ORDINANCE NO. 2019-08

AN ORDINANCE AMENDING ARTICLE 3, BY ADDING ARTICLE 3-8 (MEDICAL MARIJUANA) OF THE CODE OF THE CITY OF MCLoud, MAKING FINDINGS OF FACT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

WHEREAS, a proposal has been presented to the City Council of the City of McLoud, Oklahoma to amend Article of the Codes of the City of McLoud, Oklahoma, and,

WHEREAS, the City Council has determined that such modification and amendment is necessary and in the best interest of the health and safety of the citizens of the City of McLoud,

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

Section 1. Amendment.

Article is amended by adding Article 3-8 (Medical Marijuana) to read as follows:

“Section 3-8-1, Medical Marijuana Establishments
1. All Medical Marijuana Dispensaries are required to obtain a permit from the City Clerk. These establishments are defined as any medical marijuana establishment licensed by the State of Oklahoma as a Medical Marijuana Dispensary. A lawfully issued Medical Marijuana Dispensary Permit shall be valid for 12 calendar months.
2. The City Council will establish by resolution a fee to obtain the Permit for Medical Marijuana Dispensaries. The fee shall be used to offset municipal expenses covering costs related to licensing, inspection, administration, and enforcement of medical marijuana dispensaries.
3. Medical Marijuana Dispensaries shall only be located in areas zoned C-2 or C-3, and shall be subject to any Special Use Permit as may be applicable by the Municipal Code of the City of McLoud.
4. A Permit will not be granted to any applicant where the proposed location would be located within (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 12 may be present during the school day or after hours for school sanctioned extra-curricular programming;
5. 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.
6. Buildings where medical marijuana is stored or dispensed must be equipped with ventilation/air filtration systems so that no odors are detectable off premises.
7. 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 medical marijuana for non-medical purposes; or 3) allow any activity that is otherwise illegal and not permitted by state law.

8. Any Medical Marijuana Permit issued under the municipal code of the City of McLoud is subject to compliance with the McLoud Municipal Code and all applicable State Statutes. Failure to comply with the Municipal Code and State Statutes will result in the denial or revocation of the permit, and a fine of $200.00 per day while the violation exists.

9. Commercial Medical Marijuana Cultivation, Commercial Medical Marijuana Processing, Commercial Medical Marijuana Storage Facilities, and all other Licensed Medical Marijuana Facilities or Medical Marijuana Businesses other than Medical Marijuana Dispensaries are hereby prohibited within the municipal boundaries of the City of McLoud.

   a. This subsection shall not apply to licensed Medical Marijuana Businesses granted a permit by the City of McLoud prior to August 29th, 2019. These licensees shall be eligible to apply for renewal of the previously granted permit subject to any future regulations implemented by the City of McLoud.

10. Applicants for a Medical Marijuana Dispensary 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 Dispensary Permit.

Section 3-8-2 Inspection.

1. All permits outlined in this ordinance will be subject to inspection by an authorized city employee or agent prior to issuance.
2. The inspection prior to a permit decision will occur at a time scheduled and approved by both the applicant and City.
3. The applicant will be required to be present during the inspection.

Section 3-8-3 Medical Marijuana Growing Facilities for Personal Medical Use; Security.

1. All Medical Marijuana Growing Facilities for Personal Medical Use shall be subject to security provisions as stated in the State Statutes of the State of Oklahoma 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 $200 per occurrence.
2. 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.
3. 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 6-foot sight proof fence appropriate for the zoning district.
4. Growing medical marijuana shall not be visible from the public right of way.
5. 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 1000 watts per light. The use of gas products (C02, butane, etc.) or C02 and ozone generators in the growing area is prohibited.
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 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.
7. 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.

**Section 3-8-4 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.

**Section 3-8-5 – Possession of Marijuana & Public Smoking or Vaping of Medical Marijuana –**

1. Public smoking or vaping of medical marijuana is prohibited in any building or on any property owned or operated by the City of McLoud, and any additional location which is deemed unlawful in the Oklahoma State Statutes or State Agency Rules.
2. Possession of marijuana in excess of the limits imposed by State Statute shall be prohibited.
3. Violation of this section shall be a misdemeanor offense subject to a fine of $400 per occurrence.

**Section 2. Severability.**

If any one or more of the sections, sentences, clauses or part 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 McLoud that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.
Section 3. Emergency Clause.

It being immediately necessary for the preservation of public health, peace, and safety, an emergency is hereby declared to exist, by reason whereof this Ordinance shall take effect and be in full force from and after its passage and approval.

PASSED AND APPROVED and the emergency clause voted on and approved separately this __29__ day of _____August___, 2019.

Attest: __________________________  __________________________
         Melissa Brady, City Clerk         Stan Jackson, Mayor