



1st Floor Conference Room
401 S. Johnstone Avenue
Bartlesville, OK 74003

**NOTICE OF SPECIAL MEETING
OF THE
BARTLESVILLE CITY COUNCIL**

**Monday, August 13, 2018
7:00 p.m.**

**Mayor Dale Copeland
918-338-4282**

AGENDA

1. Call to order the workshop meeting of the Bartlesville City Council by Mayor Copeland.
2. Roll Call and Establishment of a Quorum.
3. Invocation.
4. Citizens to be heard.
5. City Council Announcements and Proclamations.
6. Presentation of and discussion on the Oklahoma State Law on Medical Marijuana and the potential impact on several areas of City law. Presented by Lisa Beeman, Community Development Director.
7. Presentation of and discussion on a proposed Ordinance amending Chapters 12 and 13 of the Municipal Code of the City of Bartlesville, Oklahoma, to provide consistency with Oklahoma States Laws and Regulations, commonly cited as the Smoking in Public Places and Indoor Workplaces Act; prohibiting smoking in certain areas of any City park or recreational facility; and providing for the severability thereof. Presented by Lisa Beeman, Community Development Director.
8. Presentation of and discussion on a proposed Ordinance amending Chapters 5, 12 and 18 of the Municipal Code of the City of Bartlesville, Oklahoma, to provide consistency with Oklahoma State Laws and Regulations, commonly cited as the Oklahoma Alcoholic Beverage Control Act; removing all references to non-intoxicating beverages or low point beer; providing for violations and punishment thereof; acknowledging an interim period; and providing for the severability thereof. Presented by Lisa Beeman, Community Development Director.
9. City Manager and Staff Reports.
10. City Council Comments and Inquiries.
11. Adjournment.

The Notice of Meeting and Agenda was received and filed in the Office of the City Clerk and posted in prominent public view at City Hall at 2:00 p.m. on Thursday, August 9, 2018.



Jason Muninger, City Clerk/Finance Director



by Elaine Banes, Deputy City Clerk

All discussion items are subject to possible action by the City Council. Agenda items requiring a public hearing as required by law will be so noted. The City Council may at their discretion change the order of the business agenda items. City of Bartlesville encourages participation from all its citizens. If participation at any public meeting is not possible due to a disability, notification to the City Clerk at least one working day prior to the scheduled meeting is encouraged to make the necessary accommodations. The City may waive this rule if signing is not the necessary accommodation.

MEMO

TO: Mike Bailey, City Manager
FROM: Lisa Beeman, Community Development Director
Laura Sanders, HR Manager
Rocky Bevard, Interim Police Chief
Terry Lauritsen, Utilities Director
DATE: August 7, 2018
RE: Oklahoma State Law on Medical Marijuana

SUMMARY

State Question 788, entitled Medical Marijuana, approved by the voters of Oklahoma on June 26, 2018, legalized marijuana for medical use. Codified as Title 63, Chapter 15, Section 420A et. seq., this law went into effect on July 26, 2018 (see [Attachment 1](#)). Oklahoma joins 29 other states that have legalized marijuana for medicinal use. The Oklahoma State Department of Health is currently working to finalize the administrative code for the implementation of this State Law. This law impacts several areas of City law as discussed herein.

OKLAHOMA STATE LAW, REGULATIONS, AND RULES

On August 25, 2018, the Oklahoma Medical Marijuana Authority, established under the Oklahoma State Department of Health, will begin receiving and reviewing applications for medical license recipients, dispensaries, growers, and packagers. The State Department has two weeks to review and approve or reject applications, which would be roughly September 10, 2018 at the earliest before applications might be approved.

The provisions of this new State law include:

1. The law provides methods for obtaining the following types of licenses:
 - a) a patient license for which a physician has recommended the use of medical marijuana;
 - b) a caregiver's license for which a physician has certified that the patient is homebound or does not have the capability to self-administer or purchase medical marijuana due to a developmental disability or a physical or cognitive impairment;
 - c) a medical marijuana dispensary license to sell medical marijuana and medical marijuana products,
 - d) a commercial grower license to grow, harvest, and package medical marijuana,
 - e) a commercial marijuana processing license to prepare, manufacture, package, sell, and deliver medical marijuana products to a licensed dispensary,
 - f) a medical marijuana transportation license will be provided with an approved grower, processor or dispensary license to legally transport medical marijuana; and
 - g) a marijuana research license to product, process, transport, and possess marijuana solely for human and plant research purposes.
2. A person in possession of a state issued medical marijuana license shall be able to:
 - a) Consume marijuana legally;

