

ORDINANCE NO. 2021-06-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TONKAWA, OKLAHOMA, AMENDING CHAPTER 9, ARTICLE 6 OF THE TONKAWA MUNICIPAL CODE 2021, BY THE ADDITION OF AMENDMENT OF SECTION 9-601 TO INCLUDE ADDITION DEFINITIONS CONCERNING MEDICAL MARIJUANA PROCESSOR FACILITIES, BY THE ADDITION OF AN AMENDMENT TO SECTION 9-605 PERMITTING CERTAIN TIERS OF MEDICAL MARIJUANA PROCESSOR FACILITIES IN ADDITIONAL ZONING DISTRICTS, BY THE ADDITION OF AN AMENDMENT TO SECTION 12-272, SUBSECTION GGG, PERMITTING TIER I AND TIER II MEDICAL MARIJUANA PROCESSOR FACILITIES TO BE ALLOWED TO BE A PERMITTED USE IN A C-1 COMMERCIAL DISTRICT, BY THE ADDITION OF AN AMENDMENT TO SECTION 12-282, SUBSECTION 1C PERMITTING TIER I AND TIER II MEDICAL MARIJUANA PROCESSOR FACILITIES TO BE ALLOWED TO BE A PERMITTED USE IN A C-2 COMMERCIAL BUSINESS DISTRICT, BY THE ADDITION OF AN AMENDMENT TO SECTION 12-292, SUBSECTION UU PERMITTING TIER I AND TIER II MEDICAL MARIJUANA PROCESSOR FACILITIES TO BE ALLOWED TO BE A PERMITTED USE IN A C-3 GENERAL COMMERCIAL DISTRICT, BY THE ADDITION OF AN AMENDMENT TO SECTION 12-302 PERMITTING TIER I AND TIER II MEDICAL MARIJUANA PROCESSOR FACILITIES TO BE ALLOWED TO BE A PERMITTED USE IN A C-4 COMMERCIAL DISTRICT, BY THE ADDITION OF AN AMENDMENT TO SECTION 12-322, SUBSECTION R, PERMITTING TIER I AND TIER II AND TIER III MEDICAL MARIJUANA PROCESSOR FACILITIES TO BE ALLOWED TO BE A PERMITTED USE IN A I-1 RESTRICTED LIGHT INDUSTRIAL DISTRICT, BY THE ADDITION OF AN AMENDMENT TO SECTION 12-302 PERMITTING TIER I AND TIER II AND TIER III MEDICAL MARIJUANA PROCESSOR FACILITIES TO BE ALLOWED TO BE A PERMITTED USE IN A I-2 LIGHT INDUSTRIAL DISTRICT, BY THE ADDITION OF AN AMENDMENT TO SECTION 12-332, SUBSECTION C11 PERMITTING TIER I AND TIER II AND TIER III MEDICAL MARIJUANA PROCESSOR FACILITIES TO BE ALLOWED TO BE A PERMITTED USE IN A I-1 LIGHT INDUSTRIAL DISTRICT, BY THE ADDITION OF AN AMENDMENT TO SECTION 12-342, SUBSECTION C11 PERMITTING TIER I AND TIER II AND TIER III MEDICAL MARIJUANA PROCESSOR FACILITIES TO BE ALLOWED TO BE A PERMITTED USE IN A I-3 HEAVY INDUSTRIAL DISTRICT; PROVIDING FOR REPEALER; SAVINGS; CODIFICATION; SEVERABILITY; PENALTY; AND DECLARING AN EMERGENCY.

WHEREAS, it is in the interest of the residents of the City of Tonkawa, Oklahoma, that Chapter 9, Article 6 governing the Marijuana Industry be amended to better define and provide additional locations for certain types of Medical Marijuana Processor Facilities;

WHEREAS, three new definitions are added to Article 6, namely Tier I Medical Marijuana Processor Facilities, Tier II Medical Marijuana Processor Facilities and Tier III Medical Marijuana Processor Facilities;

WHEREAS, it is the intent of this ordinance to permit the location of Tier I Medical Marijuana Processor Facilities and Tier II Medical Marijuana Processor Facilities to be located in zoning districts which permit Medical Marijuana Dispensaries;

Section 9-605 MEDICAL MARIJUANA PROCESSOR FACILITIES.

