

**ORDINANCE NO. 18-07**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF KREBS BY ADDING A NEW ARTICLE 6 IN CHAPTER 12 PERTAINING TO MEDICAL MARIJUANA; PROVIDING FOR LEGISLATIVE INTENT AND PURPOSE; ADOPTING DEFINITIONS; ADOPTING REGULATIONS OF OKLAHOMA HEALTH DEPARTMENT CHAPTER 310, CHAPTER 681 PERTAINING TO MEDICAL MARIJUANA; REQUIRING COMMERCIAL MARIJUANA PERMITS; ESTABLISHING REGULATIONS PERTAINING TO OPERATIONS, LOCATIONS, FACILITIES AND PERMITTEE RESTRICTIONS; ESTABLISHING REGULATIONS FOR MARIJUANA CULTIVATION; REGULATING ADVERTISEMENTS; PROVIDING PROCEDURES FOR REVOCATION OF PERMITS; PROVIDING FOR PROHIBITED ACTS; PROVIDING FOR PENALTIES; AND DECLARING AN EMERGENCY.**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KREBS:**

**CHAPTER 12  
HEALTH AND SANITATION  
ARTICLE 6  
MEDICAL MARIJUANA  
SECTION 1  
IN GENERAL**

**FILED**

DEC 03 2018

TIME 3:03 AM  
HOPE TRAMMELL, COUNTY CLERK  
PITTSBURG COUNTY

BY RT DEPUTY

**Sec. 12-6-1. Legislative intent and purpose:**

1. The intent of this article 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 article shall be proper. Any power not specifically enumerated is prohibited.

(a) Any person, persons or entity violating any provisions of this section, either by doing anything which is prohibited or by failing to do anything which is commanded, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding five hundred dollars (\$500.00), plus court costs. Each separate violation of this section shall

constitute a separate offense. Where a lesser fine is mandated by State Law then the lesser amount of fine shall be applicable.

(b) The regulations are intended to apply to all medical marijuana for personal use or any medical marijuana business permitted under the State Question 788. The Code is intended to provide regulations to limit the impact that medical marijuana cultivation and production will have on health, safety, and community resources.

(c) Use, distribution, cultivation, production, possession, and transportation of medical marijuana remains illegal under federal law and marijuana remains classified as a “controlled substance” by federal law.

(d) The regulations for medical marijuana uses are not adequate at the state level to address the impacts of medical marijuana on the city, making it appropriate for local regulation of the impacts of medical marijuana users.

(e) Nothing in this chapter is intended to promote or condone the production, distribution, or possession of marijuana in violation of any applicable law.

(f) This article is to be construed to protect the public over medical marijuana business interests. Operation of a medical marijuana business is a revocable privilege and not a right in the city. There is no property right for an individual or business to have medical marijuana in the city.

(g) Medical Marijuana is a heavily regulated industry in the city and all permittees are assumed to be fully aware of the law. The city shall not therefore be required to issue warnings before issuing citations for violations of this article.

2. The purpose of this chapter is to protect the public health, safety, and welfare of the residents and patients of the city by prescribing the manner in which medical marijuana businesses can be conducted in the city. Further, the purpose of this article is to:

(a) Provide for a means of cultivation, production, and distribution of marijuana to patients who qualify to obtain, possess, and use marijuana for medical purposes under the State Question 788.

(b) Protect public health and safety through reasonable limitations on business operations as they relate to noise, air and water quality, food safety, neighborhood and patient safety, security for the business and its personnel, and other health and safety concerns.

(c) Impose fees to cover the cost to the city of permitting medical marijuana businesses in an amount sufficient for the city to recover its costs of the permitting program.

(d) Adopt a mechanism for monitoring compliance with the provisions of this article.

(e) Create regulations that address the particular needs of the patients and residents of the city and coordinate with laws that may be enacted by the state regarding the issue.

(f) Facilitate the implementation of State Question 788 without going beyond the authority granted by it.

(g) Issue medical marijuana business permits only to individuals and entities that have demonstrated an intent and ability to comply with this chapter without monitoring by city officials.

**Sec. 12-6-2. Oklahoma State Department of Health Regulations Title 310, Chapter 681, Medical Marijuana Control Program Adopted by Reference:**

1. Oklahoma State Department of Health Regulations, Title 310, Chapter 681, Medical Marijuana Control Program as it may from time to time be amended is adopted by reference and is made a part of the ordinances of the City, as if fully set forth in this Code. The provisions of these regulations shall take effect and be controlling with the city limits so that a violation of the provisions of the regulations will be a violation of this code. Nothing in this this section shall grant to the city the power or jurisdiction to prosecute offenses that a city is not authorized to prosecute. Copies of the rules are on file in the office of the City Clerk.
2. Any crimes specified in the rules or other laws as felonies are specifically excluded from inclusion in this chapter.
3. The penalty for a misdemeanor violation of the rules as adopted by this chapter shall be the maximum penalty allowed by state law but not exceeding the jurisdictional limits of the Krebs Municipal Court.