- b) Legally possess up to 3 ounces of marijuana on their person;
 - c) Legally possess 6 mature marijuana plants;
 - d) Legally possess 6 seedling plants;
 - e) Legally possess 1 ounce of concentrated marijuana;
 - f) Legally possess 72 ounces of edible marijuana; and
 - g) Legally possess up to 8 ounces of marijuana in their residence.
3. Counties and cities may enact medical marijuana guidelines allowing medical marijuana license holders or caregivers to exceed the State's limits set forth above.
 4. All applications for a medical marijuana license must be signed by an Oklahoma Board certified physician; there are no qualifying conditions. Applications may only be rejected based on the applicant not meeting stated criteria or an improper completion of the application.
 5. All applicants must be over the age of 18; a special exception is made for a minor if the signature of two physicians are obtained along with the signature of the applicant's parent or legal guardian.
 6. A school or landlord cannot refuse to enroll or lease to an individual based on their status as a medical marijuana license holder, unless failing to do so would imminently cause the entity to lose a monetary or licensing related benefit under federal law.
 7. No medical marijuana license holder may be denied custody of or visitation with a minor unless there is a presumption of neglect or child endangerment;
 8. No city or local municipality may unduly change or restrict zoning laws to prevent the opening of a retail marijuana establishment;
 9. The location of any retail marijuana establishment is prohibited within one thousand feet of any public or private school entrance; and
 10. A tax on retail medical marijuana sales will be established at 7% of the gross amount received by the seller and revenue from the tax would finance regulatory costs. Any surplus would be distributed 75% to the General Fund to be used for education, and 25% to the Oklahoma State Department of Health to be used for drug and alcohol rehabilitation.

IMPACT OF STATE LAW UPON CITY REGULATIONS

Zoning and Land Use

The new law provides for new land uses that require regulations by the City of Bartlesville pursuant to the current Zoning Regulations. These land uses and their regulation under the current Zoning Regulations are as follows:

1. Growing of the marijuana plant would be deemed an agricultural land use. The Zoning Regulations permit the growing of agricultural field crops by right in the RA, Residential Agricultural District, as well as in all Residential Districts (RS Single-Family Residential; RM Multi-Family Residential; and RT Mobile Home Residential District). However, retail sales of agricultural products raised on the premises is permitted only in the RA district. Medical license holders, or patients issued a license for personal medical use, will most likely be located in residential zoning districts, where growing of the marijuana plant for medical purposes is permitted by right as an accessory use.

Agricultural crops are also allowed in four commercial zoning districts (C-3, C-5, C-6, and C-7) and in the three industrial districts (M-1, M-2, and M-3). Section 422A Subsection (D) of

the new law states there shall be no limits on how much marijuana a commercial licensed grower can grow.

2. Processing and packaging of the marijuana plant for produce would be deemed a manufacturing or industrial activity. Depending upon the extent of the processing system, this would be permitted in three commercial zoning districts (C-4, C-5, and C-7) and within the three industrial zoning districts (M-1, M-2, and M-3).
3. Retail sales of medical marijuana products, or a medical marijuana dispensary, would be deemed a commercial land use, similar to a drug store or pharmacy. This is permitted in five of the commercial zoning districts (C-2, C-3, C-4, C-5, and C-7). Section 425A Subsection (F) of the new law states that no city or local municipality may unduly change or restrict zoning laws to prevent the opening of a retail marijuana establishment, and the following Subsection (G) states that the location of any retail marijuana establishment is specifically prohibited within 1,000 feet from any public or private school entrance. Attachment 2 is a map identifying areas in Bartlesville that are within 1,000 feet of a public or private school entrance. As shown on this map, the majority of the areas which are zoned to accommodate a medical marijuana dispensary are not affected by the 1,000' limitation, except for the Downtown Central Business District. Due to the location of RSU, a retail marijuana dispensary cannot be located in Downtown Bartlesville.

The new State law states that no city may change or restrict zoning laws to prevent the opening of a retail marijuana establishment, which appears to refer to a licensed medical marijuana dispensary, but is silent on a city's ability to do so with regard to a licensed establishment for a commercial grower, processor, or researcher.

City of Bartlesville Personnel Manual/ Drug-Free Workplace/Substance Abuse Policy

Section 425A Subsection (B) of the new law prohibits employers from discriminating against an employee for holding a marijuana license. Action may be taken against these employees if the holder of the license uses or possesses marijuana in his or her place of employment or during hours of employment. Action may not be taken against a marijuana license holder due to results of a drug test showing positive for marijuana or its components.

Oklahoma Statute Title 40 § 554 in the Standards for Workplace Drug and Alcohol Testing Act allows Oklahoma employers to require employees to take a drug test following a workplace accident that results in injury or property damage, at random, as part of a routine fitness for-duty exam, or as a follow-up to a rehabilitation program. Employers may also test if they have a reasonable belief that an employee is under the influence of drugs at work. Under current law, if an employer has in place a complying workplace drug and alcohol testing policy, and the applicant tests positive for a prohibited substance, such as marijuana, the applicant may be denied employment. Additionally, if an employee tests positive for a prohibited substance, the employer has the options of discipline, suspension or termination of the employee. Title 40 § 552(6) defines "drug" as amphetamines, **cannabinoids**, cocaine, phencyclidine (PCP), hallucinogens, methaqualone, opiates, barbiturates, benzodiazepines, synthetic narcotics, designer drugs, or a metabolite of any of the substances listed.

Section 6-1 of the City of Bartlesville Personnel manual sets out the reasons for disciplinary action up to termination, which includes the “use, sale, possession, unlawful manufacture, distribution, dispensing or being under the influence of alcohol or drugs during working hours.” The use of the term “drugs” refers to any substance, legal or illegal, prescribed or non-prescribed, which impairs an employee’s ability to perform the normal job duties.

