

Posted at City Hall, 17 Hospital Drive, Eufaula, OK 74432 and the Community Center, 121 High Street, Eufaula, OK 74432 (the location of meeting) on July 14, 2022 5:30 PM

CITY OF EUFAULA, OK

Community Center
121 High Street
Eufaula, OK 74432



NOTICE AND AGENDA OF MEETING

Monday
July 18, 2022
5:30 p.m.

Planning and Zoning Commission / Board of Adjustment

The City of Eufaula encourages participation from all its citizens in public meetings. If participation is not possible due to a disability, notify the City Clerk, in writing, at least forty-eight hours prior to the scheduled meeting and necessary accommodations will be made (ADA 28 CRF/36).

Council Rules of Decorum limit citizen comments on agenda items, non-agenda items, and public hearings to five (5) minutes. Any person desiring to address the Council during such period is required to sign in with the City Clerk, provide their name, address and specify the agenda item they wish to address. Remarks shall be directed to the matter being considered and the speaker is allowed to speak only one time. If written materials are to be submitted ten (10) copies should be made available, and may not be returned. Under Oklahoma Law, the Council Members are prohibited from discussing or taking any action on items not on today's agenda.

The complete packet of information for the agenda items is available online at
CityofEufaulaOK.com

Planning and Zoning Commission

Chairman Sam Sylvester
Vice Chairman Brandon Linstead
Secretary Gordon Pennington
Member James Hickman
Member Dennis Henson

AGENDA
Planning and Zoning Commission
July 18, 2022
5:30 p.m.

Notice: Planning and Zoning Commission will hold a public hearing on these items and upon which action is taken will be forwarded to the City Council with a recommendation. It should be recognized that the Planning Commission is a recommendatory body and the City Council may, or may not, concur with the Planning Commission's recommendation. Therefore, it is important to note that all items forwarded by the Planning Commission will be introduced and heard at a subsequent City Council meeting.

1. Call to Order Chairman Sam Sylvester
2. Roll Call /Attendance Executive Assistant Julie Musgraves
3. Approval of Minutes.
 - A. Planning and Zoning Commission meeting June 20, 2022.
4. Consideration of Acceptance, Approval, Adoption, Rejection, Amendment, and/or Postponement of the clarification / definition of the terms hazardous marijuana processing and non-hazardous marijuana processing.
5. Consideration of Acceptance, Approval, Adoption, Rejection, Amendment, and/or Postponement of a review and possible amendment of allowable residential building materials for outside exterior.
6. Adjournment.

Posted at City Hall, 17 Hospital Drive, Eufaula, OK 74432 and the Community Center, 121 High Street, Eufaula, OK 74432 (the location of meeting) on June 15, 2022 5:30 PM

CITY OF EUFAULA, OK

Community Center
121 High Street
Eufaula, OK 74432



MINUTES OF MEETING

Monday
June 20, 2022
5:30 p.m.

Planning and Zoning Commission / Board of Adjustment

The City of Eufaula encourages participation from all its citizens in public meetings. If participation is not possible due to a disability, notify the City Clerk, in writing, at least forty-eight hours prior to the scheduled meeting and necessary accommodations will be made (ADA 28 CRF/36).

Council Rules of Decorum limit citizen comments on agenda items, non-agenda items, and public hearings to five (5) minutes. Any person desiring to address the Council during such period is required to sign in with the City Clerk, provide their name, address and specify the agenda item they wish to address. Remarks shall be directed to the matter being considered and the speaker is allowed to speak only one time. If written materials are to be submitted ten (10) copies should be made available, and may not be returned. Under Oklahoma Law, the Council Members are prohibited from discussing or taking any action on items not on today's agenda.

The complete packet of information for the agenda items is available online at
CityofEufaulaOK.com

Planning and Zoning Commission

Chairman Sam Sylvester
Vice Chairman Brandon Linstead
Secretary Gordon Pennington
Member James Hickman
Member Dennis Henson

AGENDA
Planning and Zoning Commission
June 20, 2022
5:30 p.m.

