher.

"Commercial License" means a license issued to a medical marijuana dispensary, grower, processor, or researcher.

"Commissioner" means the Commissioner of Health of the Oklahoma State Department of Health.

"Department" means the Oklahoma State Department of Health or its agent or designee.

"Dispense" means the retail sale of medical marijuana, medical marijuana concentrate, or a medical marijuana products to a qualified patient, the qualified patient's parent(s) or legal guardian(s) if qualified patient is a minor, and a licensed caregiver.

"Dispensary" means an individual or entity that has been licensed by the Department pursuant to 63 O.S. § 421A and this Chapter, which allows the dispensary to purchase medical marijuana from a processor or grower and to sell medical marijuana only to a qualified patient, to the qualified patient's parent(s) or legal guardian(s) if qualified patient is an minor, and a licensed caregiver.

"Food" has the same meaning as set forth in 63 O.S. § 1-1101 and the Oklahoma Administrative Code ("OAC") 310:257-1-3 ("'food' means (1) articles used for food or drink for man, (2) chewing gum, and (3) articles used for components of any such article") and set forth in OAC 310:260-1-6 ("'food' means any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption").

"Grower" or "Commercial Grower" means an individual or entity that has been licensed by the Department pursuant to 63 O.S. § 422A, which allows the grower to grow, harvest, dry, cure, and package medical marijuana according to this Chapter for the purpose of selling to a dispensary or processor.

"Information Panel" has the same definition as set forth in 21 CFR § 101.2 and means "that part of the label immediately contiguous and to the right of the principal display panel as observed by an individual facing the principal display panel."

"Label" carries the same definition as set forth in 63 O.S. § 1-1101 and "means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this article that any word, statement, or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if there be any, of the retail package of such article, or is easily legible through the outside container or wrapper."

"License" means a state issued license or other state issued documentation proving the holder of such license is a member of a state regulated medical marijuana program.

"License Number" means the unique multi-character identifier issued and printed upon each license.

"Licensee" means any natural born person or entity that holds a medical marijuana license provided for in this Chapter, excluding inmates of any local, county, state, or federal correctional facility or jail.

"Licensed Packager" as used in 63 O.S. § 422A(C) means a processor.

"Marijuana" means all parts of a plant of the genus cannabis, whether growing or not; the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture, or preparation of a plant of that type or

of its seeds or resin. "Marijuana" does not include the mature stalks of the plant or fiber produced from the stalks; oil or cake made from the seeds of the plant; or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake; the sterilized seed of the plant that is incapable of germination; or industrial hemp, from the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis.

"Medical Marijuana" means marijuana that is grown, processed, dispensed, tested, possessed, or used for a medical purpose, and includes medical marijuana concentrate and medical marijuana products.

"Medical Marijuana Concentrate" ("Concentrate") means a substance obtained by separating cannabinoids from any part of the marijuana plant by physical or chemical means, so as to deliver a product with a cannabinoid concentration greater than the raw plant material from which it is derived.

"Medical Marijuana Product" means a product that contains cannabinoids that have been extracted from plant material or the resin therefrom by physical or chemical means and is intended for administration to a qualified patient, including but not limited to oils, tinctures, edibles, pills, topical forms, gels, creams, and other derivative forms.

"Medical Marijuana Waste" means unused, surplus, returned or out-of-date marijuana; recalled marijuana; unused marijuana; plant debris of the plant of the genus *cannabis*, including dead plants and all unused plant parts and roots; and any wastewater generated during growing and processing.

"Minor" means any natural person younger than eighteen (18) years of age.

"Oklahoma Resident" ("Resident") means an individual who resides in the State of Oklahoma and can provide proof of residency as required by 63 O.S. § 420A et seq. and OAC 310:681-1-6.

"Oklahoma Uniform Symbol" means the image, established by the Department and made available to commercial licensees, indicating the package contains marijuana and must be printed at least one-half inch in size by one-half inch in size in color.

"Out-of-State Medical Marijuana Patient License" means an unexpired medical marijuana patient license issued by another U.S. state, which is the substantial equivalent of the Oklahoma medical marijuana patient license issued pursuant to OAC 310:681-2-1 and OAC 310:681-2-2.

"Package" or **"Packaging"** means any container or wrapper that a grower or processor may use for enclosing or containing medical marijuana or medical marijuana products.

"Patient" or **"Qualified patient"** means a person that has been properly issued a medical marijuana license pursuant to 63 O.S. § 420 et seq. and these rules.

"Physician" means a doctor of medicine or a doctor of osteopathic medicine who holds a valid, unrestricted and existing license to practice in the State of Oklahoma and meets the definition of "board certified" under rules established by either the Oklahoma Board of Medical Licensure or the Oklahoma Board of Osteopathic Examiners.

"Principal Display Panel" has the same definition as set forth in 21 CFR § 101.1 and "means the part of a label that is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale."

"Private School" means an elementary, middle, or high school maintained by private individuals, religious organizations, or corporations, funded, at least in part, by fees or tuition, and open only to pupils selected and admitted based on religious affiliations or other particular qualifications.

