

## ORDINANCE 3053

### AN ORDINANCE AMENDING TITLE 5, OFFICIAL CODE OF THE CITY OF GREAT FALLS, ESTABLISHING A SPECIAL BUSINESS LICENSE FOR CULTIVATION OF MARIJUANA AND MEDICAL MARIJUANA DISPENSARY

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WHEREAS, the City Commission of the City of Great Falls, Montana, has adopted Ordinance 3051 which amends the City's Land Development Code providing definitions, regulations and standards to govern medical marijuana dispensaries and cultivation; and,

WHEREAS, Title 5 of the Official Code of the City of Great Falls (OCCGF) contains the provisions applicable to safety inspection certificates and business licenses within the City of Great Falls; and,

WHEREAS, Chapter 3 of Title 5 of OCCGF addresses special business licenses which is typically utilized when characteristics associated with a particular business results in increased review, inspection and enforcement programs for the City; and,

WHEREAS, businesses associated with the growing, sales or dispensing of medical marijuana requires the City to review multiple licensure and permit applications, maintain an accurate and current database of sensitive land uses and medical marijuana related land uses to ensure that appropriate distance separations between such uses are upheld, perform background checks and finger printing of applicants, and conduct initial and ongoing inspections of cultivation of marijuana and/or medical marijuana dispensary operations by building, police and fire official to ensure compliance with applicable regulations and standards of the OCCGF; and,

WHEREAS, notice of amending Title 5, OCCGF, establishing a special business license for cultivation of marijuana and medical marijuana dispensaries was published in the Great Falls Tribune, advising that a public hearing on these proposed amendments would be held on the 1st day of June, 2010, before final passage of said Ordinance herein.

NOW THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF GREAT FALLS, STATE OF MONTANA:

Section 1. The following Article 8 is hereby added to Title 5, Chapter 3, OCCGF:

#### ARTICLE 8 CULTIVATION OF MARIJUANA AND MEDICAL MARIJUANA DISPENSARY

##### Sections

**5.3.8.800 Purpose**

**5.3.8.810 Definitions**

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#### **5.3.8.800 Purpose**

The purpose of this article is to recognize the fact that cultivation of marijuana and medical marijuana dispensary establishments result in an increase in the resources required for the licensing and inspection of these uses to the City. This necessitates greater vigilance to assure that the lawful operation of cultivation of marijuana and/or medical marijuana dispensary establishments serving qualifying patients is not used inadvertently or by design as the means of unlawful cultivation or dispensing other than allowed by law. In order to ensure the health, safety, and welfare of the citizens of Great Falls, it is appropriate that a Special Business License (SBL) be required for cultivation of marijuana and/or medical marijuana dispensary establishments. An application for a Cultivation of Medical Marijuana and Medical Marijuana Dispensary SBL and fees proportionate to the resources required for the licensing and inspection of such establishments shall be paid to the City.

#### **5.3.8.810 Definitions**

For the purpose of this Article, certain terms and phrases are defined below and shall have the meaning ascribed to them, except where the context clearly indicates a different meaning.

“Caregiver” means an individual, 18 years of age or older, who has agreed to undertake the responsibility for managing the well-being of a person with respect to the medical use of marijuana and has been issued a registry identification card by the Department of Public Health and Human Services of the State of Montana in accordance with § 50-46-103, MCA

“Cultivation of marijuana” means the use of any structure or premises within the City of Great Falls wherein seven (7) or more marijuana plants are grown, cultivated or processed. The term does not apply to premises occupied by a dwelling unit wherein a qualifying patient being a permanent resident of the dwelling unit shall be allowed to possess and cultivate marijuana within the limitations stipulated by the Medical Marijuana Act §50-46-101, MCA, et seq.

“Licensee” means an individual registered as a caregiver with the State of Montana, or a group of individuals each licensed as a caregiver with the State of Montana, operating as a corporation, limited liability corporation (llc), or partnership who have applied for and have received a Cultivation of Marijuana and Medical Marijuana Dispensary Special Business License (SBL).

“Marijuana” means all plant material from the genus cannabis containing tetrahydrocannabinol (THC) or seeds of the genus capable of germination. (MCA 50-32-101(17)).

