

ORDINANCE NO. 2018-\_\_\_\_

AN ORDINANCE AMENDING THE ENID MUNICIPAL CODE, 2014, TITLE 5, "PUBLIC SAFETY," CHAPTER 5, "GENERAL OFFENSES," ARTICLE H, SECTION 5-5H-1 "DRUGS AND RELATED SUBSTANCES" TO REMOVE UNNECESSARY DEFINITIONS, REVISE THE DEFINITION FOR MARIJUANA; LOWER THE FINE FOR POSSESSION OF MARIJUANA; AND REMOVE DRUG PARAPHERNALIA OFFENSES; PROVIDING FOR REPEALER, SAVINGS CLAUSE, SEVERABILITY, CODIFICATION AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE MAYOR AND BOARD OF COMMISSIONERS OF THE CITY OF ENID, OKLAHOMA:

Section I: That Title 5, Chapter 5, Article H, Section 5-6H-1 is hereby amended to read:

**5-5H-1: DRUGS AND RELATED SUBSTANCES:**

- A. Definitions: As used in this section, the following words and phrases shall have the meanings respectively ascribed to them in this section:

~~ADMINISTER: Shall be as defined in 63 Oklahoma Statutes section 2-101.~~

CONTROLLED DANGEROUS SUBSTANCE: Shall be as defined in 63 Oklahoma Statutes section 2-101.

~~DELIVER OR DELIVERY: Shall be as defined in 63 Oklahoma Statutes section 2-101.~~

~~DRUG PARAPHERNALIA: All equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled dangerous substance in violation of State law. It includes, but is not limited to the types of paraphernalia listed in 63 Oklahoma Statutes section 2-101.~~

MARIJUANA: Shall be defined in ~~63 Oklahoma Statutes Section 2-101.~~ as all parts of a plant of the genus cannabis, whether growing or not; the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture, or preparation of a plant of that type or of its seeds or resin. "Marijuana" does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination.

~~SALE: Includes barter, exchange or gift, or offer therefor, and each such transaction made by any person, principal, proprietor, agent, servant or employee.~~

B. Possession of Illegal Drugs:

1. It is unlawful for any person knowingly or intentionally to possess any controlled dangerous substance ~~or other than~~ marijuana unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner, while acting in the course of his professional practice, or except as authorized by State law.
2. The violation of this subsection B, shall be punishable by a fine of not more than five hundred dollars (\$500.00) plus costs.

C. Possession of Marijuana:

1. It is unlawful for any person knowingly or intentionally to possess marihuana without an Oklahoma State issued medical marijuana license.
2. The violation of this subsection C, shall be punishable by a fine of not more than four hundred dollars (\$400.00) plus costs.

~~C. Implements For Controlled Dangerous Substances:~~

1. ~~It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance.~~
2. ~~It is unlawful for any person to deliver, possess, with intent to deliver or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonable should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance.~~
3. ~~It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.~~

4. ~~In determining whether an object is drug paraphernalia, the court should consider the factors as delineated in 63 Oklahoma State Statutes section 2-101.1.~~
5. ~~The violation of this subsection shall be punishable by a fine of not more than five hundred dollars (\$500.00) plus costs. (Ord. 2017-26, 12-5-2017)~~

Section II: Repealer. All ordinances or parts thereof, which are inconsistent with this ordinance, are hereby repealed.

Section III: Savings Clause. Nothing in this ordinance hereby adopted shall be construed to affect any suit or proceedings 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 IV: 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 Commission of the City of Enid that this section of the Enid Municipal Code would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part not been included.

Section V Codification. This ordinance shall be codified as Title 5, Chapter 5, Article H Sections 5-5H-1 of the Enid Municipal Code, 2014.

Section VI. EMERGENCY. WHEREAS, it being necessary to give immediate effect to this ordinance to insure compliance with State Question 788 and the Department of Health Medical Marijuana Control Program so to protect the health, safety and welfare of the citizens of Enid, an emergency is hereby declared to exist. By reason whereof, this Ordinance shall take effect and be in full force and effect after its passage, as provided by law.

PASSED AND APPROVED by the Mayor and Board of Commissioners of the City of Enid, Oklahoma, on this \_\_\_\_\_ day of July, 2018.

CITY OF ENID, OKLAHOMA

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William E. Shewey, Mayor

(SEAL)

ATTEST:

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Alissa Lack, City Clerk

Approved as to Form and Legality:

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Carol Lahman, City Attorney