

**TOWN OF HENNESSEY**  
**ORDINANCE NO. 378**

**AN ORDINANCE RELATING TO THE SELLING, GROWING, PROCESSING, WAREHOUSING, AND STORING OF MEDICAL MARIJUANA; ADDING ZONING REGULATIONS FOR BUSINESSES INVOLVED IN THE SELLING, GROWING, PROCESSING, WAREHOUSING, AND STORING OF MEDICAL MARIJUANA; PROVIDING FOR REPEALER AND SEVERABILITY; DECLARING AN EMERGENCY; AND CONTAINING OTHER PROVISIONS RELATED THERETO.**

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF HENNESSEY, OKLAHOMA:

**Section 1. Definitions.** The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them below, except where the context clearly indicates a different meaning:

- (a) *Commercial medical marijuana growing and/or processing facilities* means any medical marijuana growing or processing facility licensed by the State of Oklahoma to grow or process medical marijuana in excess of 12 plants. Growing includes the cultivation, manufacturing, processing, packaging, and distribution of marijuana and marijuana products. Processing includes, but is not limited to, drying, cleaning, curing, packaging, and extracting of active ingredients to create medical marijuana, medical marijuana products or concentrates.
- (b) *Medical marijuana dispensary* means any retail medical marijuana establishment licensed by the State of Oklahoma and the Town of Hennessey to sell or dispense medical marijuana or medical marijuana products.
- (c) *Medical marijuana wholesale and/or storage facility* means any wholesale or storage establishment licensed by the State of Oklahoma and the Town of Hennessey that acquires, possesses, stores, delivers, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to the holder of a valid medical marijuana dispensary license.

- (d) The Town hereby adopts all other terms and definitions as established by state law or department of health regulations. In the event of a conflict between any definitions contained herein, the definition promulgated by the state or the department of health shall prevail.

## **Section 2. General Requirements.**

- (a) Any operator of a medical marijuana business shall have a valid license from the State of Oklahoma and the Town of Hennessey prior to doing business.
- (b) The license outlined in this ordinance will be subject to property inspection by an authorized Town inspector prior to issuance to ensure compliance with all codes of the Town.
- (c) The property inspection will occur at a time scheduled and approved by both the applicant and the Town inspector.
- (d) The applicant will be required to be present during the inspection.
- (e) All structures, equipment and apparatus shall comply with all building and fire codes adopted by the State of Oklahoma and the Town of Hennessey.
- (f) A medical marijuana business license application shall be filled out and signed by the property and business owner and submitted to the Town Clerk prior to scheduling an inspection.
- (g) A nonrefundable license fee in the amount of \$1500.00, shall be paid at the time the application is submitted. The annual renewal fee is the same.
- (h) The license fee shall be set according to and used to offset municipal expenses covering costs related to licensing, inspection, administration and enforcement of this article.
- (i) For the distance requirements outlined in 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 herein is located to the nearest property line of the building or unit in which the proposed retail marijuana establishment would be located.
- (j) All medical marijuana dispensary, commercial medical marijuana growing and/or processing facilities, and medical marijuana wholesale and/or storage facility establishments shall be located within an entirely enclosed and secure structure, as required by the rules and regulations of the department of health, as may be amended from time to time.
- (k) License holder shall remit all required state and Town sales taxes.

- (l) The Town issued license must be conspicuously posted at the place of business.
- (m) It is the intent of the Town of Hennessey that nothing in the medical marijuana ordinance be construed to:
  - (1) Allow persons to engage in conduct that endangers the health, safety, or welfare of the citizens of the Town of Hennessey, 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.
- (n) Additional regulations:
  - (1) The smell of noxious odor emitted from smoking or consumption of medical marijuana by a person possessing a valid state issued medical marijuana license shall constitute a public nuisance.
  - (2) Smoking and vaping marijuana shall be prohibited on all city property including vehicles, buildings, parks or other facilities.
  - (3) Revocation or suspension of municipal issued marijuana license; hearing.
    - a. The Town Administrator or designee shall revoke or suspend a license issued under this Ordinance on any of the following grounds:
      - i. The license was procured by fraudulent conduct or false statement of a material fact or a fact concerning the applicant was not disclosed at the time of his application, and such fact would have constituted just cause for refusal to issue the license;
      - ii. Violation of Town ordinance, state law, or department of Health regulations governing medical marijuana.
    - b. Prior to suspension or revocation, the permittee shall be given notice of the proposed action to be taken and shall have an opportunity to be heard before the Town Administrator. If an employee has been designated by the Town Administrator, such employee shall make a report to the Town Administrator together with

a recommendation as to whether the license should be suspended or revoked.

- (4) Any person or entity applying for or issued a license by the Town of Hennessey shall comply with all state law and department of health rules and regulations, as may be amended from time to time.
- (5) Revocation of the state issued license shall result in immediate revocation of the Town issued license.