Medical Marijuana Processor Facilities are hereby allowed within the municipal boundaries of Tonkawa, Oklahoma under the following conditions:

1. The facility must acquire a permit for the facility from the Municipal Clerk. The permit for all Medical Marijuana Processor Facilities, regardless of tier, a Medical Marijuana Processor Facility shall be Two Hundred dollars (\$200.00) per year.
2. A Tier I Medical Marijuana Processor Facility or a Tier II Medical Marijuana Processor Facility shall only be located within a C-1 Local Commercial District, C-2 Commercial Business District, C-3 General Commercial District, and a C-4 Open Display Commercial District. A Medical Marijuana Processor Facility Tier III Medical Marijuana Processor Facility shall only be permitted within an I-1 Restricted Light Industrial District, I-2 Light Industrial District, or a I-3 Heavy Industrial District, with all operations located within an enclosed structure.
3. The Medical Marijuana Processor Facility must be constructed and operated in such a manner that the growing or processing of the marijuana plants cannot be seen by the public from a public right of way.
4. The growing area including any lighting, plumbing or electrical components used shall comply with municipal building and fire codes. The growing and processing area must be properly ventilated so as not to create humidity, mold, or other related problems.
5. Growing 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.
6. If in the future the sales are subject to the Oklahoma Tax Code, the Medical Marijuana Processor Facility shall collect and properly remit the applicable municipal sales tax.
7. Buildings where marijuana is stored or dispensed must be equipped with ventilation/air filtration systems so that no odors are detectable off premises.
8. Any violations of this section will result in the revocation of the Medical Marijuana Processor Facility permit.

**SECTION II.** That Chapter 12 is hereby amended by the amendment of Sections 12-272, Subsection ggg to read as follows:

**SECTION 12-272 USES PERMITTED IN A C-1 COMMERCIAL DISTRICT.**

ggg. Medical Marijuana Dispensaries and/or Medical Marijuana Grower Facilities and/or Tier I Medical Marijuana Processor Facility or a Tier II Medical Marijuana Processor Facility operated in strict accordance with the applicable provisions of Article 6 of Chapter 9 of the Tonkawa Municipal Code 2021, as amended; provided however, no Medical Marijuana Grower

operated in strict accordance with the applicable provisions of Article 6 of Chapter 9 of the Tonkawa Municipal Code 2021, as amended; provided however, no Medical Marijuana Grower Facility shall be permitted in any building or property which shares a common wall with a separate business located in the same building, unless the building or use is owned and operated by the same property owner.

**SECTION VI.** That Chapter 12 is hereby amended by the amendment of Sections 12-322, Subsection r to read as follows:

**SECTION 12-322 USES PERMITTED IN AN I-1 RESTRICTED LIGHT INDUSTRIAL DISTRICT.**

Property and buildings in a I-1 restricted light industrial district shall be used only for the following purposes:

r. Medical Marijuana Grower Facilities and/or Medical Marijuana Processor Facilities, to include Tier I Medical Marijuana Processor, Tier II Medical Marijuana Processor and Tier III Medical Marijuana Processor, operated in strict accordance with the applicable provisions of Article 6 of Chapter 9 of the Tonkawa Municipal Code 2021, as amended.

**SECTION VII.** That Chapter 12 is hereby amended by the amendment of Sections 12-332, Subsection r to read as follows:

**SECTION 12-332 USES PERMITTED IN AN I-2 LIGHT INDUSTRIAL DISTRICT.**

C. The following uses when conducted within a completely enclosed building:

11. Medical Marijuana Grower Facilities and/or Medical Marijuana Processor Facilities, to include Tier I Medical Marijuana Processor, Tier II Medical Marijuana Processor and Tier III Medical Marijuana Processor, operated in strict accordance with the applicable provisions of Article 6 of Chapter 9 of the Tonkawa Municipal Code 2021, as amended.