Notice: Planning and Zoning Commission will hold a public hearing on these items and upon which action is taken will be forwarded to the City Council with a recommendation. It should be recognized that the Planning Commission is a recommendatory body and the City Council may, or may not, concur with the Planning Commission's recommendation. Therefore, it is important to note that all items forwarded by the Planning Commission will be introduced and heard at a subsequent City Council meeting.

1. Call to Order - 5:30pm Chairman Sam Sylvester
2. Roll Call /Attendance Executive Assistant Julie Musgraves
Members Present: Sylvester, Linstead, Pennington, Henson, Hickman.
3. Approval of Minutes.
 - A. Planning and Zoning Commission meeting April 18, 2022.
Motion to Approve minutes by Pennington, 2nd by Hickman. Roll Call Vote: Yes- Pennington, Sylvester, Linstead, Henson, Hickman.
4. Consideration of Acceptance, Approval, Adoption, Rejection, Amendment, and/or Postponement of an application for a Zoning Change from R1-Residential to CG - Commercial General at the following location: Lots One (1), Two (2), Three (3), Six (6), Seven (7), Eight (8) and the East 16.4 Feet of Lots Four (4) and Five (5) in Block Three (3) in Buck subdivision being part of the SW/4 in Section 34, Township 10 N, Range 16 East of the I.B.M., McIntosh County, State of Oklahoma, according to the Plat thereof. Commonly known as 1668 JM Bailey HWY.
 - A. Conduct a public hearing.
 - B. Take action.Discussion Allen Bechin. Motion to Approve by Linstead, 2nd by Henson. Roll Call Vote: Yes- Pennington, Sylvester, Linstead, Henson, Hickman.

5. Consideration of Acceptance, Approval, Adoption, Rejection, Amendment, and/or Postponement of an application for a Specific Use Permit for 3 items below at the following location: BEGSW/C E2 NE SE SEC 27-10-16
N000712E 662.07' N534330E 192.80' N263354E 223.61' N300'
N632606E 223.61' E 500' N501724E 395.37' TO W ROW/L OF HWY 69
S063830W 300' S283310W 108.93' S283500W 606.98' S283544W
545.41' N681840W 119.95' S214730W 268.97' S895830W 401.95' TO
POB LESS .23A &; LESS .69A SEC 26-10-16 (PT IN SEC 27) SEX 26-
10-16 165/580 179/318 343/412 828/702 883/197 MS18/272. Commonly
known as 1 Hospital Dr.

- A. Installation of a new helipad for emergency medical services.
i. Conduct a public hearing.
ii. Take action.

Discussion Korey Langston. Motion to Approve by Hickman, 2nd by Pennington. Roll
Call Vote: Yes- Pennington, Sylvester, Linstead, Henson, Hickman.

- B. Installation of a new modular building to house the administrative offices and
flight crew quarters.
i. Conduct a public hearing.
ii. Take action.

Motion to Approve by Hickman, 2nd by Pennington. Roll Call Vote: Yes- Pennington,
Sylvester, Henson, Hickman. Abstain – Linstead.

- C. Installation of a new fuel tank.
i. Conduct a public hearing.
ii. Take action.

Motion to Approve by Hickman, 2nd by Henson. Roll Call Vote: Yes- Pennington,
Sylvester, Linstead, Henson, Hickman.

6. Consideration of Acceptance, Approval, Adoption, Rejection, Amendment, and/or Postponement of the clarification / definition of the terms hazardous marijuana processing and non-hazardous marijuana processing.

Discussion. Kara Young, James Pellar. Motion to Postpone until next
meeting by Hickman, 2nd by Sylvester. Roll Call Vote: Yes- Pennington,
Sylvester, Linstead, Henson, Hickman.

7. Adjournment.

Motion to Adjourn by Linstead, 2nd by Hickman. Roll Call Vote: Yes-Pennington, Sylvester, Linstead, Henson, Hickman.



Planning and Zoning Commission Item No. 4

Meeting Date: July 18, 2022

Agenda Item Memo

Item Title: Consideration of Acceptance, Approval, Adoption, Rejection, Amendment, and/or Postponement of the clarification / definition of the terms hazardous marijuana processing and non-hazardous marijuana processing.

Initiator: Planning & Zoning Committee.

Staff Information Source: Kay Wall, City Attorney.

Background: The question has come up in past committee meetings. We are seeking clarification between hazardous medical marijuana processing and non-hazard medical marijuana processing.