**Sec. 12-6-3. Definitions:**

The following words and terms, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise:

- (a) *Applicant* means the natural person in whose name a permit would be issued.
- (b) *Complete Application* means a document prepared in accordance with the rules and the forms instructions provided by the City of Krebs, including any supporting documentation required as well as the application fee.
- (c) *Dispense* means the selling of medical marijuana or a medical marijuana product to a qualified patient or the patient's designated caregiver that is packaged in a suitable container appropriately labeled for subsequent administration to or use by a qualified patient.
- (d) *Dispensary* means an entity that has been licensed by the Oklahoma State Health Department pursuant to Title 63 O.S. § 421A and permitted by the City of Krebs pursuant to this article, which allows the entity to purchase medical marijuana from a processor permittee or grower permittee and sell medical marijuana only to qualified patients and caregivers.
- (e) *Domicile* means a person's true, fixed, primary permanent home and place of habitation and the tax parcel on which it is located. It is the place where the person intends to remain and to which the person expects to return when the person leaves with out intending to establish a new domicile elsewhere.
- (f) *Entity* means an individual, general partnership, a limited partnership, a limited liability company, a trust, an estate, an association, a corporation or any other legal or commercial entity.
- (g) *Grower or Commercial Grower* means an entity that has been licensed by the Oklahoma State Department of Health and permitted by the City of Krebs, which allows the entity to grow, harvest, and package medical marijuana to a dispensary, processor or researcher.
- (h) *Manufacture* means the process of converting harvested plant material into medical marijuana concentrate by physical or chemical means for use as an ingredient in a medical marijuana product.
- (i) *Marijuana* means all parts of a plant of the genus cannabis, whether growing or not; the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture, or preparation of a plant of that type or of its seeds or resin. "Marijuana" does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, or

any other compound, manufacture, salt derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination.

(j) *Mature Plant* means harvestable female marijuana plant that is flowering. Mature plants are not authorized under this section prior to sixty (60) days after the enactment of Title 63 O.S. § 420A, et.seq.

(k) *Medical Marijuana* means marijuana that is grown, processed, dispensed, tested, possessed, or used for medical purpose

(l) *Medical Marijuana Business* means any business licensed by the Oklahoma State Health Department and permitted by the City of Krebs to dispense, grow, research or process medical marijuana.

(m) *Medial Marijuana Concentrate* (“concentrate”) means a substance obtained by separating cannabinoids from any part of the marijuana plant by physical or chemical means, so as to deliver a product with a cannabinoid concentration greater than the raw plant material from which it is derived, intended to be refined for use as an ingredient in a medical marijuana product and not for administration to a qualified patient.

(n) *Medical Marijuana Product* means a product that contains cannabinoids that have been extracted from plant material or the resin therefrom by physical or chemical means and is intended and is intended for administration to a qualified patient, including but not limited to oils, tinctures, edibles, pills, topical forms, gels, creams, forms medically appropriate for administration by vaporization or nebulizer, patches, tinctures, and liquids excluding live plant forms.

(o) *Medical Marijuana Waste* means unused, surplus, returned or out-of-date marijuana; recalled marijuana; unused marijuana; plant debris of the plant of the genus cannabis, including dead plant and all unused plant parts and roots; and any wastewater generated during growing and processing.

(p) *Permittee* means any natural born person or entity that holds a marijuana permit provided for in this chapter.

(q) *Private School* means an elementary, middle, or high school maintained by private individuals, religious organizations, or corporations, funded at least in part, by fees or tuition, and open only to pupils selected and admitted based on religious affiliations or other particular qualifications.

(r) *Processor* means an entity that has been licensed by Oklahoma State Department of Health and permitted by the City of Krebs, which allows the entity to: purchase marijuana from a commercial grower; prepare, manufacture, package, sell to and deliver medical marijuana products to a dispensary permittee or other processor permittee; and may process marijuana received from a qualified patient into a medical marijuana concentrate, for a fee.

(s) *Public School* means an elementary, middle, or high school established under state law, regulated by the local state authorities in the various political subdivisions, funded and maintained by public taxation, and open and free to all children of the particular district where the school is located.

(t) *Retailer* as used in Title 63 O.S. § 421 A et seq. means a dispensary.

(u) *Resident* means an individual who is an income tax payer in the State of Oklahoma and can provide proof of residency as required by 63 O.S. § 420A et seq. and OAC 310:681-1-6.

(v) *Revocation* means the City of Krebs final decision that any permit issued pursuant to this chapter is rescinded because the individual or entity does not comply with the applicable requirements in this article.

(w) *School* means either public or private nurseries, kindergartens, elementary, which may include either K-6 or K-8, secondary schools and technology center schools, not to exceed two (2) years of junior college work, night schools, adult and other special classes, vocational and technical instruction and such other school classes and instruction as may be authorized by laws which are now in effect or which may hereafter be enacted.

(x) *Seedling* means an immature marijuana plant that has no flowers.

(y) *State Question* means Oklahoma State Question No. 788 and Initiative Petition Number 412.

**Sec. 12-6-4 through 12-6-11. – Reserved**