“Medical marijuana dispensary” means the use of any building or premises within the City of Great Falls by one or more registered caregivers to provide consultation services to qualifying patients and caregivers, and to distribute, transmit, give, dispense, or otherwise provide marijuana in any manner, with or without financial payment or consideration, to qualifying patients or caregivers, for use solely by the qualifying patient to whom it is sold or distributed to, in accordance with terms of § MCA, 50-46-101. In addition, devices, contrivances, instruments, and paraphernalia for inhaling or otherwise consuming marijuana including, but not limited to, rolling papers and related tools, water pipes and vaporizers may lawfully be sold or provided only to qualifying patients or caregivers at a medical marijuana dispensary.

“Qualifying patient” means a person who has been diagnosed by a physician as having a debilitating medical condition and has been issued a registry identification card by the Department of Public Health and Human Services of the State of Montana in accordance with § 50-46-103, MCA.

#### **5.3.8.820 License Required**

- A. It shall be unlawful for a caregiver or a group of one or more caregivers operating as a corporation, llc, or partnership, to operate a cultivation of marijuana and/or medical marijuana dispensary establishment without first being issued a City of Great Falls Cultivation of Marijuana and Medical Marijuana Dispensary SBL. This license must be obtained prior to the soliciting of

any customer or offering any goods or products for sale, and kept in effect at all such times as required by this article.

- B. This license shall be in addition to all licensure or permitting required by the City of Great Falls.
- C. All license fees shall be defined by resolution adopted by the City Commission. Such fees shall reasonably relate to the cost of issuing the SBL and the additional cost of inspections.
- D. This license is valid from the date of issuance to December 31 and may be renewed upon its expiration. (Ord. 2764, 2000)
  - 1. A new cultivation of marijuana and/or medical marijuana dispensary establishment licensed within the last ninety (90) days of the calendar year shall not pay the initial annual renewal fee. (Ord. 2764, 2000; Ord. 2745, 1998).
  - 2. No rebate or refund of any certificate and license fee, or part thereof, shall be made. (Ord. 2764, 2000; Ord. 2672, 1995)
- E. Failure to renew the license shall result in a delinquent charge as determined by resolution.
- F. Each day that any violation of this chapter occurs or continues may constitute a separate offense and may be punishable as a separate violation. (Ord. 2764, 2000; Ord. 2672, 1995)

#### **5.3.8.830 Criteria for License**

Any person desiring to obtain a Cultivation of Marijuana and Medical Marijuana Dispensary SBL required by this article shall meet the following requirements.

- A. All applicants must be a registered caregiver as defined in section 5.3.810 of this article. If the applicant represents a corporation, llc, or partnership, all officers, directors, general partners, agents, and managing members must be registered caregivers as defined in section 5.3.810 of this article.
- B. All persons who work or volunteer in a cultivation of marijuana and/or medical marijuana dispensary must be registered caregivers, as defined in section 5.3.810 of this article.
- C. All applicants, including officers, directors, general partners, agents, managing members, employees, and volunteers of a cultivation of marijuana and/or medical marijuana dispensary shall be subject to a criminal background check conducted by the City of Great Falls Police Department.
- D. The applicant must obtain an approved safety inspection certificate (SIC) and zoning permit for a cultivation of marijuana and/or medical marijuana dispensary prior to being issued a SBL.
- E. The application for this license can be obtained from the Planning and Community Development Department during normal business hours. The application and all supplemental materials shall be returned to the Planning and Community Development Department for review and approval. (Ord. 2764, 2000)
- F. Upon receipt of a Cultivation of Marijuana and Medical Marijuana Dispensary SBL application, the Planning and Community Development Department shall circulate the application to the City of Great Falls Police Department, the City of Great Falls Fire Department, and the City Attorney's Office to determine whether the proposed cultivation of marijuana and/or medical marijuana dispensary establishment is in compliance with all of the requirements administered by these respective departments.

#### **5.3.8.840 Additional Requirements**

- A. Marijuana is illegal under the Federal Controlled Substance Act.
- B. Applicants shall be in compliance with all regulations and provisions of the official Code of the City of Great Falls, current building and fire codes, and current state laws.
- C. Licensees under this article shall post the Cultivation of Marijuana and Medical Marijuana Dispensary SBL in a location on the premises that is conspicuous to the City's Fire Marshal and/or Building Official, or their designee(s). (Ord. 2672, 1995)
- D. In the event that a Cultivation of Marijuana and Medical marijuana Dispensary SBL is granted to a corporation, llc, or partnership, this group must maintain a current and active roster of all officers, directors, general partners, agents, and managing members. The Planning and Community Development Department must be notified prior to any changes made to this roster. An individual may not join a licensed cultivation of marijuana and/or medical marijuana

dispensary corporation, llc, or partnership as an officer, director, general partner, agent or managing member without first submitting to a criminal background check conducted by the City of Great Falls Police Department.