The City’s Substance Abuse Policy states the City of Bartlesville has a vital interest in providing for the safety and well-being of all employees and the public and maintaining efficiency and productivity in all of its operations. The City is committed to the maintenance of a drug and alcohol free workplace.

Offenses Involving Controlled Substances

Under the State law, unlicensed persons caught with possession of marijuana, but who “can state a medical condition” can be punished by a fine not exceeding \$400. A person could state he/she has a subjective medical condition and pay the fine.

The Bartlesville Municipal Code would regulate medical marijuana under Chapter 12 Offenses, Article V, Controlled Substances, and, further, as provided by the Uniform Controlled Dangerous Substances Act of the State of Oklahoma. The State administrative rules which accompany the State Law also state that smoking of marijuana or marijuana-derived product shall be subject to the same restrictions for tobacco under the Smoking in Public Places and Indoor Workplaces Act.

The possession, use, cultivation, distribution or transportation of marijuana or marijuana-derived product for non-medical purposes remains illegal within the City of Bartlesville.

Taxation

The new law creates a 7% sales tax paid to the State for marijuana sales. Municipalities may collect a sales tax on purposes the state also collects a tax on, unless specifically prohibited by law (Oklahoma Statutes, Title 68 Section 2701).

Federal Laws

While marijuana is still illegal under the federal level, enforcement of federal marijuana laws has not been strictly implemented against medical marijuana user licenses authorized by individual states. On January 4, 2018, U.S. Attorney General Jeff Sessions rescinded the Cole Memo, a 2013 directive that deprioritized the enforcement of federal marijuana laws in states where marijuana had been legalized. This allows federal prosecutors to decide whether or not to enforce federal law regarding marijuana even in states where its use has been legalized by individual states.

NEXT STEPS

Staff is working with the City Attorney to prepare a draft ordinance which would amend the Municipal Code of the City of Bartlesville to regulate medical marijuana as per the Oklahoma state law. This will be ready for presentation to the City Council at its Monday, August 13 workshop meeting.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 15 - Narcotic Drugs

Medical Marijuana

Section 420A - License - Application - Records - Requirements - Caregiver License - Counties and Cities

Cite as: 63 O.S. § 420A (OSCN 2018), Medical Marijuana

A. A person in possession of a state issued medical marijuana license shall be able to:

1. Consume marijuana legally;
2. Legally possess up to three (3) ounces of marijuana on their person;
3. Legally possess six (6) mature marijuana plants;
4. Legally possess six (6) seedling plants;
5. Legally possess one (1) ounce of concentrated marijuana;
6. Legally possess seventy-two (72) ounces of edible marijuana; and
7. Legally possess up to eight (8) ounces of marijuana in their residence.

B. Possession of up to one and one-half (1.5) ounces of marijuana by persons who can state a medical condition, but not in possession of a state issued medical marijuana license, shall constitute a misdemeanor offense with a fine not to exceed Four Hundred Dollars (\$400.00).

C. A regulatory office shall be established under the Oklahoma State Department of Health which will receive applications for medical license recipients, dispensaries, growers, and packagers within sixty (60) days of the passage of this initiative.

D. The Oklahoma State Department of Health shall within thirty (30) days of passage of this initiative, make available, on their website, in an easy to find location, an application for a medical marijuana license. The license will be good for two (2) years, and the application fee will be One Hundred Dollars (\$100.00), or Twenty Dollars (\$20.00) for individuals on Medicaid, Medicare, or SoonerCare. The methods of payment will be provided on the website.

E. A temporary license application will also be available on the Oklahoma Department of Health website. A temporary medical marijuana license will be granted to any medical marijuana license holder from other states, provided that the state has a state regulated medical marijuana program, and the applicant can prove they are a member of such. Temporary licenses will be issued for thirty (30) days. The cost for a temporary license shall be One Hundred Dollars (\$100.00) Renewal will be granted with resubmission of a new application. No additional criteria will be required.

F. Medical marijuana license applicants will submit their application to the Oklahoma State Department of Health for approval and that the applicant must be an Oklahoma state resident and shall prove residency by a valid driver's license, utility bills, or other accepted methods.

G. The Oklahoma State Department of Health shall review the medical marijuana application, approve/reject the application, and mail the applicant's approval or rejection letter (stating reasons for rejection) to the applicant within fourteen (14) days of receipt of the application. Approved applicants will be issued a medical marijuana license which will act as proof of their approved status. Applications may only be rejected based on applicant not meeting stated criteria or improper completion of the application.

H. The Oklahoma State Department of Health will only keep the following records for each approved medical license:

1. a digital photograph of the license holder;
2. the expiration date of the license;
3. the county where the card was issued; and
4. a unique 24 character identification number assigned to the license.

I. The Department of Health will make available, both on its website, and through a telephone verification system, an easy method to validate a medical license holders authenticity by the unique 24 character identifier.

J. The State Department of Health will ensure that all application records and information are sealed to protect the privacy of medical license applicants.