"Process" means to distill, extract, manufacture, prepare, or otherwise produce a medical marijuana product or medical marijuana concentrate.

"Processor" means an individual or entity that has been licensed by the Department pursuant to 63 O.S. § 423A, which allows the processor to: purchase medical marijuana from a grower or processor; process, package, and sell medical marijuana to a dispensary or processor; and may process medical marijuana received from a qualified patient into a medical marijuana concentrate, for a fee.

"Public School" means an elementary, middle, or high school established under state law, regulated by the local state authorities in the various political subdivisions, funded and maintained by public taxation, and open and free to all children of the particular district where the school is located.

"Retailer" as used in 63 O.S. § 420 et seq. means a dispensary.

"Revocation" means the Department's final decision in accordance with the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq., that any license issued pursuant to 63 O.S. § 420 et seq. and this Chapter is rescinded.

"Rules" means, unless otherwise indicated, the rules as adopted and set forth in OAC 310:681.

"State Question" means Oklahoma State Question No. 788 and Initiative Petition Number 412.

"Transportation License" means a license issued automatically to commercial licensees upon approval of a commercial license, which allows growers, processors, or dispensaries,

or their authorized agent(s), to deliver medical marijuana from their licensed locations to the licensed locations of other growers, processors, or dispensaries.

SECTION 3: COMMERCIAL MEDICAL MARIJUANA ESTABLISHMENTS – ANNUAL PERMIT REQUIRED

1. All Commercial Marijuana Growers, Commercial Marijuana Processors, Commercial Marijuana Transporters, Retail Marijuana Dispensaries, Licensed Packagers, Wholesale Facilities, and Research Facilities, operating within Town limits, are required to obtain a permit from the Town Clerk or their designee. These establishments are defined as any medical marijuana establishment licensed by the State of Oklahoma. The Permit shall be issued by the Town upon the Applicant's proof and verification of the Applicant's License from the State Department pursuant to 63 O.S. § 420 et seq. and Title 310 of the Rules of the Oklahoma State Department of Health: 681-1 et seq., and payment of the Permit Fee. The Commercial Medical Marijuana Permit for the Town of Pink shall be renewed annually.
2. The Board of Trustees will establish by resolution a fee to obtain the Permit for each of the above described entities. The fee shall be used to offset municipal expenses covering costs related to licensing, inspection, administration and enforcement of the above described entities.
3. A Permit will not be granted to any Applicant where the proposed location of the retail establishment would be located within one thousand (1,000) feet of any public or private school entrance.
4. Buildings or transportation vehicles where marijuana is stored or dispensed must be equipped with ventilation/air filtration systems so that no odors are detectable off premises.
5. Any violations of this section will result in the revocation of the permit, and a fine of \$200.00 per day while the violation exists.
6. Nothing in this Ordinance shall be construed to: 1) allow persons to engage in conduct that endangers or causes a public nuisance or 2) allow any activity that is otherwise illegal and not permitted by state law; in particular, the above municipal regulations in this section are intended to comport with, follow, but not exceed, those state regulations promulgated in 63 O.S. 420 et seq. and OAC 310-681-1 et seq.

SECTION 4: MARIJUANA GROWING FACILITIES FOR PERSONAL MEDICAL USE; SECURITY.

1. Growing marijuana shall not be conducted in a manner that constitutes a public nuisance. A public nuisance may be deemed to exist if growing marijuana produces light, glare, heat, noise, odor or vibration that is detrimental to public health, safety or welfare or interferes with the reasonable enjoyment of life and property.
2. The primary use of the residential property in which marijuana is grown 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 uses of cooking, eating, sleeping or sanitation/bathing.

3. The above municipal regulations in this section are intended to comport with, follow, but not exceed, those state regulations promulgated in 63 O.S. 420 et seq. and OAC 310-681-1 et seq.

SECTION 5: SEVERABILITY


If any one or more of the sections, sentences, clauses or part of this ordinance, chapter or section shall for any reason be held invalid, the invalidity of such section, clause or part shall not affect or prejudice in any way the applicability and validity of any other provision of this ordinance. It is hereby declared to be the intention of the Town and the Board of Trustees that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 6: EMERGENCY CLAUSE

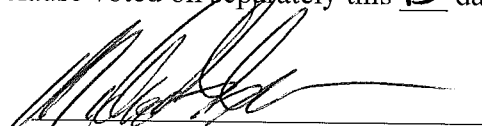
It being immediately necessary for the preservation of public health, peace, and safety, an emergency is hereby declared to exist, by reason whereof this Ordinance shall take effect and be in full force from and after its passage and approval.

PASSED AND APPROVED and the emergency clause voted on and approved separately this 13 day of April, 2020.

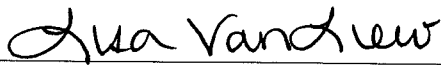
Attest: 
Town Clerk


Mike Green, Vice Mayor

PASSED AND APPROVED and the emergency clause voted on separately this 13 day of April, 2020.


Mike Green, Vice Mayor

ATTEST:


Town Clerk

(SEAL)