

CITY COUNCIL STUDY SESSION MINUTES

August 20, 2019

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a study session at 5:30 p.m. in the Municipal Building Conference Room on the 20th day of August, 2019, and notice and agenda of the meeting were posted at the Municipal Building at 201 West Gray and the Norman Public Library at 225 North Webster 48 hours prior to the beginning of the meeting.

PRESENT:	Councilmembers Bierman, Hickman, Holman, Petrone, Scanlon, Scott, Wilson, Mayor Clark
ABSENT:	Councilmember Carter

Item 1, being:

DISCUSSION REGARDING ADDITIONAL AMENDMENTS TO THE MARIJUANA ORDINANCE POSTPONED ON AUGUST 13, 2019.

Ms. Beth Muckala, Assistant City Attorney, said Staff was directed to compile information on what other municipalities are charging for medical marijuana licenses and if they are charging different medical marijuana establishments different fees. She said Council requested Staff to prepare a breakdown of the types of medical marijuana establishments and types of services that relate to the estimated number of hours spent by Staff on licensing medical marijuana establishments.

Ms. Muckala said Staff gathered information on 30 Oklahoma municipalities including the 15 largest municipalities (by population), information regarding currently licensing and any new licensing under consideration, evaluation of licensing and zoning treatment and use of state categories in local regulations, and a breakdown of Staff time.

According to data from the Oklahoma Medical Marijuana Authority (OMMA), the top 12 medical marijuana dispensary establishments include Oklahoma City - 400; Tulsa - 227; Edmond- 74; Norman - 62; Broken Arrow - 42; Lawton - 40; Midwest City - 33; Moore - 32; Stillwater - 29; Ardmore - 27; Shawnee - 25; and Muskogee – 24.

The top 12 medical marijuana grower establishments include Oklahoma City – 439; Tulsa – 229; Edmond – 120; Norman – 89; Ardmore – 55; Muskogee – 49; Lawton – 45; Shawnee – 45; Broken Arrow – 44; Sapulpa – 38; Bixby – 31; Yukon – 31; and Choctaw – 31.

The top 12 medical marijuana processor establishments include Oklahoma City – 233; Tulsa – 101; Edmond – 53; Norman – 35; Lawton – 28; Shawnee – 20; Ardmore – 17; Sapulpa – 13; Moore – 12; Broken Arrow – 11; Yukon – 11; Bixby – 10; Muskogee – 10; and Duncan – 10.

Ms. Muckala said Edmond and Oklahoma City have not currently adopted ordinances for medical marijuana licensing or zoning, but they do have ordinances pending. She said Edmond will vote on its ordinance on August 26 that includes fees similar to Oklahoma City, new state categories, and licensing language similar to Norman's ordinance. The date of the vote on Oklahoma City's ordinance is not known, but they have had a public hearing and their ordinance is very bare bones basically complying with the Certificate of Compliance (COC) process and charging a COC fee of \$615 annually and \$750 for grower/processor/researcher establishments annually. Ms. Muckala said Oklahoma City does not address new state categories (Testing Laboratory, Education Facility, and Storage Facility) and Edmond's ordinance is similar to Norman's that includes new state categories.

Councilmember Wilson would like to see different levels of processors, i.e., bakeries adding medical marijuana concentrates to food products (not processed at that location) versus more intensive processing. Ms. Muckala said Tulsa has a draft of subcategories for processors and Tulsa passed an ordinance on November 28, 2018, that only addressed zoning. She said Tulsa requires a Food Processing License be obtained by dispensaries and processors that cost \$155 plus a \$5 application fee for a total of \$160 per year. She said in response to comments from a protesting local attorney, processors were "sub-categorized" to allow "non-extraction" types to be located in light industrial areas. She said more information will be needed for vetting sub-categories so Norman can develop very specific definitions that would ensure consistency in regulations. She said the state has not sub-categorized processors so Norman would be breaking new ground.

Councilmember Hickman said it is his understanding that existing bakeries cannot use their equipment for medical marijuana processing of bakery products due to cross contamination issues and Ms. Muckala said she was not 100% sure about that, but felt there would be state guidelines to avoid cross contamination.

Councilmember Petrone was hoping to talk about processor sub-categories in the context of public safety because there can be combustible chemical extraction versus sprinkling products with medical marijuana or rolling joints. She said sub-categories can help businesses from having to obtain a Special Use Permit requiring Council action. Councilmember Bierman agreed with Councilmember Petrone and said there is a distinct difference between the chemical extraction and baking products or pre-rolling joints. She said there is nothing in state law that disallows someone to use a bakery to make medical marijuana product regardless of what happens on the retail side. In her opinion, someone should be able to make regular baked goods and medical marijuana baked goods under one license versus multiple licenses or having to be located in an industrial area.

Ms. Brenda Hall, City Clerk, said there are businesses in Norman that have multiple licenses and pay multiple fees. She said currently, if a medical marijuana facility is a dispensary and grower they have to have both licenses from the City and pay fees for both. Mayor Clark said sub-categories could help with this issue.