K. A caregiver license will be made available for qualified caregivers of a medical marijuana license holder who is homebound. The caregiver license will give the caregiver the same rights as the medical license holder. Applicants for a caregiver license will submit proof of the medical marijuana license holder's license status and homebound status, that they are the designee of the medical marijuana license holder, must submit proof that the caregiver is age eighteen (18) or older, and must submit proof the caregiver is an Oklahoma resident. This will be the only criteria for a caregiver license.

L. All applicants must be eighteen (18) years or older. A special exception will be granted to an applicant under the age of eighteen (18), however these applications must be signed by two (2) physicians and the applicant's parent or legal guardian.

M. All applications for a medical license must be signed by an Oklahoma Board certified physician. There are no qualifying conditions. A medical marijuana license must be recommended according to the accepted standards a reasonable and prudent physician would follow when recommending or approving any medication. No physician may be unduly stigmatized or harassed for signing a medical marijuana license application.

N. Counties and cities may enact medical marijuana guidelines allowing medical marijuana license holders or caregivers to exceed the state limits set forth in subsection A of this section.

Historical Data

Added by Section 1, State Question 788, Initiative Petition 412, adopted at election held June 26, 2018, effective one (1) month immediately following its passage.

Citationizer® Summary of Documents Citing This Document

Cite **Name Level**

None Found.

Citationizer: Table of Authority

Cite **Name Level**

None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 15 - Narcotic Drugs

Medical Marijuana

Section 421A - Dispensary License - Application - Criteria - Report - Penalties

Cite as: 63 O.S. § 421A (OSCN 2018), Medical Marijuana

A. The Oklahoma State Department of Health shall within thirty (30) days of passage of this initiative, make available, on their website, in an easy to find location, an application for a medical marijuana dispensary license. The application fee shall be Two Thousand Five Hundred Dollars (\$2,500.00) and a method of payment will be provided on the website. Retail applicants must all be Oklahoma state residents. Any entity applying for a retail license must be owned by an Oklahoma state resident and must be registered to do business in Oklahoma. The Oklahoma State Department of Health shall have two (2) weeks to review the application, approve or reject the application, and mail the approval/rejection letter (if rejected, stating reasons for rejection) to the applicant.

B. The Oklahoma State Department of Health must approve all applications which meet the following criteria:

1. Applicant must be age twenty-five (25) or older;
2. Any applicant, applying as an individual, must show residency in the state of Oklahoma;
3. All applying entities must show that all members, managers, and board members are Oklahoma residents;
4. An applying entity may show ownership of non-Oklahoma residents, but that percentage ownership may not exceed twenty-five percent (25%);
5. All applying individuals or entities must be registered to conduct business in the state of Oklahoma;
6. All applicants must disclose all ownership;
7. Applicant(s) with only nonviolent felony conviction(s) in the last two (2) years, any other felony conviction in 5 (years), inmates, or any person currently incarcerated may not qualify for a medical marijuana dispensary license.

C. Retailers will be required to complete a monthly sales report to the Oklahoma Department of Health. This report will be due on the 15th of each month and provide reporting on the previous month. This report will detail the weight of marijuana purchased at wholesale and the weight of marijuana sold to card holders, and account for any waste. The report will show total sales in dollars, tax collected in dollars, and tax due in dollars. The Oklahoma State Department of Health will have oversight and auditing responsibilities to ensure that all marijuana being grown is accounted for. A retailer will only be subject to a penalty if a gross discrepancy exists and cannot be explained. Penalties for fraudulent reporting occurring within any 2 year time period will be an initial fine of Five Thousand Dollars (\$5,000.00) (first) and revocation of licensing (second).

D. Only a licensed medical marijuana retailer may conduct retail sales of marijuana, or marijuana derivatives in the form provided by licensed processors, and these products can only be sold to a medical marijuana license holder or their caregiver. Penalties for fraudulent sales occurring within any 2 year time period will be an initial fine of Five Thousand Dollars (\$5,000.00) (first) and revocation of licensing (second).

Historical Data

Added by Section 2, State Question 788, Initiative Petition 412, adopted at election held June 26, 2018, effective one (1) month immediately following its passage.

Citationizer[®] Summary of Documents Citing This Document

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 15 - Narcotic Drugs

Medical Marijuana

Section 422A - Commerical Grower License - Application - Criteria - Sales - Report - Penalties

Cite as: 63 O.S. § 422A (OSCN 2018), Medical Marijuana

A. The Oklahoma State Department of Health will within thirty (30) days of passage of this initiative, make available, on their website, in an easy to find location, an application for a commercial grower license. The application fee will be Two Thousand Five Hundred Dollars (\$2,500.00) and methods of payment will be provided on the website. The Oklahoma State Department of Health has two (2) weeks to review application, approve or reject the application, and mail the approval/rejection letter (if rejected, stating reasons for rejection) to the applicant.

