

CITY OF TUTTLE ORDINANCE NO. 2020-08

AN ORDINANCE AMENDING THE TUTTLE CODE OF ORDINANCES ADOPTING MEDICAL MARIJUANA BUSINESS REGULATIONS; ADOPTING FEES FOR MEDICAL MARIJUANA BUSINESS PERMITS; REPEALING THE MORATORIUM ON ISSUING NEW PERMITS FOR MEDICAL MARIJUANA BUSINESSES; AND PROVIDING FOR SEVERABILITY.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TUTTLE, OKLAHOMA:

SECTION 1: That a new article is hereby added to Chapter 5 of the Code of Ordinances of the City of Tuttle, Oklahoma, said article to read as follows:

ARTICLE 9. - MEDICAL MARIJUANA BUSINESSES

Section 5-901. Definitions.

When used in this Code, words and phrases shall have the meaning as defined pursuant to the rules adopted by the Oklahoma State Department of Health, Oklahoma Administrative Code section 310:681-1-1, et seq., and as they may be amended from time to time.

Section 5-902. Restrictions on marijuana.

1. The growing, possession, processing, transporting, sale, or use of marijuana within the city is limited to that authorized by this article, and by state law, 63 O.S. § 420A, et seq. Any growing, possession, processing, transporting, sale, or use of marijuana within the city that is not authorized in, or without having obtained the applicable permit provided in this article, shall constitute an offense and, upon conviction, shall be punished as authorized in Section 11-50 of this Code.
2. It is the intent of the city that nothing in the medical marijuana businesses ordinances be construed to:
 - a. Allow persons to engage in conduct that endangers or causes a public nuisance;
 - b. Allow the use of marijuana for non-medical purposes; or
 - c. Allow any activity that is otherwise illegal and not permitted by state law.
3. It is the policy of the City of Tuttle that the growing, processing, transport, and non-retail storage of all forms medical marijuana are industrial uses and not agricultural activities.

Section 5-903. Restrictions applicable to all permits.

All permits issued pursuant to this article shall be displayed in a conspicuous place at all times on the permitted premises. No permit holder may consent to or allow the use or display of the permit by a person other than the person to whom the permit was issued. No person may use a permit or exercise any privileges granted by the permit except at the place, address, premises or location for which the permit is issued. Permits issued cover only the person or entity named in the permit and shall not be refundable or transferable.

Section 5-904. Permit inspections and other requirements.

1. All permits outlined in this article will be subject to inspection of the facilities 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.
4. 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.
5. A copy of the commercial license issued from the Oklahoma Medical Marijuana Authority must be given to the Community Development Department within one month after issuance from the Oklahoma Medical Marijuana Authority.
6. All annual permits shall expire on June 30 of each year, when the business ceases operation at the permitted location, upon failure to remit a copy of the commercial license from the Oklahoma Medical Marijuana Authority, or the expiration and non-renewal of the commercial license from the Oklahoma Medical Marijuana Authority, whichever first occurs.
7. Those medical marijuana businesses with a business license issued by the City of Tuttle prior to January 1, 2020 will be required to upgrade their facilities to meet the requirements of this article by July 1, 2021. Nonconformity with the Tuttle Zoning Code will be addressed identical to all other nonconformity issues within the City of Tuttle as outlined withing the Tuttle Zoning Code.
8. Buildings where medical marijuana is grown, processed, stored or dispensed must be equipped with:
 - a. Ventilation/air filtration systems so that no odors are detectable off premises.
 - b. Operable security cameras covering, at a minimum, all doors, windows, garage doors/loading docks, and general parking areas. All cameras systems must retain a recording of each camera for a period of not less than one week.
 - c. An operable alarm system.
9. The growing, processing, storage, or otherwise keeping of 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.
10. All facilities must meet the design and operational requirements established by the Oklahoma Medical Marijuana Authority, the Oklahoma Bureau of Narcotics, and other agencies with applicable regulatory authority.

Section 5-905. Prohibited acts.

1. No commercial or industrial marijuana establishment shall allow the consumption of alcohol, medical marijuana, or medical marijuana products on the premises.
2. No commercial or industrial marijuana establishment shall employ any person under the age of 18.

Section 5-906. Medical marijuana retail dispensaries.