- E. All licensed cultivation of marijuana and/or medical marijuana dispensary establishments must maintain a current and accurate record(s) of the number of qualifying patients served by the establishment. Such current and accurate record(s) must be posted in close proximity to the SBL issued to the establishment. This record(s) must be made available to City of Great Falls Police Department and/or Fire Department for the purpose of verifying that a caregiver or group of one or more caregivers are not in possession of a larger quantity of medical marijuana than is allowed by state law.

#### **5.3.8.850 License Suspension and Revocation**

- A. A Cultivation of Marijuana and Medical Marijuana Dispensary SBL may be suspended or revoked if a licensee violates the Official Code of the City of Great Falls, current building and/or fire codes, or if a licensee is charged with and/or convicted of a misdemeanor or felony drug offense and/or any other criminal offense recognized under current state law. (MCA 50-46)
- B. The following procedure will be followed if the licensee is found to be in violation of the Official Code of the City of Great Falls:
  - 1. A written notice shall be provided to the licensee at least forty-eight (48) hours prior to the suspension or revocation of a SBL. The notice shall state the reason(s) for the action.
  - 2. The licensee may request a review of the proposed action within fifteen (15) days of the receipt of notice.
  - 3. When a review is requested, a meeting shall be set between the City of Great Falls Planning and Community Development Department and the requesting party to determine if the SBL shall be re-instated.
- C. The following procedure will be followed if a licensee is charged with and/or convicted of a misdemeanor or felony drug offense and/or any other criminal offense recognized under current state law. (MCA 50-46)
  - 1. If a licensee is charged with a misdemeanor or felony drug offense and/or any other criminal offense recognized under current state law (MCA 50-46) occurring on the premises of a licensed cultivation of marijuana and/or medical marijuana dispensary, the SBL may be suspended or revoked pending an investigation of the offense by federal, state, and/or local law enforcement agencies.
  - 2. If a licensee is convicted of a misdemeanor or felony drug offense and/or any other criminal offense recognized under current state law (MCA 50-46) that has occurred on or off of the premises of a licensed cultivation of marijuana and/or medical marijuana dispensary, the SBL shall be immediately revoked.
  - 3. In the event that a licensee is operating as a corporation, llc, or partnership and an officer, director, general partner, agent or managing member of the corporation, llc, or partnership is convicted of a misdemeanor or felony drug offense and/or any other criminal offense recognized under current state law (MCA 50-46), the SBL shall be revoked.
- D. If conditions are determined to cause an immediate health or safety threat, the City shall immediately suspend or revoke the SBL until such conditions are remedied. (Ord. 2764, 2000; Ord. 2762, 1995)
- E. In the event that a SBL has been suspended, a licensee may not operate a cultivation of marijuana and/or medical marijuana dispensary establishment until receiving written approval from the City of Great Falls Planning and Community Development Department.

#### **5.3.8.860 Appeal**

- A. In the event that a SBL is suspended or removed, any licensee or certificate holder shall have the right to file a written appeal to the City Commission.

Section 2. All Ordinances and parts of Ordinances in conflict herewith, are hereby repealed.

Section 3. This ordinance shall be in full force and effect thirty (30) days after its passage and adoption by the City Commission.

APPROVED by the City Commission on first reading May 4, 2010.

PASSED, APPROVED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on second reading June 1, 2010.

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Michael J. Winters, Mayor

ATTEST:

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Lisa Kunz, City Clerk

(CITY SEAL)

APPROVED FOR LEGAL CONTENT:

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James W. Santoro, City Attorney

State of Montana    )  
County of Cascade : ss.  
City of Great Falls    )

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do certify that I did post as required by law and as prescribed and directed by the Commission, Ordinance 3053 in three conspicuous places within the limits of said City to-wit:

On the Bulletin Board, first floor, Civic Center Building;  
On the Bulletin Board, first floor, Cascade County Court House;  
On the Bulletin Board, Great Falls Public Library

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Lisa Kunz, City Clerk

(CITY SEAL)