B. The Oklahoma State Department of Health must approve all applications which meet the following criteria:

1. Applicant must be age twenty-five (25) or older;
2. Any applicant, applying as an individual, must show residency in the state of Oklahoma;
3. All applying entities must show that all members, managers, and board members are Oklahoma residents;
4. An applying entity may show ownership of non-Oklahoma residents, but that percentage ownership may not exceed twenty-five percent (25%);
5. All applying individuals or entities must be registered to conduct business in the state of Oklahoma;
6. All applicants must disclose all ownership;
7. Applicant(s) with only nonviolent felony conviction(s) in the last two (2) years, any other felony conviction in 5 (years), inmates, or any person currently incarcerated may not qualify for a commercial grower license.

C. A licensed commercial grower may sell marijuana to a licensed retailer, or a licensed packager. Further, these sales will be considered wholesale sales and not subject to taxation. Under no circumstances may a licensed commercial grower sell marijuana directly to a medical marijuana license holder. A licensed commercial grower may only sell at the wholesale level to a licensed retailer or a licensed processor. If the federal government lifts restrictions on buying and selling marijuana between states, then a licensed commercial grower would be allowed to sell and buy marijuana wholesale from, or to, an out of state wholesale provider. A licensed commercial grower will be required to complete a monthly yield and sales report to the Oklahoma Department of Health. This report will be due on the 15th of each month and provide reporting on the previous month. This report will detail amount of marijuana harvested in pounds, the amount of drying or dried marijuana on hand, the amount of marijuana sold to processors in pounds, the amount of waste in pounds, and the amount of marijuana sold to retailers in lbs. Additionally, this report will show total wholesale sales in dollars. The Oklahoma State Department of Health will have oversight and auditing responsibilities to ensure that all marijuana being grown is accounted for. A licensed grower will only be subject to a penalty if a gross discrepancy exists and cannot be explained. Penalties for fraudulent reporting or sales occurring within any 2 year time period will be an initial fine of Five Thousand Dollars (\$5,000.00) (first) and revocation of licensing (second).

D. There shall be no limits on how much marijuana a licensed grower can grow.

Historical Data

Added by Section 3, State Question 788, Initiative Petition 412, adopted at election held June 26, 2018, effective one (1) month immediately following its passage.

Citationizer® Summary of Documents Citing This Document

Cite Name Level

None Found.

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 15 - Narcotic Drugs

Medical Marijuana

Section 423A - Processing License - Application - Criteria - Standards - Inspection - Sales - Report - Paraphernalia

Cite as: 63 O.S. § 423A (OSCN 2018), Medical Marijuana

A. The Oklahoma State Department of Health shall within thirty (30) days of passage of this initiative, make available, on their website, in an easy to find location, an application for a medical marijuana processing license. The application fee shall be Two Thousand Five Hundred Dollars (\$2,500.00) and methods of payment will be provided on the website. The Oklahoma State Department of Health shall have two (2) weeks to review the application, approve or reject the application, and mail the approval/rejection letter (if rejected, stating reasons for rejection) to the applicant.

B. The Oklahoma State Department of Health must approve all applications which meet the following criteria:

1. Applicant must be age twenty-five (25) or older;
2. Any applicant, applying as an Individual, must show residency in the state of Oklahoma;
3. All applying entities must show that all members, managers, and board members are Oklahoma residents;
4. An applying entity may show ownership of non-Oklahoma residents, but that percentage ownership may not exceed twenty-five percent (25%);
5. All applying individuals or entities must be registered to conduct business in the state of Oklahoma;
6. All applicants must disclose all ownership;
7. Applicant(s) with only nonviolent felony conviction(s) in the last two (2) years, any other felony conviction in 5 (years), inmates, or any person currently incarcerated may not qualify for a medical marijuana processing license.

C. A licensed processor may take marijuana plants and distill or process these plants into concentrates, edibles, and other forms for consumption. As required by subsection D of this section, the Oklahoma State Department of Health will, within sixty (60) days of passage of this initiative, make available a set of standards which will be used by licensed processors in the preparation of edible marijuana products. This should be in line with current food preparation guidelines and no excessive or punitive rules may be established by the Oklahoma State Department of Health. Once a year, the Oklahoma State Department of Health may inspect a processing operation and determine its compliance with the preparation standards. If deficiencies are found, a written report of deficiency will be issued to the processor. The processor will have one (1) month to correct the deficiency or be subject to a fine of Five Hundred Dollars (\$500.00) for each deficiency. A licensed processor may sell marijuana products it creates to a licensed retailer, or any other licensed processor. Further, these sales will be considered wholesale sales and not subject to taxation. Under no circumstances may a licensed processor sell marijuana, or any marijuana product, directly to a medical marijuana license holder. However, a licensed processor may process cannabis into a concentrated form, for a medical license holder, for a fee. Processors will be required to complete a monthly yield and sales report to the Oklahoma State Department of Health. This report will be due on the 15th of each month and provide reporting on the previous month. This report will detail amount of marijuana purchased in pounds, the amount of marijuana cooked or processed in pounds, and the amount of waste in pounds. Additionally, this report will show total wholesale sales in dollars. The Oklahoma State Department of Health will have oversight and auditing responsibilities to ensure that all marijuana being grown is accounted for. A licensed processor will only be subject to a penalty if a gross discrepancy exists and cannot be explained. Penalties for fraudulent reporting occurring within any 2 year time period will be an initial fine of Five Thousand Dollars (\$5,000.00) (first) and revocation of licensing (second).

