

ORDINANCE NO. O-1920-39

ITEM NO. 9

STAFF REPORT

ITEM: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 13-108, IN ARTICLE I OF CHAPTER 13 (LICENSES AND OCCUPATIONS); AMENDING ARTICLE XXXIV, SECTION 13-3401, IN CHAPTER 13 (LICENSES AND OCCUPATIONS); 422.7 (RO, RESIDENCE-OFFICE DISTRICT), 422.9 (O-1, OFFICE INSTITUTIONAL DISTRICT), 423.2 (C-1, LOCAL COMMERCIAL DISTRICT), 424.1 (C-2, GENERAL COMMERCIAL DISTRICT), 424.2 (TC, TOURIST COMMERCIAL DISTRICT), 424.3 (CR, RURAL COMMERCIAL DISTRICT), 425.1 (C-3, INTENSIVE COMMERCIAL DISTRICT), 426.1 (I-1, LIGHT INDUSTRIAL DISTRICT), 428.1 (M-1, RESTRICTED INDUSTRIAL DISTRICT), 429 (MUD, MIXED USE DEVELOPMENT DISTRICT), ALL IN ARTICLE XI OF CHAPTER 22 (ZONING ORDINANCE); AND AMENDING SECTION 450 (DEFINITIONS), IN ARTICLE XIV OF CHAPTER 22 (ZONING ORDINANCE); ALL IN ORDER TO UPDATE CITY CODE LICENSING PROVISIONS AND THE ZONING ORDINANCE TO ALLOW FOR THREE TIERS OF MEDICAL MARIJUANA PROCESSORS AS ALLOWED BY STATE LAW, AND TO ADD DEFINITIONS AND OTHER RELATED PROVISIONS; AND PROVIDING FOR THE SEVERABILITY THEREOF.

DISCUSSION:

In response to public comment and request, City Council has expressed interest in evaluating the various types of Medical Marijuana Processors in terms of their licensing and zoning treatment in the City of Norman. Namely, there has been concern that the state definition of "processing" is very broad and that seemingly low-impact processing activities, such as pre-rolling "joints" or adding pre-made concentrates to items such as baking edibles, is currently only allowed by right in industrial areas in Norman. This subject was discussed at the September 26, 2019 meeting of the City Council Community Planning & Transportation Committee, where the committee expressed a wish for input from the entire City Council before proceeding further in discussions of this topic. City Council considered the draft ordinance and gave direction at its December 3, 2019 Special Session.

"Non-Extraction" Processing Activities

The Oklahoma Medical Marijuana Authority ("OMMA") has confirmed that grinding marijuana and pre-rolling joints, as well as "infusion" (this term generally refers to the addition of medical marijuana concentrates to other substances to create a derivative product) both constitute "processing" under Oklahoma state law. Thus, this categorization under state law creates an application of Norman's Zoning Ordinance that would allow Medical Marijuana Processing as a permitted use in industrial areas only, with a requirement for Special Use in commercial zones.

This ordinance implements a tiered structure that could be used for both zoning and licensing purposes. Tier I and Tier II Medical Marijuana Processors would relate to those businesses which plan to engage in only the pre-rolling of "joints" or the infusion of concentrates (that were created off-site) to create a derivative product. Tier I and II Processors are defined to specifically include "on-site sales," which sets it apart from industrial zoning treatment in Norman (where customer patronage is not typical) and likens them more to retail businesses,

such as bakeries and Medical Marijuana Dispensaries. Tier III processors would include Tier I and II activities, as well as any other activity, and this category would essentially replace the "catch-all" category previously in place. To make sure the City treats all types of processors the same in the Tier III category, the ordinance specifies that "on-site sales" are not allowed if one wants to be a Tier III licensee.

City staff has been unable to locate any municipality that has created sub-categories of processors for the purpose of placing them in commercial areas (some sub-categorization has been found, but processors were simply distributed amongst differing "levels" of industrial areas, rather than within commercial areas). Thus, the chief challenge in this approach is creating a category that is compatible with state law and anticipates future application of the language in a way that avoids inconsistencies or confusion. Once the definitions and categories are determined, the application to licensing and zoning provisions is fairly straightforward.

The attached draft treats Tier I and Tier II Medical Marijuana Processors the same as Medical Marijuana Dispensaries, and specifies that where a Tier I and Tier II Medical Marijuana Processor license is obtained for a location that already has a Medical Marijuana Dispensary license, duplicative fees need not be paid. For zoning purposes, Tier I and II Medical Marijuana Processors are allowed in the same places, and under the same circumstances, as Medical Marijuana Dispensaries. Tier III Medical Marijuana Processors are treated the same as the "catch-all" category before, and where necessary, the amendments note that "on-site sales" are not permitted without a special use.

Due to the challenges of Medical Marijuana Processing involving extraction processes, these tiers limit Tier I and Tier II licenses to non-extraction activities only. Any further treatment of extraction processing may be addressed by the City Council at a future date.

RECOMMENDATION: To the extent that the attached ordinance implements the wishes of City Council to create sub-categories of Medical Marijuana Processing activities, in order to allow certain kinds of non-extraction processors to co-locate at dispensary locations in commercial areas, staff recommends approval of this ordinance, O-1920-39.