Kay Wall is researching this topic and is waiting response / advice from OMAG.

Attachment:



Musgraves, Julie <aa@cityofeufaulaok.com>

FW: planning and zoning/ marijuana

1 message

cm@cityofeufaulaok.com <cm@cityofeufaulaok.com>
To: "Musgraves, Julie" <aa@cityofeufaulaok.com>

Fri, Jul 15, 2022 at 9:58 AM

FYI

Thank You,

Jeb S. Jones

City Manager

City of Eufaula

Office 918-689-2534

Cell 918-490-1346

From: Matt Love <mlove@omag.org>

Sent: Thursday, July 14, 2022 3:11 PM

To: Kay Robbins Wall <krw@sbcglobal.net>; Jeb Jones <cm@cityofeufaulaok.com>

Cc: Monica Coleman <mcoleman@omag.org>; Jeff Bryant <jbryant@omag.org>; Ambre Gooch <agooch@omag.org>

Subject: RE: planning and zoning/ marijuana

Kay,

So I could break your question out into two questions: 1) what is processing, and 2) what is the (or is there a) distinction between hazardous and non-hazardous processing? I can offer some insight on the questions from a State standpoint. Essentially that would boil down to – can she lawfully do it under State law. But that wouldn't necessarily answer the zoning question, which would turn on your own ordinances.

The answer to both questions is really buried in the regulations OMMA has adopted per its statutory authority. The main place I would point is the definitions regulation OMMA adopted at OAC 310:681-1-4. Here are a few regulatory definitions that should be on point to both questions:

“Dispense” means the retail selling of medical marijuana or medical marijuana products that are packaged and labeled in accordance with the law to a licensed patient, the licensed patient's parent(s) or legal guardian(s) if licensed patient is a minor, or a licensed caregiver.

“Dispensary” or “Commercial Dispensary” means an individual or entity that has been issued a medical marijuana business license by the Department, which allows the dispensary to purchase medical marijuana or medical marijuana products from a licensed processor, grower, or dispensary; to sell medical marijuana and medical marijuana products to a licensed patient, to a licensed caregiver, and to the licensed patient's parent(s) or legal guardian(s) if licensed patient is a minor; to prepare and package noninfused pre-rolled medical marijuana with a net weight that does not exceed one (1) gram to sell to medical marijuana patients and caregivers; and to sell, transfer, and transport or contract with a commercial transporter to transport medical marijuana or medical marijuana products to another licensed dispensary, a research facility, and an educational facility; and to transfer to testing laboratories.

“Grower” or “Commercial grower” means an individual or entity that has been issued a medical marijuana business license by the Department, which allows the grower to grow, harvest, dry, cure, package medical marijuana and noninfused pre-rolled medical marijuana with a net weight that does not exceed one (1) gram, to sell, transfer, and transport or contract with a commercial transporter for the transport of medical marijuana in accordance with Oklahoma law and this Chapter to a dispensary, processor, grower, research facility, education facility, or testing laboratory.

“Hazardous processor license” means a license issued to a medical marijuana processor that performs an extraction method that utilizes chemicals considered hazardous by the OSHA Hazard Communication Standard under 29 CFR § 1910.1200.

“Nonhazardous processor license” means a license issued by the Department to a processor that will not perform any processing or extraction methods that utilize a chemical considered hazardous by the OSHA Hazard Communication Standard under 29 CFR § 1910.1200.

“Process” means to distill, extract, manufacture, prepare, or otherwise produce a medical marijuana product.

“Processor” or “Commercial Processor” means an individual or entity that has been issued a medical marijuana business license by the Department, which allows the processor to: purchase medical marijuana or medical marijuana products from a grower or processor; process, package, sell, transfer, and transport or contract with a commercial transporter to transport medical marijuana and medical marijuana products that they processed to a licensed dispensary, processor, or testing laboratory in accordance with Oklahoma law and this Chapter; and process medical marijuana received from a licensed patient into a medical marijuana concentrate, for a fee. Processors will receive either a hazardous processor license or a non-hazardous processor license based on the type of chemicals the processor will be utilizing in the extraction process in accordance with these Rules.

