

## CITY OF TUTTLE ORDINANCE NO. 2020-09

**AN ORDINANCE AMENDING THE TUTTLE ZONING CODE AMENDING THE USE TABLE TO ADD MEDICAL MARIJUANA COMMERCIAL USES; ADOPTING MEDICAL MARIJUANA BUSINESS REGULATIONS; AMENDING THE HOME OCCUPATION REGULATIONS REGARDING MEDICAL MARIJUANA COMMERCIAL USE; AMENDING DEFINITIONS REGARDING MEDICAL MARIJUANA COMMERCIAL USE; AND PROVIDING FOR SEVERABILITY.**

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

**SECTION 1:** That Section 15-8 of the Tuttle Zoning Code is hereby amended by adding the following medical marijuana commercial uses to read as follows:

Use Category	Use Type	Zoning Districts															Use Standards	Definition								
		A-1	R-1	R-1A	R-1B	R-2	R-3	RAM	OTR	C-1	C-2	C-3	C-4	C-5	CRD	T-1			L-1							
Medical Marijuana	Medical Marijuana Retail Dispensary										P	P	P	P	P	P									See Section 30N	An individual or entity that purchases medical marijuana or medical marijuana products from a licensed processor, grower, or dispensary for the purposes of selling medical marijuana and medical marijuana products in accordance with Oklahoma law.
	Medical Marijuana Commercial/Industrial Grower													S			S	S							See Section 30N	An individual or entity that grows, harvests, dries, cures, packages, sells, transfers, and transports or contracts with a commercial transporter for the transport of medical marijuana in accordance with Oklahoma law to a dispensary, processor, grower, research facility, education facility, or testing laboratory.
	Medical Marijuana Commercial/Industrial Grower (Accessory Use)	S																							See Section 30N	An individual or entity that grows, harvests, dries, cures, packages, sells, transfers, and transports or contracts with a commercial transporter for the transport of medical marijuana in accordance with Oklahoma law to a dispensary, processor, grower, research facility, education facility, or testing laboratory. Must be used as an accessory use with a primary residential use.
	Medical Marijuana Commercial/Industrial Processor													S			S	S							See Section 30N	An individual or entity that purchases medical marijuana or medical marijuana products from a grower or processor; processes, packages, and sells, transfers, transports or contracts with a commercial transporter to transport medical marijuana or medical marijuana products that they processed to a licensed dispensary, processor, or testing laboratory in accordance with Oklahoma law; and processes medical marijuana received from a licensed patient into a medical marijuana concentrate, for a fee.
	Medical Marijuana Commercial/Industrial Processor (Accessory Use)	S																							See Section 30N	An individual or entity that purchases medical marijuana or medical marijuana products from a grower or processor; processes, packages, and sells, transfers, transports or contracts with a commercial transporter to transport medical marijuana or medical marijuana products that they processed to a licensed dispensary, processor, or testing laboratory in accordance with Oklahoma law; and processes medical marijuana received from a licensed patient into a medical marijuana concentrate, for a fee. Must be used as an accessory use with a primary residential use.

**SECTION 2:** That a new section is hereby added to Article 3 of the Tuttle Zoning Code, said section to read as follows:

**SECTION 30N. Medical Marijuana Commercial/Industrial Businesses**

A. Unless otherwise specified, the distance requirements outlined in this section, 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 protected use described is located to the nearest property line of the building or unit in which the proposed commercial/industrial medical marijuana establishment would be located.

B. Medical marijuana retail dispensaries.

1. A medical marijuana retail dispensary shall not be located within 1,000 feet of any of the following locations as measured in accordance with OAC 310:681-5-3(e)(4):

a. Any private or public school.

C. Medical marijuana commercial/industrial grow facilities.

1. A medical marijuana commercial/industrial grower facility shall not be located within 1,000 feet of any of the following locations as measured in accordance with OAC 310:681-5-3(e)(4):

a. Any private or public school.

D. Medical marijuana commercial/industrial processor.

1. A medical marijuana commercial/industrial processor shall not be located within 1,000 feet of any of the following locations as measured in accordance with OAC 310:681-5-3(e)(4):

a. Any private or public school.