**SECTION VIII.** That Chapter 12 is hereby amended by the amendment of Sections 12-342, Subsection 5 to read as follows:

**SECTION 12-342 USES PERMITTED IN AN I-3 HEAVY INDUSTRIAL DISTRICT.**

5. Property and buildings in an I-3 heavy industrial district may be used for any Medical Marijuana Grower Facilities and/or Medical Marijuana Processor Facilities, to include Tier I Medical Marijuana Processor, Tier II Medical Marijuana Processor and Tier III Medical Marijuana Processor, operated in strict accordance with the applicable provisions of Article 6 of Chapter 9 of the Tonkawa Municipal Code 2021, as amended.

**SECTION IX.** REPEALER. All ordinances or parts thereof which are inconsistent with this ordinance are hereby repealed.

**SECTION X.** 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

WHEREAS, it is the intent of this ordinance to permit the location of Tier I Medical Marijuana Processor Facilities and Tier II Medical Marijuana Processor Facilities and Tier III Medical Marijuana Processor Facilities to be located in all Industrial Zoning Districts;

WHEREAS Tier I Medical Marijuana Processor Facilities and Tier II Medical Marijuana Processor Facilities do not use dangerous solvents and flammable liquids to process the marijuana and will not adversely affect the health, safety and welfare of the community by permitting them to be located in zoning districts which permit Medical Marijuana Dispensaries.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TONKAWA, OKLAHOMA:

### EMERGENCY ORDINANCE

**SECTION I.** That Chapter 9 is hereby amended by the amendment of Sections 9-601 and 9-605 to read as follows:

#### Section 9-601

#### DEFINITIONS.

13. "Medical Marijuana Processor Facility" means an establishment licensed under Title 63, Section 423 of the Oklahoma Statutes, whereby Marijuana plants are processed (packaged) into the concentrates, edible, and other forms for consumption and then sold to a licensed retailer.

14. "Tier I Medical Marijuana Processor" means a facility defined and regulated by Oklahoma state law as a medical marijuana processor, and which engages in only the following activity(ies): the preparation (from medical marijuana in compliance with state law), including necessary grinding, of "pre-rolled" marijuana cigarettes, "joints" or "blunts" for sale on-site. Nothing in this Code affects state law license categories for medical marijuana establishments. Local zoning and licensing applicants may be required to seek multiple state licenses in order to comply with state law.

15. "Tier II Medical Marijuana Processor" means a facility defined and regulated by Oklahoma state law as a medical marijuana processor, and which engages in Tier I medical marijuana processor activities and/or the following activities: the use of marijuana concentrate(s) in compliance with state law, to make derivative infused products for sale on-site. Tier II medical marijuana processing does not include extraction processes of any kind. Examples of Tier II medical marijuana processing are the cooking, baking or preparation of medical marijuana edible products, or the addition of marijuana concentrate to products pre-manufactured off-site, such as lotions or soaps. Nothing in this Code affects state law license categories for medical marijuana establishments.

16. "Tier III Medical Marijuana Processor" means a facility defined and regulated by Oklahoma state law as a medical marijuana processor, and which engages in any type(s) of medical marijuana processing, including all allowed extraction processes, except that on-site sales are not permitted.

Facility shall be permitted in any building or property which shares a common wall with a separate business located in the same building, unless the building or use is owned and operated by the same property owner.