I would next point to OAC 310:681-5-18(s), which provides:

Dispensaries shall not package or alter packaging or labeling of medical marijuana or medical marijuana products except for the following reasons:

- (1) Dispensaries are authorized to package and sell noninfused pre-rolled marijuana;
- (2) Dispensaries, or employees thereof, may handle loose or nonpackaged medical marijuana to be placed in packaging for retail sale consistent with Oklahoma law and these Rules, including packaging and labeling requirements in OAC 310:681-7-1(d)-(e);
- (3) Dispensaries may apply barcodes, qr codes, or other inventory tracking tags and labels. These items shall not obscure required label and packaging requirements; and
- (4) Dispensaries must place medical marijuana or medical marijuana products into a child-resistant exit package at the point of transfer to a patient or caregiver if those items are not already in child-resistant packaging.

Lastly, I would point to OAC 310:681-7-1(b):

Nonacceptance or return. A dispensary shall refuse to accept or shall return to the licensee transferring medical marijuana or medical marijuana products to the dispensary, any medical marijuana or medical marijuana products that are not packaged and labeled in accordance with the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq., and these Rules. The business licensee who sold or otherwise transferred the nonconforming medical marijuana or medical marijuana products shall accept such return. If circumstances are such that the dispensary cannot return or refuse to accept the nonconforming medical marijuana or medical marijuana products, the dispensary shall dispose of the nonconforming medical marijuana and medical marijuana products in accordance with the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq., and these Rules.

Reading all of these regulations, I reach the following views on the first question. Her dispensary license only allows her to package/repackage marijuana under narrow circumstances: Pre-rolls and loose/nonpackaged marijuana. Now, I'm not sure how a Dispensary would get loose, nonpackaged marijuana given that they are supposed to only accept marijuana that is packaged, and they aren't allowed to alter that packaging. But I'm also not an expert in this area. I don't know if growers sell marijuana pre-packaged for end sale (like the units that they sell) or if Dispensaries buy in bulk and then repackage on site into smaller packages. Reading the regulations, I certainly can't see how they could do that. But maybe I am missing something (feel like I have to be given the exception for loose/nonpackaged marijuana contrasted with the provision requiring all product to be packaged when accepted by the Dispensary).

The reason this is important goes to the issue of State licensing. I.e. will she have to get a Processor license or is it something she can do under her Dispensary license. I suspect that the issue wouldn't be before you all if all she was going to be doing was something authorized under her Dispensary license. You authorized a dispensary, and if it's Dispensary license activity then why would this be before you? A Processor license would appear to grant broader authority in terms of packaging and repackaging. Ironically, repackaging is not processing but is an activity that you need a Processor license for.

I will tell you a position that we took at one time in Warr Acres (but, alas, no more). We only allow dispensaries and don't allow commercial growth or processing. We had dispensaries coming to us asking if they could grow on site just for retail sale at their dispensary (i.e. not for wholesale to other dispensaries). To do so, they would have to obtain a Grower license. For the first 2 years after MM came into existence, we approved Dispensaries to grow on site if and only if it was for retail sale at their dispensary. Then our Council amended our ordinances, restricting where dispensaries could be located zoning district wise and banning all activities by a Dispensary that would require any other State MM license. But I throw that out there for your consideration. If this gal is just wanting to repackage MM for retail sale at her dispensary, perhaps she would need a separate State license, but do you all care? The approved use is the retail operation. If she's not processing for sale to other dispensaries, then is the spirit of the ordinance being met?

As for hazardous vs. non-hazardous, you can see the regulatory definition. I never realized that there were two kinds of Processor licenses, but there are. So if she's obtained a processor license, it should list whether it is a hazardous or non-hazardous processor license on its face.

Matt Love
General Counsel
mlove@omag.org

OMAG

3650 S. Boulevard

Edmond, OK 73013

Phone: 405.657.1417

Fax: 405.657.1401

OMAG Web Site

Follow us on:



NOTICE: The information contained in this email and any document attached hereto is intended only for the named recipient(s). If you are not the intended recipient, nor the employee or agent responsible for delivering this message in confidence to the intended recipient(s), you are hereby notified that you have received this transmittal in error, and any review, dissemination, distribution or copying of this transmittal or its attachments is strictly prohibited. If you have received this transmittal and/or attachments in error, please notify me immediately by reply e-mail and then delete this message, including any attachments.

