

ORDINANCE NO. 2018-08

AN ORDINANCE CREATING CHAPTER 5 OF PART 9 OF THE TOWN OF LUTHER TOWN CODE OF ORDINANCES, PROVIDING FOR MEDICAL MARIJUANA ESTABLISHMENTS; ESTABLISHING LICENSE AND PERMIT REQUIREMENTS; RESTRICTING LOCATION; PROVIDING FOR CONDITIONS OF OPERATION; ESTABLISHING FEES; ESTABLISHING PERMITS AND PERMIT PROCESS FOR PERMITTED MARIJUANA FACILITIES; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; EMERGENCY.

BE IT ORDAINED BY THE MAYOR AND TOWN BOARD OF THE TOWN OF LUTHER, OKLAHOMA:

**SECTION 1.** Chapter 5 of Part 9 of the Luther Town Code of Ordinances is hereby created which shall read as follows, to-wit:

**Sec. 9-501. Definitions.**

- A. Medical Marijuana Dispensary is defined as an entity that is licensed by the Oklahoma State Department of Health pursuant to Title 63 O.S. § 421A which allows the entity to purchase medical marijuana from a Commercial Grower or Processor and sell medical marijuana only to qualified patients and caregivers.
- B. Commercial Grower is defined as an entity that is licensed by the Oklahoma State Department of Health pursuant to Title 63 O.S. § 422A, which allows the entity to grow, harvest, and package medical marijuana for the purpose of selling medical marijuana to a dispensary, processor or researcher.
- C. Marijuana Processor is defined as an entity that is licensed by the Oklahoma State Department of Health pursuant to Title 63 O.S. § 423A which allows the entity to purchase marijuana from a commercial grower; prepare, manufacture, package, sell to and deliver medical marijuana products to a dispensary licensee or other processor licensee; and may process marijuana received from a qualified patient into a medical marijuana concentrate, for a fee.
- D. Qualified Patient means a person that has been issued a medical marijuana license pursuant to 63 O.S. § 420A *et seq.*
- E. Caregiver means a person that has been issued a medical marijuana license pursuant to 63 O.S. § 420A *et seq.*
- F. Commercial Establishment License means a license issued to a Medical Marijuana Dispensary, Commercial Grower or Marijuana Processor by the Oklahoma State Department of Health pursuant to 63 O.S. § 420A *et seq.*

**Sec. 9-502. Commercial Establishment License Permit Requirements.**

- A. All persons requiring a Commercial Establishment License shall obtain a permit as provided herein in addition to all other required business license(s) from the Town Clerk prior to commencement of business. The Town may require the completion of a written application in a form prescribed by the Town and proof of a current and valid Commercial Establishment License.
- B. The Commercial Establishment License permit fee and all renewal fees associated therewith are non-refundable, are payable at the time of application for a permit and renewal, and shall be as set out within the Town business permit fee schedule, or as periodically modified by Town Board resolution. The fees shall be used to offset Town expenses covering costs related to licensing, inspection, administration and enforcement of this ordinance.
- C. A Commercial Establishment License permit shall not be granted to any applicant where the proposed location is located outside a commercially zoned area of the Town limits, or within a restricted area as hereinafter set forth.

**Sec. 9-503. Location restrictions.**

- A. A Commercial Establishment License permit shall not be granted to any applicant and any permit issued in violation hereof shall be void where the proposed location would be located within one thousand (1,000) feet of any of the following locations:
  - 1. Any private or public preschool, elementary, secondary, vocational or trade school, college or university;
- B. For the locations identified in 9-503(A)(1) of 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 Section A above is located to the nearest property line to the location described within 9-503(A)(1).

**Sec. 9-504. Conditions of operation.**

- A. Buildings where any form of marijuana is grown, stored or dispensed shall be equipped with ventilation/air filtration systems so that no odors are detectable off premises. In all respects such buildings and the use thereof shall comply with all laws regulating the growth, storage, and dispensing of such marijuana.
- B. All Medical Marijuana Dispensaries shall collect the applicable sales tax on all sales.
- C. Any violations of this section shall result in the revocation of the Commercial Establishment License permit.

- D. It is the intent of the Town that nothing in this 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.

**Sec.9-505. Permit inspections and other requirements.**

All permits provided for within this ordinance shall be subject to inspection of the facilities by an authorized Town inspector prior to issuance. The inspection prior to a permit decision will occur at a time scheduled and approved by both the applicant and the Town inspector. The applicant shall be present during any inspection.

**Sec.9-506. Medical Marijuana Growing Facilities for Personal Use.**

A. All medical marijuana grown at home by a Qualified Patient or Caregiver patient medical marijuana license holders can only be grown on residential real property owned by the patient license holder or on rented real property for which the patient license holder has the property owner's written permission to grow medical marijuana on the property.

B. All homegrown medical marijuana plants shall be grown so that the marijuana is not accessible to a member of the general public and is only accessible to the Qualified Patient or Caregiver. If grown outdoors, medical marijuana plants shall be grown behind an opaque fence that is at least six (6) feet in height. The medical marijuana plants shall be completely enclosed by the fence and the fence shall be secured with a lock and key. No marijuana plants may be visible from any street adjacent to the property.

**SECTION 2. CODIFICATION.** The Town Clerk is hereby directed to enter the added section into the appropriate place in the Luther Town Code of Luther, Oklahoma, as authorized and approved by this Ordinance. .

**SECTION 3. SEVERABILITY.** If any provision, paragraph, word, section or article of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and chapters shall not be affected and shall continue in full force and effect.

**SECTION 4. REPEALER.** All other Ordinances and parts of other Ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

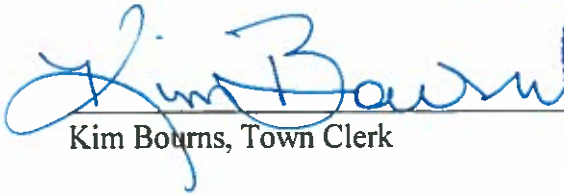
**SECTION 5. EMERGENCY CLAUSE.** An immediate necessity existing for the preservation of the public peace health and safety, an emergency is hereby declared to exist by reason of which this ordinance shall be in full force and effect from and after its passage, approval and publication or posting.

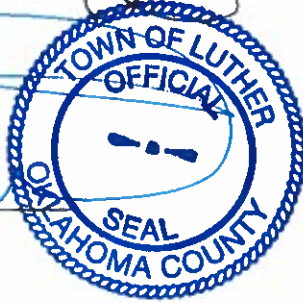
Passed, Approved and Adopted, by the Town Board of Luther, Oklahoma, on the 27 day

of September, 2018.


  
\_\_\_\_\_  
Jenni White, Mayor

**ATTEST: (SEAL)**

  
\_\_\_\_\_  
Kim Bourns, Town Clerk



**Approved as to form:**

  
\_\_\_\_\_  
Matthew L. Winton<sup>PLLC</sup>, Town Attorney