D. The inspection and compliance of processors producing products with marijuana as an additive. The Oklahoma State Department of Health will be compelled to, within thirty (30) days of passage of this initiative, appoint a board of twelve (12) Oklahoma residents, who are marijuana industry experts, to create a list of food safety standards for processing and handling medical marijuana in Oklahoma. These standards will be adopted by the agency and the agency can enforce these standards for processors. The agency will develop a standards review procedure and these standards can be altered by calling another board of twelve (12) Oklahoma marijuana industry experts. A signed letter of twenty (20) operating processors would constitute a need for a new board and standard review.

E. If it becomes permissible, under Federal law, marijuana may be moved across state lines.

F. Any device used for the consumption of medical marijuana shall be considered legal to be sold, manufactured, distributed, and possessed. No merchant, wholesaler, manufacturer, or individual may unduly be harassed or prosecuted for selling, manufacturing, or possession of medical marijuana paraphernalia.

Historical Data

Added by Section 4, State Question 788, Initiative Petition 412, adopted at election held June 26, 2018, effective one (1) month immediately following its passage.

Citationizer® Summary of Documents Citing This Document

Cite **Name Level**

None Found.

Citationizer: Table of Authority

Cite **Name Level**

None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 15 - Narcotic Drugs

Medical Marijuana

Section 424A - Transportation License - Labeling

Cite as: 63 O.S. § 424A (OSCN 2018), Medical Marijuana

A. A marijuana transportation license will be issued to qualifying applicants for a marijuana retail, growing, or processing license. The transportation license will be issued at the time of approval of a retail, growing, or processing license.

B. A transportation license will allow the holder to transport marijuana from an Oklahoma licensed medical marijuana retailer, licensed growing facility, or licensed processor facility to an Oklahoma licensed medical marijuana retailer, licensed growing facility, or licensed processing facility.

C. All marijuana or marijuana products shall be transported in a locked container and clearly labeled "Medical Marijuana or Derivative".

Added by Section 5, State Question 788, Initiative Petition 412, adopted at election held June 26, 2018, effective one (1) month immediately following its passage.

Citationizer[®] Summary of Documents Citing This Document

Cite *Name Level*

None Found.

Citationizer: Table of Authority

Cite *Name Level*

None Found.

Historical Data



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 15 - Narcotic Drugs

Medical Marijuana

Section 425A - License Holder Protection - Non-Discrimination - Authorized Use - Zoning - Location - Research License

Cite as: 63 O.S. § 425A (OSCN 2018), Medical Marijuana

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- A. No school or landlord may refuse to enroll or lease to and may not otherwise penalize a person solely for his status as a medical marijuana license holder, unless failing to do so would imminently cause the school or landlord to lose a monetary or licensing related benefit under federal law or regulations.
 - B. Unless a failure to do so would cause an employer to imminently lose a monetary or licensing related benefit under Federal law or regulations, an employer may not discriminate against a person in hiring, termination or imposing any term or condition of employment or otherwise penalize a person based upon either:
 1. The person's status as a medical marijuana license holder; or
 2. Employers may take action against a holder of a medical marijuana license holder if the holder uses or possesses marijuana while in the holder's place of employment or during the hours of employment. Employers may not take action against the holder of a medical marijuana license solely based upon the status of an employee as a medical marijuana license holder or the results of a drug test showing positive for marijuana or its components.
 - C. For the purposes of medical care, including organ transplants, a medical marijuana license holder's authorized use of marijuana must be considered the equivalent of the use of any other medication under the direction of a physician and does not constitute the use of an illicit substance or otherwise disqualify a registered qualifying patient from medical care.
 - D. No medical marijuana license holder may be denied custody of or visitation or parenting time with a minor, and there is no presumption of neglect or child endangerment for conduct allowed under this law, unless the person's behavior creates an unreasonable danger to the safety of the minor.
 - E. No person holding a medical marijuana license may unduly be withheld from holding a state issued license by virtue of their being a medical marijuana license holder. This would include such things as a concealed carry permit.
 - F. No city or local municipality may unduly change or restrict zoning laws to prevent the opening of a retail marijuana establishment.
 - G. The location of any retail marijuana establishment is specifically prohibited within one thousand (1,000) feet from any public or private school entrance.
 - H. Research will be provided under this law. A researcher may apply to the Oklahoma Department of Health for a special research license. That license will be granted, provided the applicant meet the criteria listed under Section 421. B. Research license holders will be required to file monthly consumption reports to the Oklahoma Department of Health with amounts of marijuana used for research.
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Added by Section 6, State Question 788, Initiative Petition 412, adopted at election held June 26, 2018, effective one (1) month immediately following its passage.

Citationizer® Summary of Documents Citing This Document

Cite Name Level

None Found.

Citationizer: Table of Authority

Cite Name Level

None Found.