From: Kay Robbins Wall <lkrrw@sbcglobal.net>
Sent: Thursday, July 7, 2022 4:19 PM
To: Matt Love <mlove@omag.org>; Jeb Jones <cm@cityofefaulaok.com>
Subject: planning and zoning/ marijuana

Matt,

We have a lady in Eufaula who has a marijuana sales shop. She now has applied to have a Special Use Permit issued, so that she can repackage marijuana.

She says this is NOT processing, which we told her we would not allow in her location.

Our planning and zoning commission feels that they need some insight on the difference between Hazardous marijuana processing, and non-hazardous marijuana processing. She assures us that what she will be doing will not involve odor, a kitchen, etc.

Can you lend any insight to this issue for me? Do you have any advice on the definitions of the two processing categories, referenced above?

We will meet the third Monday of July, and any assistance you can give me would be appreciated.

Thank you so much.

Kay Wall

918.689.7737 office



Planning and Zoning Commission Item No. 5

Meeting Date: July 18, 2022

Agenda Item Memo

Item Title: Consideration of Acceptance, Approval, Adoption, Rejection, Amendment, and/or Postponement of a review and possible amendment of allowable residential building materials for outside exterior.

Initiator: City Council

Staff Information Source: Julie Musgraves, Executive Assistant.

Background: This item has been requested by City Council to be reviewed. They have received questions about why metal is exterior finishing materials are not allowed.

Attachment: Definition from the Eufaula Zoning Code for Customary Exterior Finishing Material.

Caliper: The diameter of the tree trunk measured at 6" above ground level for a tree trunk having a diameter of 4" or less and the diameter of the tree trunk measured at 12" above ground level for a tree trunk having a diameter exceeding 4".

Care Home: **Premises** used for the housing and caring for the aged or infirmed, and includes convalescent homes, homes for the aged, and nursing homes.

Character: Any letter of the alphabet or numeral.

City Council: The City Council of the City of Eufaula.

Code Enforcement Officer/Building Inspector: The enforcement officer designated by the City Manager the City of Eufaula to enforce the Zoning Code and related Ordinances.

Commercial Mixed Use Development: Any development containing a combination of uses permitted by Right, Special Exception, Planned Unit Development (PUD) or Specific Use Permit.

Community Group Home: A community based residential facility for independent living that provides room and board, personal care, and rehabilitation services in a family environment as a single housekeeping unit to 6-12 resident intellectually and/or physically limited persons with at least 1 but not more than 3 resident staff persons. Personal care and rehabilitation services excludes on site institutional type educational training, medical or nursing care.

Comprehensive Plan: The official plan for the physical development of the City of Eufaula as originally adopted and as amended thereafter.

Copy Area: The net geometric area enclosed by the smallest rectangles encompassing the outer extremities of all letters, figures, characters and delineations contained in the sign.

Curb level: The mean level of the established curb at the frontage of a lot. Where no curb has been established, the City of Eufaula shall establish such curb level or its equivalent for the purposes of this code.

Customary Exterior Finishing Materials: Roof and siding materials traditionally used to provide the finished exterior of single-family dwellings. Customary residential roofing materials include composition shingles, fiberglass shingles, wood shingles (shakes), and clay tile applied according to the manufacturer's specification. Customary commercial roofing materials for Commercial or Office zoned properties includes Built-Up Roofing (BUR), modified bitumen roofing, thermoset (EPDM) roof membrane, thermoplastic (PVC and TOP) roof membrane, tar, foam, and asphalt, but in this code specifically excludes any form of metal roofing material. Customary siding materials include aluminum lap or vinyl lap siding, cedar or other wood siding, masonry (stucco, brick, stone, block, tilt-up-up panel) and woodgrain weather resistant pressboard siding.

Agenda
Board of Adjustment
July 18, 2022
5:30 p.m.

Board of Adjustment

Chairman Sam Sylvester
Vice Chairman Brandon Linstead
Secretary Gordon Pennington
Member James Hickman
Member Dennis Henson

The regularly scheduled Board of Adjustments has been canceled.