

## CHAPTER 5

### BUSINESS AND OCCUPATIONS

Article 1. Itinerant Occupations.

Article 2. Fair Housing.

Article 3. Miscellaneous Provisions.

Article 4. Penalty.

#### **Article 1. Itinerant Occupations**

##### **Section 5-1. "Itinerant Occupations" Defined.**

"Itinerant occupations, trades, businesses or solicitations" shall mean those occupations, trades, businesses and solicitations having no permanent warehouse, building, structure, residence or place of business within the City of Elk City, Oklahoma, at which a permanent business is carried on throughout the year or usual production season in good faith (and not for the purpose of evading the provisions of this chapter), and shall include occupations, trades, business and solicitations housed in temporary stands or quarters (including permanent quarters occupied pursuant to any temporary arrangement), or carried on by means of house-to-house solicitation or upon the streets and sidewalks of the City of Elk City, Oklahoma; provided however, that no occupation, trade, or business engaged in by a charitable, educational or religious organization, association or club, having a membership duly enrolled in accordance with the rules, regulations, and by-laws of said organization, association or club and by the majority of said members being residents of the City of Elk City, Oklahoma, shall be considered an "itinerant occupation, trade, business or solicitation".

##### **Section 5-2. Itinerant Occupation Licenses; Fees.**

1. It shall be an offense for any person to engage in any kind of itinerant occupation in the City of Elk City without first having obtained a permit from the Oklahoma Tax Commission, which shall be presented at the time of application for a city license, and having obtained an Itinerant Occupation License from the Office of the City Clerk.

2. There is hereby levied an itinerant occupation tax in the amount of one hundred dollars (\$100.00) per person, per day, against persons, firms, associations and corporations, engaged in itinerant occupations, trades, businesses or solicitations within the City of Elk City, Oklahoma.

3. There is hereby levied an itinerant occupation tax for a food truck in the amount of twenty-five dollars (\$25.00) for ninety (90) days within the City of Elk City, Oklahoma. (amended

08/01/22)

4. There is hereby levied an itinerant occupation tax in the amount of twenty-five dollars (\$25.00) per day for a food truck engaged in operations on City of Elk City property. This will require a special event permit from City of Elk City. (amended 08/01/22)

**Section 5-3. Itinerant Occupation License Provisions.**

1. Every person, firm, association or corporation who engages in an occupation or business for which an Itinerant Occupation License is required, shall pay the fee and secure a separate license for each business or occupation.

2. Every holder of a license to engage in, exercise or pursue a business, profession, trade, occupation or privilege, shall carry the license and shall display it in an open and conspicuous site for the general public to see from the road and to any person who requests to see it.

3. Assignment or transfer of licenses shall not be permitted.

4. Whenever an Itinerant Occupation License has been lost or destroyed without any wrongful act or connivance by the holder, the City Clerk, on application, may issue a duplicate license for the unexpired time. Before the duplicate is issued, the holder shall make and file with said City Clerk an affidavit that the license has not been transferred, that it has been lost or destroyed without any wrongful act or connivance by the holder, and that, if believed lost, he has made diligent search for it and has not been able to find it. The fee for every duplicate license issued, payable to said City Clerk, shall be ten dollars (\$10.00).

5. An Itinerant Occupation License issued to any person, firm, association or corporation may be temporarily suspended by the City Manager or appropriate designated official, prohibiting the continuance of any business allowed by the license, for any one (1) of the following reasons: (1) that the licensee is engaging in, exercising or pursuing the business or occupation in such a manner that he has created or is creating a public nuisance; or (2) serious or repeated violation of the law or ordinances. Any Itinerant Occupation licensee that has been suspended will be afforded an adequate opportunity for a hearing before the City Commission.

6. The City Commission shall receive the complaint, investigate its allegations and set a date for a hearing to be held on the complaint; said hearing shall be held within thirty (30) days of the date of receipt of the complaint.

At least ten (10) days prior to the hearing, the licensee shall be notified, in writing, of the time and place of such hearing.

The City Commission shall take, and may allow, such actions at the hearing, as may be necessary to ensure that all parties are afforded the opportunity to fairly present their cases.

If the City Commission, by majority vote at the conclusion of the hearing, finds that the licensee has not violated one (1) of the above reasons, the licensee may use the unexpired time on the issued license.

If the City Commission, by majority vote at said hearing, finds that the licensee has violated one (1) of the above reasons, the issued license shall be revoked and no part of the fee for the Itinerant Occupation License shall be refunded.

7. No person, firm, association or corporation to whom an Itinerant Occupation License has been issued, shall conduct, exercise or pursue the business or occupation for which such issued, between the hours of 7:00 o'clock p.m. and 7:00 o'clock a.m. on any day.