Historical Data



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 15 - Narcotic Drugs

Medical Marijuana

Section 426 - Taxation - Apportionment

Cite as: 63 O.S. § 426 (OSCN 2018), Medical Marijuana

-
- A. The tax on retail medical marijuana sales will be established at seven percent (7%) of the gross amount received by the seller.
- B. This tax will be collected at the point of sale. Tax proceeds will be applied primarily to finance the regulatory office.
- C. If proceeds from the levy authorized by subsection A of this section exceed the budgeted amount for running the regulatory office, any surplus shall be apportioned with seventy-five percent (75%) going to the General Revenue Fund and may only be expended for common education. Twenty-five percent (25%) shall be apportioned to the Oklahoma State Department of Health and earmarked for drug and alcohol rehabilitation.
-

Added by Section 7, State Question 788, Initiative Petition 412, adopted at election held June 26, 2018, effective one (1) month immediately following its passage.

Citationizer[®] Summary of Documents Citing This Document

Cite Name Level

None Found.

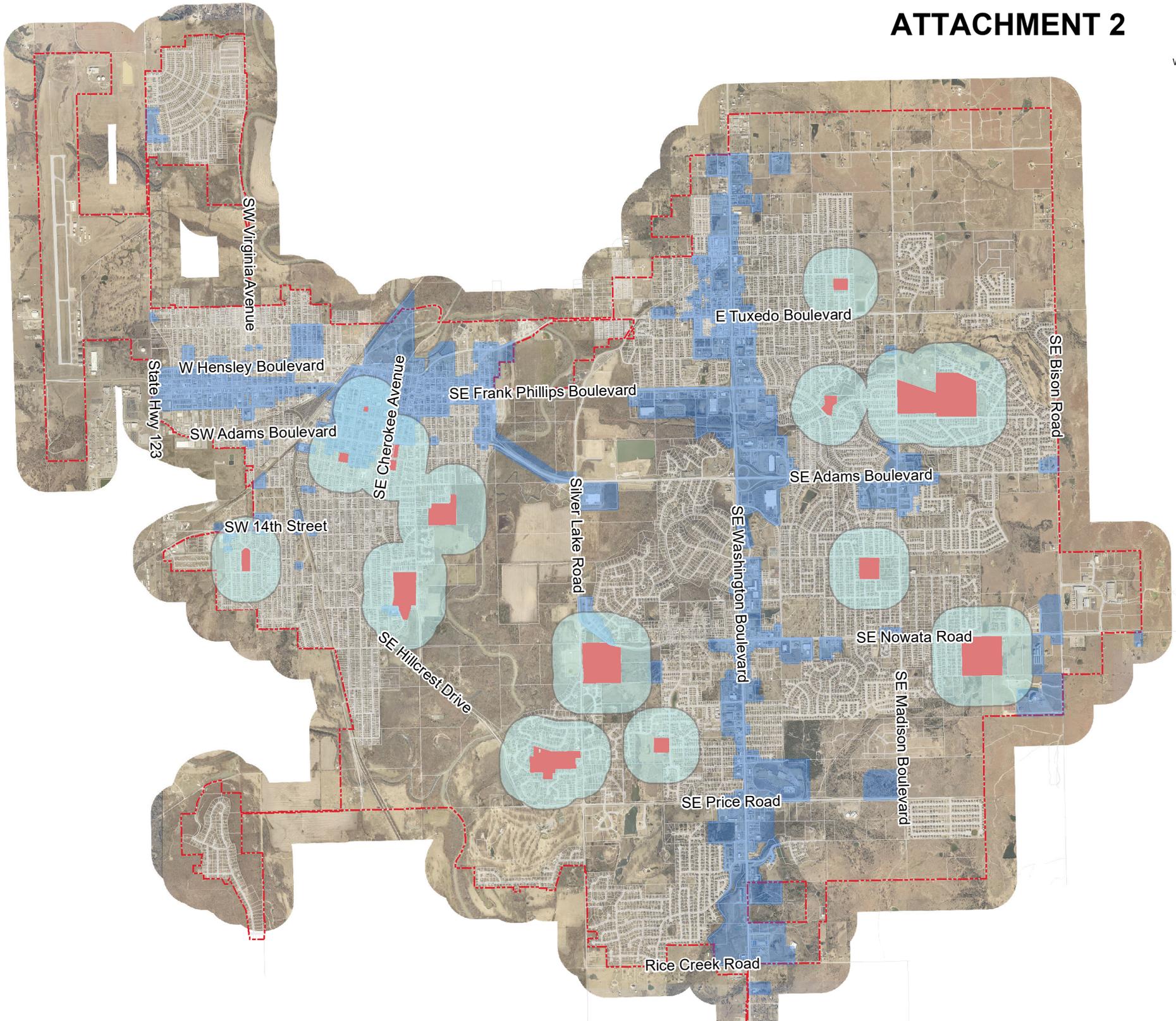
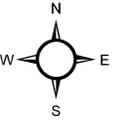
Citationizer: Table of Authority

Cite Name Level

None Found.