**SECTION III.** That Chapter 12 is hereby amended by the amendment of Sections 12-282, Subsection 1C to read as follows:

**SECTION 12-282 USES PERMITTED IN A C-2 COMMERCIAL BUSINESS DISTRICT.**

1. Property and buildings in a C-2 Commercial Business District shall be used only for the following purposes:

C. Medical Marijuana Dispensaries and/or Medical Marijuana Grower Facilities and/or Tier I Medical Marijuana Processor Facility or a Tier II Medical Marijuana Processor Facility operated in strict accordance with the applicable provisions of Article 6 of Chapter 9 of the Tonkawa Municipal Code 2021, as amended; provided however, no Medical Marijuana Grower Facility shall be permitted in any building or property located on either side of Grand Avenue, between 6<sup>th</sup> Street and 9<sup>th</sup> Street, nor in any building which shares a common wall with a separate business located in the same building, unless the building or use is owned and operated by the same property owner.

**SECTION IV.** That Chapter 12 is hereby amended by the amendment of Sections 12-292, Subsection uu to read as follows:

**SECTION 12-292 USES PERMITTED IN A C-3 GENERAL COMMERCIAL DISTRICT.**

Property and buildings in a C-3 general commercial districts shall be used only for the following purposes:

uu. Medical Marijuana Dispensaries and/or Medical Marijuana Grower Facilities and/or Tier I Medical Marijuana Processor Facility or a Tier II Medical Marijuana Processor Facility operated in strict accordance with the applicable provisions of Article 6 of Chapter 9 of the Tonkawa Municipal Code 2021, as amended; provided however, no Medical Marijuana Grower Facility shall be permitted in any building or property which shares a common wall with a separate business located in the same building, unless the building or use is owned and operated by the same property owner.

**SECTION V.** That Chapter 12 is hereby amended by the amendment of Sections 12-302, Subsection 12 to read as follows:

**SECTION 12-302 USES PERMITTED IN A C-4 COMMERCIAL DISTRICT.**

12. Medical Marijuana Dispensaries and/or Medical Marijuana Grower Facilities and/or Tier I Medical Marijuana Processor Facility or a Tier II Medical Marijuana Processor Facility

repealed hereby. Nor shall any right or remedy of any character be lost, impaired or affected by this ordinance.

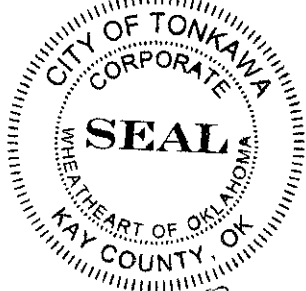
**SECTION XI.** CODIFICATION. This ordinance shall be codified as herein provided.

**SECTION XII.** SEVERABILITY. If any one or more of the sections, sentences, clauses or parts of this ordinance, chapter or section 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 City Council of the City of Tonkawa that this section of the Tonkawa Municipal Code 2015 would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

**SECTION XIII.** PENALTY. Any person who shall violate the terms and conditions of this ordinance by act or omission shall be guilty of an offense and if convicted shall be fined Four Hundred Dollars (\$400.00), together with state assessments, fees and court costs; provided each day of continued violation shall be considered a separate offense.

**SECTION XIV.** EMERGENCY. WHEREAS, it being immediately necessary for the preservation of the peace, health, safety and public good of the City and the inhabitants thereof that the provisions of this Ordinance be put into full force and effect immediately to amend reasonable land use and zoning controls on the marijuana industry in the City of Tonkawa, Oklahoma, as a valid and reasonable exercise of the police power, and to permit the location of certain marijuana processor facilities in additional locations of the City; therefore, this Ordinance shall take effect and be in full force and effect after its passage, as provided by law.

Approved and executed this 15<sup>th</sup> day of June 2021.



{Seal}

THE CITY OF TONKAWA, OKLAHOMA

*Kenneth W. Smith*  
KENNETH W. SMITH, MAYOR

ATTEST:

*Nancy C. Skipper*  
NANCY C. SKIPPER, CITY CLERK

APPROVED AS TO FORM AND LEGALITY:

*Bryce S. Kennedy*  
BRYCE S. KENNEDY, CITY ATTORNEY