1. *Business license and permit requirements.*
 - a. All dispensaries of medical marijuana are required to obtain a medical marijuana retail dispensary permit from the Community Development Department and a business license from the City Clerk.
 - b. The annual medical marijuana retail dispensary permit fee shall be as set forth in the Manual of Fees adopted by the Tuttle City Council. The fee shall be used to offset municipal expenses covering costs related to licensing, inspection, administration and enforcement of retail marijuana establishments. The permit fee shall not be prorated.

c. A medical marijuana retail dispensary permit will not be granted to any applicant where the proposed location is located outside an approved zoning district or within a restricted area as set forth in the Tuttle Zoning Code.

2. *Conditions of operation.*

a. The dispensary establishment must collect and remit the applicable sales tax on all sales.

b. Any violations of this section will result in the revocation of the medical marijuana retailer permit.

Section 5-907. Medical marijuana commercial/industrial growers.

1. *Business license and permit requirements.*

a. All commercial and industrial growers of marijuana are required to obtain a medical marijuana commercial/industrial grower permit from the Community Development Department and a business license from the City Clerk.

b. The annual medical marijuana commercial/industrial grower permit fee shall be as set forth in the Manual of Fees adopted by the Tuttle City Council. The fee shall be used to offset municipal expenses covering costs related to licensing, inspection, administration and enforcement of commercial marijuana growing establishments. The permit fee shall not be prorated.

c. A medical marijuana commercial/industrial grower permit will not be granted to any applicant where the proposed location is located outside an approved zoning district or within a restricted area as set forth in the Tuttle Zoning Code.

2. *Conditions of operation.*

a. Growing of marijuana pursuant to a medical marijuana commercial/industrial grower permit shall be within a substantial, enclosed & secure structure unless otherwise specified in this section and allowed in the specific zoning district. Greenhouses constructed of plastic sheeting or other unsubstantial materials are not considered to be a substantial, enclosed structure.

b. Greenhouses and other outdoor growing areas shall have a security fence at least eight feet in height and with limited access. The gates to the secure area must be locked at all times.

c. The growing of the marijuana plants must not be seen by the public from a public right-of-way.

d. The growing area, including any lighting, plumbing or electrical components used shall comply with city building, fire and other applicable codes.

Section 908. Medical marijuana commercial/industrial processor permits.

1. *Business license and permit requirements.*

a. All medical marijuana commercial and industrial processors are required to obtain a medical marijuana commercial processor permit from the Community Development Department and a business license from the City Clerk.

b. The annual medical marijuana commercial/industrial processor permit fee shall be as set forth in the Manual of Fees adopted by the Tuttle City Council. The fee shall be used to offset municipal expenses covering costs related to licensing, inspection, administration and enforcement of medical marijuana commercial processor facilities. The permit fee shall not be prorated.

c. A medical marijuana commercial/industrial processor permit will not be granted to any applicant where the proposed location is located outside an approved zoning district or within a restricted area as set forth in the Tuttle Zoning Code.

2. *Conditions of operation.*

a. The medical marijuana commercial/industrial processor facility must collect and remit the applicable sales tax on all sales.

b. Any violations of this section will result in the revocation of the medical marijuana commercial processor permit.

c. Processing facilities must remain locked at all times when not in operation.

SECTION 2: The following fees, rates and charges are hereby approved to be added to a Manual of Fees and to become effective immediately upon the effective date of this ordinance; and the City Manager is hereby authorized to execute same for, and on behalf of, the City, and to do all other lawful things necessary to carry out the terms and conditions of this Ordinance.

Medical Marijuana Business Permits

Medical Marijuana Retail Dispensary.....	\$615.00
Medical Marijuana Commercial/Industrial Growers	\$750.00
Medical Marijuana Commercial/Industrial Processors.....	\$750.00

SECTION 3: The moratorium adopted through Ordinance 2019-15 is hereby repealed in its entirety.

SECTION 4: If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity of effectiveness of the remaining portions of this ordinance or any part thereof.

PASSED AND APPROVED by the Mayor and City Council of the City of Tuttle this 14th day of September, 2020.

Aaron McLeroy, Mayor
City of Tuttle, Oklahoma

ATTEST:

Wendy Marble, City Clerk