E. Criteria for Specific Use Permit Approval in Agricultural Zones. The medical marijuana commercial/industrial business uses listed under the agricultural districts are requiring specific use permits are allowed in the specified agricultural district upon the Planning Commission and City Council finding, in addition to the approval criteria specified in Section 51, the following criteria:

1. General Nuisances. All applicable federal, state and municipal standards for any airborne emissions, noise, glare, odor, vibrations, smoke or dust associated with the operation will not cause adverse impacts to adjacent properties.

2. Lot Size. The minimum parcel size is 5.0 acres.

3. Facility Size. The size of the building(s) and outdoor grow area used for the medical marijuana commercial/industrial business will not detract from the agricultural nature of the area. The size of the building(s) and/or outdoor grow areas used will be limited to a combination of 2.0% of the parcel size (measured in square feet) with a maximum gross floor area of 5,000 square feet. The gross floor area may be increased through the Specific Use Permit.

4. Residential Adjacency Standards. Building(s) and/or other grow areas shall be set back a minimum of 50 feet from the property line of adjacent platted residential subdivisions. The minimum residential setback may be decreased through the Specific Use Permit. The residential adjacency standards specified in Section 30E shall apply.

5. Outdoor Grow Areas and Greenhouses. The growing of commercial/industrial medical marijuana may be permitted outside of a substantial, enclosed & secure structure when located a minimum of 300 feet from the front property line/street and a minimum of 100 feet from the side and rear property lines.

6. Accessory Use. Allowed medical marijuana commercial/industrial business uses in agricultural districts shall only be permitted within agricultural districts when established as an accessory use with a primary residential use.

If a medical marijuana commercial/industrial business meets the requirements of this paragraph and will have maximum gross floor area of the combined building(s) and/or outdoor grow area of 5,000 square feet (or 2% of the of the parcel size, whichever is smaller) and has a minimum residential setback of at least 50 feet, the use may occur by right without the need for a Specific Use Permit.

F. Criteria for Specific Use Permit Approval in Commercial and Industrial Zones. The medical marijuana commercial/industrial business uses listed under the commercial or industrial districts requiring specific use permits are allowed in the specified commercial/industrial district upon the Planning Commission and City Council finding, in addition to the approval criteria specified in Section 51, the following criteria:

1. General Nuisances. All applicable federal, state and municipal standards for any airborne emissions, noise, glare, odor, vibrations, smoke or dust associated with the operation will not cause adverse impacts to adjacent properties.
2. Outdoor Grow Areas and Greenhouses. The growing of commercial/industrial medical marijuana shall not be permitted outside of a substantial, enclosed & secure structure.

**SECTION 3:** That Section 30i of the Tuttle Zoning Code is hereby amended to read as follows:

#### ***SECTION 30i. HOME OCCUPATION.***

A. A home occupation or home-based business is any occupation or profession carried on in a residence which is clearly incidental and secondary to the residential use of the premises; does not change the residential character or physically alter the appearance of the property; and is subject to all city ordinances, including but not limited to, parking of vehicles and obtaining a business license from the City of Tuttle.

1. The parking of a commercial vehicle assigned or owned by a person who resides on the premises and otherwise does not conduct business on the premises shall be regulated by Section 23 STORAGE AND PARKING OF TRAILERS AND COMMERCIAL VEHICLES, and is not considered a home occupation.
2. The conducting of garage or yard sales, as defined and regulated in Chapter 5 of the Tuttle Code of Ordinances is not considered a home occupation.
3. The conducting of occasional "host" parties where goods, such as kitchen storage container and cosmetic supplies, are sampled or displayed is not considered a home occupation.
4. Home occupation regulations shall not apply to those who telecommute or operate a home office when no additional traffic is generated.

B. Conditions for home occupations.

1. Location. The home occupation must be entirely located within the dwelling or an associated accessory building on the same lot of the primary dwelling. Outside storage of any kind related to the home occupation shall generally not be visible from the public right-of-way and surrounding residentially-zoned properties;
2. Employees and residency. The principal person or persons providing the business or service shall reside in the dwelling on the premises. The home occupation shall employ no more than one (1) person who does not reside on the premises.

