



Legislation Text

File #: O-1819-17, Version: 1

CONSIDERATION OF ORDINANCE O-1819-17 UPON SECOND AND FINAL READING: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 10-203.1, IN ARTICLE II OF CHAPTER 10 (HEALTH AND SAFETY); AMENDING SECTION 13-108, IN ARTICLE I OF CHAPTER 13 (LICENSES AND OCCUPATIONS); ENACTING ARTICLE XXXIV, INCLUDING SECTIONS 13-3401 THROUGH 13-3408, IN CHAPTER 13 (LICENSES AND OCCUPATIONS); AMENDING SECTIONS 420.1 (A-1, GENERAL AGRICULTURAL DISTRICT), 420.2 (A-2, RURAL AGRICULTURAL DISTRICT), 422.7 (RO, RESIDENCE-OFFICE DISTRICT), 422.9 (O-1, OFFICE INSTITUTIONAL DISTRICT), 423.1 (CO, SUBURBAN OFFICE COMMERCIAL 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); AMENDING SECTION 434.1 (SPECIAL USES) AND SECTION 438.1 (HOME OCCUPATIONS), BOTH IN ARTICLE XII OF CHAPTER 22 (ZONING ORDINANCE); AND AMENDING SECTION 450 (DEFINITIONS), IN ARTICLE XIV OF CHAPTER 22 (ZONING ORDINANCE); ALL IN ORDER TO ESTABLISH A PUBLIC NUISANCE AS TO THE CREATION AND FAILURE TO PREVENT THE EMANATION OF NOXIOUS ODORS BEYOND PROPERTY BOUNDARIES, TO ESTABLISH INDIVIDUAL AND BUSINESS LICENSING FOR THE POSSESSION AND USE OF MARIJUANA AS PERMITTED BY STATE LAW, TO ADD PERMITTED AND SPECIAL USES TO THE ZONING ORDINANCE TO ALLOW FOR THE LOCATION OF MARIJUANA ESTABLISHMENTS IN CONFORMANCE WITH STATE LAW, AND TO ADD DEFINITIONS AND OTHER RELATED PROVISIONS; AND PROVIDING FOR THE SEVERABILITY THEREOF.

BACKGROUND: The City Council Community Planning and Transportation Committee (CPTC) requested that staff prepare information on the recently adopted State Question 788, Medical Marijuana, to present to CPTC at their August 23rd meeting. The presentation by city staff addressed Oklahoma state regulation as well as local and nation-wide municipal approaches to medical marijuana. CPTC reviewed and commented on the presentation, providing direction for moving forward. Staff was directed to take a proposed ordinance to the full City Council at its Conference on October 9th. At the October 9th Council Conference direction was given regarding amendments to the draft ordinance, with direction to return with a revised ordinance at the October 11th Council Conference. At the October 11th Council Conference, staff was directed to move the ordinance forward to the November 8th Planning Commission meeting.

State Question 788, entitled Medical Marijuana, passed in the Oklahoma primary election held June 26, 2018. A regulatory office, the Oklahoma Medical Marijuana Authority ("OMMA") was established under the Oklahoma State Department of Health ("OSDH"), which is now licensing adult and minor patients, caregivers, growers, processors, dispensaries, transporters and researchers. Various items are required as part of the application, including the following:

1. Establishment name/physical address/GPS coordinates/phone number of the particular establishment location;
2. Personal or identifying information regarding individual or entity applicants;
3. Entity applicant ownership information and certificate of good standing with the Oklahoma Secretary of State;
4. Affidavit of Lawful Presence for each owner;
5. For licensed dispensaries, "proof that the proposed location is at least one thousand (1,000) feet from a public or private school."

Additionally, prior to the issuance of any dispensary, grower, processor, transportation or researcher license, all applicants and owners of entity applicants, must obtain criminal background checks within thirty (30) days prior to applying for the license. Also, before any commercial marijuana establishment may handle or process marijuana, the applicant must register with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control ("OBND").