**Section 3. Medical Marijuana Dispensary.** Medical marijuana dispensaries are hereby allowed within the municipal boundaries of Hennessey, Oklahoma upon compliance with this Ordinance, issuance of a retail medical marijuana dispensary business license and the following additional provisions:

- (a) Medical marijuana dispensary business license shall not be granted to any applicant where the proposed location would be located within 1,000 feet of any public or private school entrance.
- (b) Conditions of operation:
  - (1) Buildings where medical marijuana is stored or dispensed must be equipped with ventilation/air filtration systems so that no odors are detectable off premises.
  - (2) The retail establishment must maintain a valid sales tax permit issued by the State of Oklahoma.
  - (3) Use of marijuana or its derivatives shall be not be used on premises.
  - (4) Any violations of this section will result in the revocation of the retail medical marijuana business license.
- (c) There shall be a business license fee and an annual renewal fee as set forth above. The annual business license will expire on June 30 and shall be renewed prior to July 1 each year. Failure to renew will result in a penalty fee of 50 percent of the annual fee and shall require reinspection as required by this Ordinance.

**Section 4. Commercial Medical Marijuana Growing and/or Processing Facilities.** Commercial medical marijuana growing and/or processing facilities are hereby allowed within the municipal boundaries of Hennessey, Oklahoma upon compliance with this Ordinance, issuance of a commercial medical marijuana growing and/or facility license and the following additional provisions:

(a) Conditions of operation:

- (1) The facility shall be secure with limited access.
- (2) The establishment must maintain a valid sales tax permit issued by the State of Oklahoma.
- (3) The facility must be constructed in such a manner that the growing of the medical marijuana plants cannot be seen by the public from the public right of way.
- (4) The growing area including any lighting, plumbing or electrical components used shall comply with all building and fire codes adopted by the State of Oklahoma and the Town of Hennessey.
- (5) The growing area must be properly ventilated so as not to create humidity, mold or other related problems.
- (6) 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 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.

- (b) There shall be a business license fee and an annual renewal fee as set forth above. The annual business license will expire on June 30 and shall be renewed prior to July 1 each year. Failure to renew will result in a penalty of 50 percent of the annual fee and shall require re-inspection as required by this Ordinance.

**Section 5. Medical Marijuana Wholesale and/or Storage Facilities.** Medical marijuana wholesale and/or storage facilities are hereby allowed within the municipal boundaries of Hennessey, Oklahoma upon compliance with this Ordinance, issuance of a medical marijuana wholesale and/or storage facility license and the following additional provisions:

(a) Conditions of operations:

- (1) The facility shall be secure with limited access.
- (2) Buildings where medical marijuana is stored or dispensed must be equipped with ventilation/air filtration systems so that no odors are detectable off premises. The retail establishment must maintain a valid sales tax permit issued by the State of Oklahoma.

- (b) There shall be a business license fee and an annual renewal fee as set forth above. The annual business license will expire on June 30 and shall be renewed prior to July 1 each year. Failure to renew will result in a penalty fee of 50 percent of the annual fee and shall require re-inspection as required by this Ordinance.

**Section 6. Penalty.** In addition to license revocation or suspension, a violation of any of the provisions contained in this Ordinance shall also be deemed an offense and punishable by a fine in the amount of \$500.00. With respect to violations of this Ordinance that are continuous with respect to time, each day the violation continues constitutes a separate offense.

**Section 7. Zoning.** The following additions will be made for the zoning classifications where medical marijuana related activities are allowed within the municipal boundaries of the Town of Hennessey:

- (a) Medical Marijuana Dispensary shall be a permitted use in all Commercial Zoning Districts.
- (b) Medical Marijuana Processing, Wholesale, or Storage Facilities shall be a permitted use in all Industrial Zoning Districts.
- (c) Medical Marijuana Growing shall be a permitted use in an Agricultural Zoning District.

**Section 8. Repealer.** All ordinances or parts thereof which are inconsistent with this ordinance are hereby repealed. Ordinance No. 374 passed and approved November 13, 2018, is repealed in full.

**Section 9. Savings Clause.** Nothing in this ordinance hereby adopted shall be construed to affect any suit or proceeding now pending in any court, or any rights acquired or liability incurred nor any cause or causes of action accrued or existing, under any act or ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired or affected by this ordinance.

**Section 9. Severability.** If any one or more of the sections, sentences, clauses or parts of this Ordinance shall for any reason be held invalid, the invalidity of such section, clause or part shall not affect or prejudice in any way the applicability and validity of any other provision of this Ordinance. It is hereby declared to be the intention of the Town Board that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

**Section 10. Emergency.** It being necessary for the protection of the public peace and the health and safety of the citizens of Hennessey, Oklahoma, an emergency is declared to exist, and this ordinance shall become effective immediately upon its passage by the Town Board.

PASSED, APPROVED AND ADOPTED this 9<sup>th</sup> day of December, 2019.



*John R. Gritz*  
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John R. Gritz, Mayor

*Tiffany Tillman*  
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Tiffany Tillman, Town Clerk