3. Neighborhood compatibility.
  - a. All vehicles used in connection with the home occupation shall be of a size, and located on the premises in such a manner, so as to not disrupt the quiet nature and visual quality of the neighborhood, and there shall be no more than two vehicles per home occupation. All vehicles and trailers must comply with Section 23 STORAGE AND PARKING OF TRAILERS AND COMMERCIAL VEHICLES.
  - b. There shall be sufficient off-street parking for patrons of the home occupation, with the number of off-street parking spaces required for the home occupation to be provided and maintained in addition to the space or spaces required for the dwelling itself pursuant to Section 31 OFF-STREET PARKING.
  - c. No additional parking areas other than driveways shall be located in the required front setback.
  - d. There shall be no advertising devices on the property, or other signs of the home occupation, which are visible from outside the dwelling or accessory building except that one (1) non-illuminated nameplate, not more than two square feet in area attached to the main or accessory building or located in a window, may be permitted.
  - e. The property shall contain no outdoor display or storage of goods or services that are associated with the home occupation.
  - f. Wholesale or retail sales of goods, open to the public, shall not occur on the premises.
  - g. The home occupation shall not create traffic or parking congestion, noise, vibration, odor, glare, fumes, sewerage or water use in excess of what is normal in the residential neighborhood, or electrical or communications interference that can be detected by the normal senses off the premises, including visual or audible interference with radio or television reception. The home occupation shall not create a nuisance.
  - h. No deliveries by commercial vehicles outside of typical parcel courier service (i.e. USPS, UPS, FedEx, etc). Home occupations requiring any deliveries from a freight hauler are prohibited.
- C. Prohibited home occupations. The following uses, because of their impacts on the surrounding residential area, shall not be permitted as home occupations.
  1. Auto repair or motorized implement repair (other than minor service of personal vehicles owned by persons living on the premises or their friends and relatives, and performed in an enclosed garage).
  2. Dance, music or other types of instruction (if more than four students are being instructed at one (1) time).
  3. Dental offices.
  4. Medical offices.
  5. The painting of vehicles, trailers or boats.
  6. Private schools with organized classes.
  7. Motor vehicle towing operation.
  9. Nursing homes.
  10. Boarding house and other such transient lodging.

11. Bed & breakfasts (unless otherwise permitted in this Code).
  11. Tea room or restaurants.
  12. Child care facilities (other than family child care home or family child care large as defined in Section 6 DEFINITIONS or occasional babysitting).
  13. Sexually oriented businesses.
  14. Medical marijuana dispensary, marijuana commercial/industrial grower, and marijuana commercial/industrial processor operations (commercial/industrial growing and processing is allowed within agricultural districts as specified in Section 30n MEDICAL MARIJUANA COMMERCIAL BUSINESSES).
  15. Any industrial use or activity not otherwise specified in this section.
- D. Home occupations requiring a minor exception. The following uses, because of their potential impacts on the surrounding residential area, may be permitted only after receiving a minor exception from the Board of Adjustment. The Board of Adjustment shall take into account the potential impact on the surrounding residential area, impact on traffic, potential to create a nuisance, and other criteria specified in this section. Any minor exceptions granted shall expire when the applicant no longer resides at the approved site or thirty (30) days after the resident ceases the home occupation, whichever occurs first; and is not transferable to any other location or person.
1. Base or office for a contractor where up to four (4) employees assemble to go to job sites and all equipment is stored behind the front building line and stored out of public view and provided ample parking is available for the employees off of the street and on a typical paved driveway (if a paved driveway is required). Up to ten (10) employees can assemble to go to job site when the residential property is at least 2 acres in size.
  2. Base or office for an employer where up to four (4) employees assemble to go to job sites provided ample parking is available for the employees.
  3. Barber shops and beauty shops having not more than one (1) chair provided ample parking is available.
  4. Welding, plumbing, electrical or shop, or similar shops.
  5. Carpentry, cabinet making, metal work, fabrication or assembly of products for transport to a site off premises.
  6. Artisan shops.
  7. Family child care large.
- E. Any home-based occupation requiring a minor exception by this section that was legally in existence prior to January 1, 2018 and has applied for a business license from the City of Tuttle prior to July 1, 2018, including any base or office for a contractor whose equipment is stored and employees are parked in accordance with these regulations, may continue to operate without seeking a minor exception.

**SECTION 4:** That the following definitions in Section 30i of the Tuttle Zoning Code are hereby amended to read as follows:

**AGRICULTURE.** The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities. The operation of commercial feed pens, sales yards and auction yards for cattle or hogs shall be deemed an industrial and not an agricultural use. 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:** 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.

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Aaron McLeroy, Mayor  
City of Tuttle, Oklahoma

ATTEST:

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Wendy Marble, City Clerk