**Sections 5-4 through 5-9. (Reserved for future use.)**

**Article 2. Fair Housing.**

**Section 5-10. Certain Act Prohibited.**

It shall be unlawful for any person, firm or corporation, or the authorized agents or representatives of said person, firm or corporation to:

1. Refuse to sell, lease, rent, assign or otherwise transfer the title or other interest in any housing, or real property upon which residential housing is to be constructed, to any person, or to discriminate in the terms or conditions of the sale, rental or leasing of any residential housing unit, because of race, color, religion or national origin;

2. Refuse to negotiate with any person for the sale, rental or leasing of any residential property, or to represent that such property is not available for inspection, sale, rental or lease, when in fact it is so available, because of such person's race, color, religion, age or national origin;

3. Solicit or induce, or attempt to solicit or induce, any person owning any interest in any residential housing to sell, rent or lease, or not to sell, rent or lease such housing to any person on the grounds of loss of value due to the present or prospective entry into the neighborhood of a person or persons of another race, color, religion, age or national origin, either by direct solicitation or inducement, or by the purchase of other property in the neighborhood for the purpose of such inducement, or to distribute, or cause to be distributed, material or statements designed to induce a residential property owner to sell or lease his property, due to such change in neighborhood;

4. File a complaint alleging a violation of this Article, with knowledge that such a complaint is false in any material respect, or to file such complaint for the sole purpose of harassment.

**Section 5-11. Certain Acts Exempted.**

Nothing herein shall apply to:

1. Prohibit persons from giving preference to prospective buyers or tenants for any reason other than race, color, religion, age or national origin;
2. The sale of a dwelling which is, or was at the time when first offered for sale, the residence of its owner;
3. The rental of rooms in an owner-occupied residence or in a dwelling used exclusively as a rooming house;
4. The rental or leasing of a housing unit in a building containing not more than eight (8) housing units; or
5. The rental or leasing of a dwelling or housing unit owned by any religious or fraternal organization, or private club used and occupied for such organizational purposes.

**Section 5-12. Fair Housing Board Created.**

(See Chapter 1, Section 1-59, this Code of Ordinances.)

**Section 5-13. Grievance Procedures.**

1. Any person aggrieved by a discriminatory housing practice prohibited by municipal ordinance, may file a written signed complaint with the Fair Housing Board.
2. Said complaint shall state the name and address of the person alleged to have violated the provisions of this Article, or any other municipal ordinance, and set forth the particulars of said violation.
3. The Fair Housing Board shall receive such complaint, investigate its allegations and set a date for a hearing to be held on the complaint; said hearing shall be held within sixty (60) days of the date of receipt of the complaint.
4. At least ten (10) days prior to the hearing, the person named in the complaint shall be notified, in writing, of the time and place of such hearing.
5. The Fair Housing Board shall take, and may allow, such actions at the hearing as may be necessary to ensure that all parties are afforded the opportunity to fairly present their cases.

6. If the Fair Housing Board, by majority vote at the conclusion of the hearing, finds that the person has not engaged in any discriminatory housing practice, it shall state its findings and dismiss the case.

7. If the Fair Housing Board, by majority vote at said hearing, finds that a person has engaged in discriminatory housing practices, it shall state its findings in writing and submit them to the respondent and the City Attorney for consideration. Unless the complaint is withdrawn or the City Attorney finds that there is insufficient information upon which to base a charge, the charge shall be filed in the City of Elk City, Oklahoma, Municipal Court within twenty (20) days of said hearing.

**Sections 5-14 through 5-19. (Reserved for future use.)**

**Article 3. Miscellaneous Provisions**

**Section 5-20. Sale of Merchandise on Vacant Property.**

It shall be unlawful for any person, firm or corporation to sell, trade or transfer any merchandise of any kind on or in any vacant property, without the consent of the owner or person in control of said property.

**Section 5-21. Shooting Galleries.**

Every shooting gallery constructed, established, set up or operated hereafter within the corporate limits of the City of Elk City, Oklahoma, shall be constructed, established, set up and operated in accordance with the standards, specifications and requirements of Title 63, Oklahoma Statutes, 1981, Sections 701- 708, as amended, and shall comply with all the requirements required by this Code of Ordinances have been secured therefore.

**Section 5-22. Short Weights and Measures Prohibited.**

It shall be unlawful for any person, firm or corporation to sell or offer for sale, any food, fuel, clothing or any other commodity which does not weigh or measure fully as much, according to standard weights or measures of the State of Oklahoma, as the weight or measure for which it is sold or offered for sale.