State law/regulation provides that a Marijuana Dispensary may not locate within 1,000 ft. of a public or private school (measured in a straight line from the Marijuana Dispensary property boundary to the front door of the school). State regulation also requires that all commercial marijuana establishments (including dispensaries, growers, and processors) "implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing

marijuana and the theft and diversion of marijuana,” ensure security during transit of medical marijuana, and “meet the standards of any applicable state and local electrical, fire, plumbing, waste and building specification codes....”

DISCUSSION:

Zoning

In order to implement and follow current state law and regulation, the current draft ordinance adds Marijuana Establishments as permitted and special uses to the City of Norman’s various zoning districts. Marijuana Dispensaries are added as allowed uses in the following commercial zoning districts; C-1, C-2, TC, CR, MUD, Mixed Use Development District and CCFBC. The C-3 zoning district incorporates all C-2 uses so adding to C-3 separately was not necessary. Marijuana Dispensaries are added as Special Use in RO, Residence Office District, I-1, Light Industrial District, and M-1, Restricted Industrial District. Marijuana Processors are added as Special Use in the following zoning districts: C-1 Local Commercial, C-2, General Commercial, and C-3, Intensive Commercial, and MUD, Mixed Use Development zoning districts. Marijuana Processors are allowed by right in I-1, Light Industrial, I-2, Heavy Industrial, and M-1 Restricted Industrial zoning districts. Marijuana Growers are added as Special Use in CR, Rural Commercial District, and as a permitted use in A-1, General Agricultural, A-2, Rural Agricultural, I-1 Light Industrial, and M-1 Restricted Industrial zoning districts. Finally, Marijuana Researcher (a Marijuana Establishment category referenced but not yet formally permitted by state regulation), is added as a special use to O-1, Office Institutional, CO, Suburban Office Commercial District, C-1, Local Commercial, C-2, General Commercial, C-3, Intensive Commercial, I-1, Light Industrial, and M-1, Restricted Industrial zoning districts.

To allow for marijuana growers, processors and researchers in the CCFBC area a CCPUD is required. Marijuana dispensaries, growers, processors and researchers would be an allowed use in the I-2, Heavy Industrial zoning district.

Where a Marijuana Establishment is added as a special use, Section 434.1 of the Zoning Ordinance (addressing “Special Use”) specifies applicable site plan requirements. Section 438.1 has been amended to specify that Marijuana Establishments may not be considered “Home Occupations.” Finally, Section 450 of the Zoning Ordinance is amended to include definitions modeled directly from the state regulation definitions.

Business Licenses and General Public Nuisances

The draft ordinance adds Article XXXIV, addressing Marijuana Establishment Licenses, which sets forth definitions consistent with those added to the Zoning Ordinance, defines application requirements, and sets forth other basic regulations based upon the state guidance, including the state requirement for appropriate security measures. The draft ordinance limits application submissions to those materials already required by and issued by the state and sets a Marijuana Establishment license fee of \$1,199 per license/per year, well below those established at the state level, in order to cover associated administrative costs of issuance.

Additionally, the draft Ordinance amends the City Code definition of “public nuisance.” Recognizing that certain occupations or uses of property, particularly those located in densely populated areas, bear a potential for the creation of a public nuisance by the emission of noxious odors, it was determined that the City Code should be amended to include language placing a responsibility upon all property owners to avoid situations where a noxious odor is created by an activity *and* the creator does not take reasonable measures to prevent emanation of the noxious odor beyond the property boundary.

These elements discussed have been included in the attached Ordinance, Attachment A.

Article XII, Section 5 of the Charter provides that if, in the judgment of the Council, it is necessary for the immediate preservation of the peace, health, or safety of the citizens of Norman that this Ordinance become effective prior to the time an ordinary ordinance would become effective, then the Council may declare an emergency so that the ordinance will become effective immediately upon its passage.

Procedurally, an Emergency clause requires a reference in the Title, and a separate section that must be passed by a separate vote by 2/3rd majority of Council. To allow the O-1819-17 to become effective immediately, such an Emergency Clause has been included in Ordinance O-1819-16 for Council’s consideration.

STAFF RECOMMENDATION: Staff recommends approval of the attached Ordinance, O-1819-17 amending the Zoning Ordinance and adding business licensure and general public nuisance amendments to the City Code relating to medical marijuana facilities licensed by the State of Oklahoma and the City of Norman.