

PART 18
MEDICAL MARIJUANA

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CHAPTER 1

General Provisions

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18-101: **LEGISLATIVE INTENT AND PURPOSE:**

The intent of this chapter is to ensure the health and safety of all Oklahomans and provide reasonable and orderly regulation of medical marijuana as authorized by the lawful passage of State Question 788. Only the powers enumerated under this chapter shall be proper. Any power not specifically enumerated is prohibited. (Ord. 691, 4-28-2020)

18-102: **MEDICAL MARIJUANA PERMITS:**

- A. It shall be unlawful for any person, persons or other business entity to operate as a commercial medical marijuana dispensary, commercial medical marijuana grower, commercial medical marijuana manufacturer and/or commercial medical marijuana processing facility within the corporate limits of the City of

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Frederick without first having obtained a permit. A lawfully issued Medical Marijuana Permit of any type shall be based upon a July 1st renewal for the succeeding twelve (12) calendar months, subject to pro-rating when first obtained.

- B. Effective July 1, 2020, the City Council hereby establishes certain fees to obtain the non-transferable Permit for Medical Marijuana Dispensaries in order to offset municipal expenses covering costs related to licensing, inspection, administration, and enforcement of medical marijuana dispensaries, as follows:
1. Individual Medical Marijuana Permit: twenty-five dollars (\$25.00) annually;
 2. Caregiver Medical Marijuana Permit: twenty-five dollars (\$25.00) annually;
 3. Medical Marijuana Dispensary (Retail): one thousand two-hundred and fifty dollars (\$1,250) annually;
 4. Medical Marijuana Growing Facility (Wholesale): one thousand two-hundred and fifty dollars (\$1,250) annually; and
 5. Medical Marijuana Processing Facility: one thousand two-hundred and fifty dollars (\$1,250) annually.
- C. Additional permit classifications may be added in the future. Fee adjustments will be done by ordinance or by resolution. Any Medical Marijuana Permit issued is subject to compliance with the Frederick City Code and all applicable Oklahoma Statutes and state agency rules and regulations. (Ord. 691, 4-28-2020)

18-103: ADDITIONAL LICENSES AND PERMITS MAY BE REQUIRED:

The permit requirement set for in this chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other Federal, state, or local law, including, by way of example, any applicable building permit. (Ord. 691, 4-28-2020)

18-104: PERMIT DOES NOT PROVIDE ANY EXCEPTION, DEFENSE, OR IMMUNITY FROM OTHER LAWS:

The issuance of any permit pursuant to this chapter does not create an exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marijuana. (Ord. 691, 4-28-2020)

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18-105: SEPARATE PERMIT REQUIRED FOR EACH LOCATION:

A separate permit shall be required for each premise from which a commercial medical marijuana business is operated. Except as specifically provided in this chapter, no two or more different commercial medical marijuana businesses may be treated as one premise. (Ord. 691, 4-28-2020)

18-106: PERMIT NONTRANSFERABLE:

Any permit that has been issued by the Frederick City Clerk for medical marijuana is nontransferable. A commercial medical marijuana business permit is not transferable nor assignable, including, without limitation not transferable or assignable to a different premise, to a different type of business, or to a different owner or permittee. (Ord. 691, 4-28-2020)

18-107: LOCATIONS OF MEDICAL MARIJUANA BUSINESSES:

- A. Mobile medical marijuana sales of all types are prohibited within the City of Frederick. This includes but is not limited to trailers, recreational vehicles, and trucks.
- B. With the exception of a commercial grower, it shall be unlawful to operate a medical marijuana business outside of an enclosed, fixed building. All medical marijuana business permits shall be issued for a specific fixed location within an enclosed building.
- C. It shall be unlawful to operate a commercial medical marijuana business in a building which contains a residence, or within a dwelling unit within any zoning district, or within a residential zoning district, or within a mixed-use development that includes a residence. (Ord. 691, 4-28-2020)

18-108: REVOCATION OF PERMIT UPON DENIAL OR REVOCATION OF STATE LICENSE OR APPLICABLE FEDERAL PROHIBITION:

If the State of Oklahoma prohibits the cultivation, production, possession, or other distribution of marijuana through medical marijuana businesses, or if a medical marijuana business is denied a commercial medical marijuana business permit or has such permit revoked, or if a court of competent jurisdiction determines that the

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federal government's prohibition of the cultivation, production, possession, or other distribution of marijuana through medical marijuana businesses supersedes state law, any permit issued pursuant to this chapter shall be deemed to be immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the permittee. (Ord. 691, 4-28-2020)

18-109: REVOCABLE PRIVILEGE:

A commercial medical marijuana business permit is a revocable privilege, and no applicant therefor or holder thereof shall be deemed to have acquired any property interest therein. (Ord. 691, 4-28-2020)

18-110: MEDICAL MARIJUANA ESTABLISHMENTS:

A. Medical Marijuana Dispensaries:

1. Applicants for a medical marijuana dispensary license shall provide a copy of the certificate of compliance application form provided by the OK Medical Marijuana Authority to the City Clerk or his/her designee, at the time of application for a medical marijuana dispensary permit.
2. Medical Marijuana Dispensaries shall only be located in areas zoned C-A-R, C-1 or Industrial, and shall be subject to any special use permit as may be applicable by the Frederick City Code.
3. A permit will not be granted to any applicant where the proposed location would be located within one thousand (1,000) feet of any of the following uses:
 - a. any private or public school or school property where students enrolled in grades pre-school through grade twelve (12) may be present during the school day or after hours for school sanctioned extra-curricular programming and subject to any other future restrictions imposed by Oklahoma Statutes.
4. For the distance requirements outlined in this ordinance, the distances described shall be computed utilizing the measurement method authorized by the Oklahoma Medical Marijuana Authority for this purpose.
5. Nothing in this Ordinance should be construed to:
 - a. Allow persons to engage in conduct that endangers or causes a public nuisance;

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- b. Allow the use of medical marijuana for non-medical purposes; or
 - c. Allow any activity that is otherwise illegal and not permitted by state law.
- B. Commercial Medical Marijuana Growing, Commercial Medical Marijuana Processing, Commercial Medical Marijuana Storage Facilities, and all other Licensed Medical Marijuana Facilities:
 - 1. Commercial medical marijuana growing facility, commercial medical marijuana processing, commercial medical marijuana storage facilities, and all other licensed medical marijuana facilities shall only be located in areas zoned industrial and shall be subject to any special use permit as may be applicable by the Frederick City Code.
 - 2. Applicants for a medical marijuana growing facility license shall provide a copy of the certificate of compliance application form provided by the Medical Marijuana Authority to the City Clerk or his/her designee, at the time of application for a medical marijuana growing facility permit. (Ord. 691, 4-28-2020)

18-111: INSPECTIONS:

Every medical marijuana dispensary, commercial grower, and processor shall permit the local permitting authority, and any agent of the local permitting authority, or anyone authorized, to inspect the premises of the business pursuant to the Frederick City Code, or State Question 788, and any of the rules and regulations adopted pursuant thereto. (Ord. 691, 4-28-2020)

18-112: COSTS OF INSPECTION AND CLEAN-UP:

In the event the city incurs costs in the inspection, clean-up, surrender of plants, or any other requirements to remove medical marijuana of any medical marijuana business, or any person cultivating, producing, distributing, or possessing marijuana, the business and responsible person shall reimburse the city all actual costs incurred by the city for such inspection or clean-up. (Ord. 691, 4-28-2020)

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18-113: LANDLORD DUTY:

It shall be unlawful for the owner of a building to lease space or allow the use of any portion of the building by a commercial medical marijuana business unless the tenant has a valid commercial medical marijuana business permit or has applied for and not been denied a commercial medical marijuana business permit or no marijuana is located on the premises until a permit has been issued by the city. (Ord. 691, 4-28-2020)

18-114: MEDICAL MARIJUANA GROWING FACILITIES FOR PERSONAL MEDICAL USE:

- A. All medical marijuana growing facilities for personal medical use shall be subject to security provisions as stated in the Oklahoma Statutes and any applicable State Agency Rules and outlined herein prior to the granting of a permit. Failing to comply with security provisions as stated herein will result in a fine of two hundred dollars (\$200) per occurrence.
- B. 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.
- C. Growing medical marijuana for personal medical use shall be limited to the interior of a single private residence, or an outdoor property secured by a six (6)-foot sight proof fence appropriate for the zoning district.
- D. Growing medical marijuana shall not be visible from the public right of way.
- E. All portions of a residential medical marijuana use growing area used shall comply with all applicable 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 one thousand (1,000) watts per light. The use of gas products (C02, butane, etc.) or C02 and ozone generators in the growing area is prohibited.
- F. Growing medical marijuana shall not be conducted in a manner that constitutes a public nuisance. A public nuisance may be deemed to exist if growing medical 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.

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- G. The primary use of the residential property in which medical 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 medical marijuana where such cultivation will impair or prevent the primary uses of cooking, eating, sleeping or sanitation/bathing. (Ord. 691, 4-28-2020)

18-115: 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. (Ord. 691, 4-28-2020)

18-116: POSSESSION OF MARIJUANA AND PUBLIC SMOKING OR VAPING OF MEDICAL MARIJUANA:

- A. Public smoking or vaping of medical marijuana is prohibited in any building or on any property owned or operated by the City of Frederick, and any additional location which is deemed unlawful in the Oklahoma Statutes or State Agency Rules.
- B. Possession of marijuana in excess of the limits imposed by Oklahoma Statutes shall be prohibited.
- C. Violation of this section shall be a misdemeanor offense subject to a fine of four hundred dollars (\$400) per occurrence. (Ord. 691, 4-28-2020)

18-117: PENALTY:

Any person violating any provision of this chapter shall be punished as provided in Section 1-108 of the Frederick City Code. Each day of such violation shall constitute a separate offense. (Ord. 691, 4-28-2020)

