

AN ORDINANCE OF THE CITY OF ELK CITY, OKLAHOMA AMENDING THE ELK CITY CODE OF ORDINANCES CHAPTER 5, BUSINESS AND OCCUPATIONS, ESTABLISHING REGULATIONS FOR RETAIL MARIJUANA ESTABLISHMENTS; PROHIBITING COMMERCIAL MARIJUANA GROWTH, WHOLESALE MARIJUANA FACILITIES AND MARIJUANA STORAGE FACILITIES; INSPECTION; ESTABLISHING REGULATIONS FOR GROWING MARIJUANA FOR PERSONAL USE; PUBLIC NUISANCE; AND DECLARING AN EMERGENCY

WHEREAS, persons living in Elk City, Oklahoma who are in need of marijuana for medical purposes should be able to obtain and use marijuana without fear of criminal prosecution under limited and specified circumstances;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF ELK CITY, Oklahoma:

1. That the Elk City Code of Ordinances should be and the same is hereby amended by adding a new Article 4. Retail Marijuana Establishments, Section 5-27. Retail Marijuana Establishments. to read as follows:

“Section 5-27. Retail Marijuana Establishments.

1. All operators of Retail Marijuana Establishments are required to obtain a Retail Marijuana Establishment permit from the Municipal Clerk. Retail Marijuana Establishments is defined as any retail marijuana establishment licensed by the State of Oklahoma.
2. The Municipal Governing body will establish by resolution a fee to obtain the Retail Marijuana Establishment Permit. The fee shall be used to offset municipal expenses covering costs related to licensing, inspection, administration and enforcement of retail marijuana establishments.
3. A Retail Marijuana Establishment Permit will not be granted to any applicants where the proposed location is on or adjacent to Old Route 66 or Main Street ending at the municipal boundary of Elk City, Oklahoma.
4. A Retail Marijuana Establishment Permit will not be granted to any applicants where the proposed location would be located within one thousand three hundred twenty (1,320') feet of any of the following uses:
 - a. private or public preschool, elementary, secondary, vocational or trade school, college or university;
 - b. any library or museum;
 - c. any public playground;
 - d. any child care center;
 - e. any place of worship or religious assembly;
 - f. any public park, pool, or recreation facility;
 - g. any juvenile or adult halfway house, correctional facility or substance abuse
 - h. rehabilitation or treatment center;
 - i. any residentially zoned district; or
 - j. within one-thousand three hundred twenty (1,320') feet of another medical marijuana or retail marijuana store.
5. For the distance requirements outlined in this ordinance, the distances described shall be computed by direct measurement in a straight line from the nearest property line of the parcel of land on which the use described in paragraph 3 is located to the nearest property line of the building or unit in which the proposed retail marijuana establishment would be located.

6. Buildings where marijuana is stored or dispensed must be equipped with ventilation/air filtration systems so that no odors are detectable off premises.
7. Any violations of this section will result in the revocation of the Retail Marijuana Establishments permit.
8. It is the intent of the City of Elk City, Oklahoma that nothing in the Retail Marijuana Establishment Ordinance be construed to: 1) allow persons to engage in conduct that endangers or causes a public nuisance; 2) allow the use of marijuana for non-medical purposes; or 3) allow any activity that is otherwise illegal and not permitted by state law.

Section 5-28. Prohibited Facilities.

1. Commercial Marijuana Growth Facilities are hereby prohibited within the municipal boundaries of Elk City, Oklahoma.
2. Wholesale Marijuana Facilities are hereby prohibited within the municipal boundaries of Elk City, Oklahoma.
3. Marijuana Storage Facilities other than in a retail outlet are hereby prohibited within the municipal boundaries of Elk City, Oklahoma.

Section 5-29. Inspection.

1. All permits outlined in this ordinance will be subject to inspection by an authorized municipal inspector prior to issuance.
2. The inspection prior to a permit decision will occur at a time scheduled and approved by both the applicant and the municipal inspector.
3. The applicant will be required to be present during the inspection.

Section 5-30. Marijuana Growing Facilities for Personal Medical Use; Security.

1. All owners of Marijuana Growing Facilities for Personal Medical Use are required to obtain a permit from the Municipal Clerk.
2. The Municipal Governing body will establish by resolution a fee to obtain the Marijuana Growing Facilities for Personal Medical Use Permit. The fee shall be used to offset municipal expenses covering costs related to licensing, inspection, administration and enforcement of Marijuana Growing Facilities for Personal Medical Use.
3. All Marijuana Growing Facilities for Personal Medical Use shall be subject to security provisions as stated herein prior to the granting of a permit. Failing to comply with security provisions as stated herein will result in revocation of the permit.
4. Any access or entry point to residential facilities used for marijuana cultivation for personal medical use must be secured by lock and key or equivalent, at all times except when the residential facility is actively being supervised in person by the permit holder.
5. Growing marijuana for personal medical use shall be limited to the interior of a single private residence.
6. Growing marijuana shall not be visible from the public right of way.

7. The growing area including any lighting, plumbing or electrical components used shall comply with municipal building and fire codes. The growing area must be properly ventilated so as not to create humidity, mold or other related problems. Lighting shall not exceed 1000 watts per light. The use of gas products (C02, butane, etc.) or C02 and ozone generators in the growing area is prohibited.
8. 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.
9. 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.
10. If the residence is rented, consent of the property owner shall be obtained prior to any cultivation commencing. This consent must be evidenced by a signed and notarized statement from the property owner permitting the growth of marijuana in the residence.

Section 5-31. Smell or Noxious Odor.

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.”

2. It being necessary for the protection of the public peace and the health and safety of the citizens of Elk City, Oklahoma, an emergency is declared to exist and this ordinance shall become effective immediately upon its passage by the City Commission.

3. If any provision or clause of this ordinance is held invalid, such invalidity shall not affect other provisions or clauses of the ordinance which can be given effect without the invalid provision or clause, and to this end the provisions and clauses of this ordinance are declared to be severable.

Passed and approved this ____ day of _____, 20__.

THE CITY OF ELK CITY, OKLAHOMA

BY: _____
BILL HELTON, MAYOR

ATTEST:

CHERYL SIPES, CITY CLERK

(S E A L)