Councilmember Wilson said her concern is existing businesses being able to add some portion of the medical marijuana industry to their revenue stream without having to move to an industrial area.

Councilmember Scott asked if the City can open zoning to all facets of the cannabis industry. Can the City say processing, dispensing, educating, etc., can be in all commercial/industrial zoning areas? Ms. Muckala said the ordinance currently being considered is adding categories for education facilities, testing laboratory, and storage facilities and where they can be located. She said certain medical marijuana facilities feel their processing is similar to dispensaries because they do not have extraction occurring onsite. She said Council can consider sub-categories to accommodate the different aspects of processing, but she would like more feedback from professional sources prior to drafting that language. Councilmember Petrone said not all extractions are treated the same because some extractions can be done using ice water so that is not the same as using combustible material.

Councilmember Holman said instead of requiring a Special Use Permit for processors to be in a commercial strip mall, what are the reasons for not allowing it by right? Ms. Muckala said some reasons would be the impact to surrounding neighborhoods and opportunities for discussion and public notice. Councilmember Holman said if a dispensary needs a processor license to roll joints then every dispensary in Norman would need to apply for a Special Use Permit and that is a problem. Ms. Muckala said she will contact OMMA to see if they have an interpretation of dispensaries doing pre-rolls.

Ms. Muckala highlighted other cities' fees and said Lawton's license fee is variable because they did not establish specific fees, but do have a "change of use" fee based on zoning; Broken Arrow has a business license fee of \$1,000 for dispensaries, growers, and processors with a \$750 renewal; Ardmore has a business license fee of \$2,500 with a \$2,000 renewal for all; Muskogee has a business license fee of \$750 for all; Shawnee has a general business license fee of \$100 per year; Tecumseh has a business license fee of \$1,250 for all; Harrah has a business license fee of \$1,300 with a \$1,200 renewal for growers and processors and a \$700 fee with \$600 renewal for dispensaries; and Nicoma Park and Slaughterville have full licensure regulations with fees in excess of \$1,000.

Councilmember Scott said she appreciates the breakdown of Staff time for licensing, but it seems that dispensaries do not seem to take as much Staff time as growers or processors so she suggests a varying fee structure for each type of medical marijuana facility. Ms. Jane Hudson, Interim Director of Planning and Community Development, said she did not account for Staff time spent on reviewing codes, phone calls answering businesses questions, or inspection time lengths. She said processors can take more Staff time if they are using hazardous materials.

Councilmember Petrone asked about renewals versus new business inspections and Ms. Hall said the COC is an annual requirement by OMMA and each one of the signature line requires a different Staff person from various departments. She said inspections of grow facilities will require a protective suit for each location to avoid cross contamination. Councilmember Petrone said she agrees growers are more complicated, but asked if dispensary and processor inspections will be as difficult as the initial inspection. Ms. Hall said inspections for the annual COC will always take the same amount of Staff hours because inspections will always be as thorough as the very first inspection for a new business. Councilmember Hickman said although renewal inspections may

follow the same process, it would seem Staff would be more efficient on existing facilities and inspections would not take as long. He would like renewal fees to be discounted from the initial fee. Councilmember Scanlon agreed the initial fee should be higher, but there will be time efficiencies moving forward; however, he does not want the City to lose money either for Staff time spent on medical marijuana facilities. Councilmember Wilson said more staff hours are spent on inspecting growers and processors than dispensaries and suggested tiered fees according to staff hours with renewal fees being less. Councilmember Holman said dispensaries seem to require the least amount of Staff hours and should cost less than growers or processors. Councilmember Scott said a tiered structure is okay with her with \$600 for dispensaries, \$900 for processors, and \$1,200 for growers; however, she disagrees the renewal fee should be lowered because there is not enough data to justify that at this time. Councilmember Petrone felt renewal fees should be less than the initial fee and asked about research and education facility fees. Ms. Hall said the draft ordinance has Testing Laboratories fees at \$850, Research Facility at \$250, Educational Facility at \$250, and Storage Facility at \$850. Mayor Clark would like Staff to make a recommendation on tiered fees and email it to Council by the end of the week. She said this is a new industry in Oklahoma and she believes the ordinance will have to be revisited no matter what fees are currently set. Councilmember Bierman said \$600 for dispensaries, \$900 for processors, and \$1,200 for growers seems fair. She said testing and research facilities should be the same as processor or growers because they require a COC annual inspection and use the same types of equipment, but storage and education facilities should be the same fee as a dispensary.

Mayor Clark said there seems to be consensus on the \$600, \$900, \$1,200 with a possible fee reduction for renewals. She said the zoning issues need more discussion and will need to go back to the Committee for further review.

Items submitted for the record

1. Medical Marijuana Breakdown of Time
2. PowerPoint presentation entitled, "Medical Marijuana Zoning/Licensing Updates," City Council Study Session dated August 20, 2019

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The meeting was adjourned at 6:37 p.m.

ATTEST:

City Clerk

Mayor