**Section 5-23. Coin-Operated Amusement Devices, Licenses Required.**

1. The following words and phrases, when used in this Section, have the following

meanings:

- a. The term "person" means any individual, partnership, association, or corporation;
- b. "Music devices" means any and all mechanical devices which render, cause to sound or release music where the same may be heard by one or more public patrons and each separate loudspeaker, phonograph, juke box, or outlet from which such music emits shall be construed to be a separate "music device" as herein defined; except in the case where the music emits-producing mechanism, in which case the several outlets or speakers in each place of business shall be collectively considered one such music device;
- c. "Coin-operated music device" means any such music device which is operated, motivated, released, or played by or upon the payment or insertion of a coin, token or similar object, whether there is one or more boxes or devices in the premises for the reception of such coin, tokens, or similar objects; coin-operated radio or television receiving sets in hotels, motels or tourist cabins for the use and benefit of the guests and visitors of such hotels, motels, or tourist rooms or cabins shall be included in such definitions;
- d. "Coin-operated amusement device" means any and all nongambling mechanical or electronic machines which, upon the payment or insertion of a coin, token, or similar object, provide music, amusement or entertainment, including, but not limited to, such games as pool, phonographs, video television, shooting galleries, pinball, foosball, bowling, shuffle board, or any other amusement device with or without a replay feature which can be legally shipped interstate according to federal law. It shall not mean vending machines used exclusively for the purpose of selling tangible personal property, such as cold drinks, tobacco products, candies, postage stamps, or other merchandise; or services such as pay telephone booths, parking meters, gas and electric meters or other distribution of needful services.

2. Coin-operated music and amusement devices are hereby classified for the purpose of taxation and an annual license tax as hereinafter set out is hereby levied with respect to each such device.

3. Every person who owns and has available to any of the public for operation, or who permits to be operated in or on his place of business, any coin-operated music or amusement device shall pay for such privilege an annual license fee of ten dollars (\$10.00). Said fee shall be levied on each coin-operated music or amusement device, as defined herein, excluding (a) any coin-operated radio or television receiving set in a hotel, motel, or tourist cabin, and (b) any coin-operated music or amusement device that may be operated by penny coins only.

4. Every person subject to the license provisions of this Section shall make application

for said license(s) to the City Clerk. Said license(s) shall be issued annually, beginning July 1 of each year. In the event a license is issued for less than one (1) year, the fee shall be based on the current and remaining quarters of said year.

#### **Section 5-24. Pool, Billiard and Other Recreational Halls.**

1. It shall be unlawful for any owner, manager or operator to employ or permit any minor (as defined by current State Law) to work in a pool, billiard, domino or card hall or parlor; it shall be unlawful for any minor (as defined by current State Law) to work in such a hall or parlor.

2. It shall be unlawful for any person in charge of any hall or parlor mentioned in Subsection 1 (above) to permit any minor (as defined by current State Law) to resort to or loiter in, such a hall or parlor, or to play games therein, unless he is accompanied by a parent or guardian; it shall be unlawful for such person to resort to or loiter in, such a hall or parlor, or to play games therein, unless he is accompanied by a parent or guardian.

3. It shall be unlawful for the owner, manager or operator of a pool, snooker, billiard, domino or card hall or parlor, or bowling alley to permit therein gambling, betting, operation of a lottery, sale, furnishing or drinking of intoxicating liquor, disorderly conduct, loud or disturbing language, noise, loud music, profane language or any other violation of State Laws or this Code of Ordinances.

4. Subsections 1 through 3 (above) shall not, however, apply to establishments created as family entertainment and recreation centers for the use and enjoyment of the entire family (regardless of age). It shall be unlawful for the owner, manager or operator of such a family center to permit the sale, furnishing or drinking of alcoholic beverages of any type.

#### **Section 5-25. Pawnbrokers.**

1. Every pawnbroker shall keep at his place of business a register, in which he shall record an adequate description of all property purchased, taken or received by him, including any number that may be thereon. The following information shall be recorded in the register:

- a. The date when all property is received;
- b. The name of the person leaving the property;
- c. The address of said person;
- d. The amount loaned; and

e. The time when the loan is to become due.

2. The pawnbroker shall give, without charge to the person leaving or pledging property, a legible ticket containing a true copy of all entries made in the register concerning the property left or pledged.

3. The register herein required to be kept, shall be subject to the inspection at any time by the Chief of Police, any policeman, the County Sheriff, any Deputy Sheriff of the County, the City Attorney, the District Attorney, or any person authorized in writing to make inspection by the Chief of Police. Upon request, the pawnbroker shall show to such officer or person for inspection, any article or articles purchased, taken or received, unless such article or articles have already been disposed of.

#### **Article 4. Marijuana**

##### **Section 5-27. Retail Marijuana Establishments.**

1. All operators of Retail Marijuana Establishments are required to obtain a Retail Marijuana Establishment permit from the Municipal Clerk. Retail Marijuana Establishments is defined as any retail marijuana establishment licensed by the State of Oklahoma.

2. An applicant for a Retail Marijuana Establishment Permit shall pay a permit fee of \$2,500.00 to the City of Elk City. The fee shall be used to offset municipal expenses covering costs related to licensing, inspection, administration and enforcement of retail marijuana establishments.

3. A Retail Marijuana Establishment Permit will not be granted to any applicants where the proposed location is on or adjacent to Old Route 66 or Main Street ending at the municipal boundary of Elk City, Oklahoma.

4. A Retail Marijuana Establishment Permit will not be granted to any applicants where the proposed location would be located within one thousand three hundred twenty (1,320') feet of any of the following uses:

- a. private or public preschool, elementary, secondary, vocational or trade school, college or university;
- b. any library or museum;
- c. any public playground;
- d. any child care center;
- e. any place of worship or religious assembly;
- f. any public park, pool, or recreation facility;
- g. any juvenile or adult halfway house, correctional facility or substance abuse



- h. rehabilitation or treatment center;
- i. any residentially zoned district; or
- j. within one-thousand three hundred twenty (1,320') feet of another medical marijuana or retail marijuana store.

5. 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 paragraph 3 is located to the nearest property line of the building or unit in which the proposed retail marijuana establishment would be located.

6. Buildings where marijuana is stored or dispensed must be equipped with ventilation/air filtration systems so that no odors are detectable off premises.

7. Any violations of this section will result in the revocation of the Retail Marijuana Establishments permit.

8. It is the intent of the City of Elk City, Oklahoma that nothing in the Retail Marijuana Establishment Ordinance be construed to: 1) allow persons to engage in conduct that endangers 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.

**Section 5-28. Prohibited.**

1. Commercial Marijuana Growth Facilities are hereby prohibited within the municipal boundaries of Elk City, Oklahoma.

2. Wholesale Marijuana Facilities are hereby prohibited within the municipal boundaries of Elk City, Oklahoma.

3. Marijuana Storage Facilities other than in a retail outlet are hereby prohibited within the municipal boundaries of Elk City, Oklahoma.

4. Marijuana Processing Facilities are hereby prohibited within the municipal boundaries of Elk City, Oklahoma

**Section 5-29. Inspection.**

1. All permits outlined in this ordinance will be subject to inspection by an authorized municipal inspector prior to issuance.

2. The inspection prior to a permit decision will occur at a time scheduled and approved by both the applicant and the municipal inspector.

3. The applicant will be required to be present during the inspection.

**Section 5-30. Marijuana Facilities for Personal Medical Use; Security.**

1. All owners of Marijuana Growing Facilities for Personal Medical Use are required to obtain a permit from the Municipal Clerk.

2. An applicant for a Marijuana Facilities for Personal Medical Use Permit shall pay a permit fee of \$2,500.00 to the City of Elk City.

3. All Marijuana Growing Facilities for Personal Medical Use shall be subject to security provisions as stated herein prior to the granting of a permit. Failing to comply with security provisions as stated herein will result in revocation of the permit.

4. 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.

5. Growing marijuana for personal medical use shall be limited to the interior of a single private residence.

6. Growing marijuana at a Marijuana Growing Facility shall not be visible from the public right of way or adjacent property.

7. The growing area at a Marijuana Growing Facility, including any lighting, plumbing or electrical components used shall comply with municipal 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 (CO<sub>2</sub>, butane, etc.) or CO<sub>2</sub> and ozone generators in the growing area is prohibited.

8. Growing marijuana at a Marijuana Growing Facility 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.

**Section 5-31. Growing Marijuana for Personal Medical Use.**

1. Marijuana legally grows in a residential property shall not be visible from a public right of way or alley or adjacent property.

2. The primary use of a residential property in which marijuana is legally grown or possessed 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 marijuana where such cultivation or possession will impair or prevent the primary

uses of cooking, eating, sleeping, recreating or sanitation/bathing.

3. If the residential property is rented, the written consent of the property owner shall be obtained prior to any cultivation, possession or use of marijuana in any part of the property.

**Section 5-32. 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.

**Sections 5-33 through 5-34. (Reserved for future use.)**

**Article 5. Penalty.**

**Section 5-35. Penalty.**

Any person, firm or corporation who shall violate any provision of this Chapter shall be guilty of any offense and, upon conviction thereof, shall be punished by fine and costs as provided for in Section 1-40 of this Code, unless a separate and distinct penalty is otherwise specifically set forth in this Chapter . Each day's continuation of any such violation shall constitute a separate offense.