Historical Data

ATTACHMENT 2



SW Virginia Avenue

State Hwy 123

W Hensley Boulevard

SW Adams Boulevard

SW 14th Street

SE Cherokee Avenue

SE Frank Phillips Boulevard

Silver Lake Road

SE Hillcrest Drive

SE Price Road

Rice Creek Road

E Tuxedo Boulevard

SE Washington Boulevard

SE Adams Boulevard

SE Nowata Road

SE Madison Boulevard

SE Bison Road

MEMO

TO: Mike Bailey, City Manager
FROM: Lisa Beeman, Community Development Director
DATE: August 7, 2018
RE: Smoking in Public Places and Indoor Workplaces

SUMMARY

The administrative rules adopted by the Oklahoma State Department of Health regulating medical marijuana apply the “Smoking in Public Places and Indoor Workplaces Act” to smokable medical marijuana products. As such, an amendment to the Bartlesville municipal code needs to be made to remain consistent with Oklahoma State Law.

The attached draft ordinance amends Chapter 12 of the Municipal Code which regulates offenses against property which includes smoking. The proposed amendment to this Chapter makes it clear that smoking as regulated by this Section of the Code applies to both tobacco and medical marijuana products.

The draft ordinance also proposes including a new regulation which would prohibit smoking of both tobacco and medical marijuana products in certain areas within city parks, parkways, trails, recreation areas, and open space lands.

CONCLUSION

Please include the attached draft ordinance for consideration by the City Council at its Monday, August 13 workshop meeting.

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BARTLESVILLE, OKLAHOMA AMENDING CHAPTERS 12 AND 13 OF THE MUNICIPAL CODE OF THE CITY OF BARTLESVILLE, OKLAHOMA, TO PROVIDE CONSISTENCY WITH OKLAHOMA STATES LAWS AND REGULATIONS, COMMONLY CITED AS THE SMOKING IN PUBLIC PLACES AND INDOOR WORKPLACES ACT; PROHIBITING SMOKING IN CERTAIN AREAS OF ANY CITY PARK OR RECREATIONAL FACILITY; AND PROVIDING FOR THE SEVERABILITY THEREOF.

WHEREAS, smoking is a proven health threat via direct and second hand smoke to both children and adults and sets an unhealthy example for children;

WHEREAS, the administrative rules adopted by the Oklahoma State Department of Health regulating medical marijuana as authorized by Title 63, Section 420A through 426, inclusive, places restrictions on smokable medical marijuana and medical marijuana products;

WHEREAS, State restrictions for tobacco under the “Smoking in Public Places and Indoor Workplaces Act” also apply to smokable medical marijuana products; and

WHEREAS, City Council of Bartlesville finds and declares that the purposes of this ordinance are (1) to comply with applicable State law; (2) to protect the public health and welfare by prohibiting smoking in enclosed places and specified outdoor areas within the City; and (3) to guarantee the right of nonsmokers to breathe smoke-free air, and recognizing that the need to breathe smoke-free air shall have priority over the desire to smoke.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BARTLESVILLE, OKLAHOMA:

§ 1. Code Amendment. That Chapter 12, Offenses, Article VII, Offenses Against Property, Sections 12-120 of the Code of the City of Bartlesville shall be amended to read as follows:

Sec. 12-120. Smoking Prohibitions

- (1) Adoption of State Statutes and Rules. The City of Bartlesville hereby adopts by reference the following:
 - a) all regulations now contained or hereafter contained in Title 63 of the Oklahoma Statutes, Section 1-1521 et. seq., commonly referred to as the

“Smoking in Public Places and Indoor Workplaces Act” and all administrative rules adopted by the Oklahoma State Department of Health to implement said act.

- b) all regulations now contained or hereafter contained in Title 63 of the Oklahoma Statutes, Section 420A et. seq., concerning medical marijuana and all administrative rules adopted by the Oklahoma State Department of Health to implement said act.

(2) Definitions:

- a) “Smoking Device” shall mean a lighted cigar, cigarette, pipe, or other lighted or heated device, pipe, or product, including electronic or battery operated devices, intended for inhalation of a product in any manner or in any form, including but not limited to vaping, inhaling, exhaling or burning, whether natural or synthetic.
- b) “Smoke” means the gases and particles released into the air by combustion, electrical ignition or vaporization, including from an Electronic Smoking Device, when the apparent or usual purpose of the combustion, electrical ignition or vaporization is human inhalation of the resulting gases, particles or vapor combustion products, such as, for example, tobacco smoke or marijuana smoke, except when the combusting material contains no tobacco, marijuana, or similar substance, and the purpose of inhalation is solely olfactory, such as, for example, smoke from incense.
- c) “Smoking” means engaging in an act that generates Smoke, such as for example, but not limited to: possessing a lighted pipe, a lighted hookah pipe, a lighted cigar, an operating Electronic Smoking Device, a lighted cigarette of any kind or a lighted smoke inhalation device of any kind that generates Smoke, or the act of lighting or igniting a pipe, a hookah pipe, a cigar, a cigarette or Smoke inhalation device of any kind that generates Smoke.
- d) "Tobacco Product" means:
 - 1. Any substance containing or derived from tobacco leaf, including but not limited to cigarettes, Electronic Smoking Devices, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, blunts, clove cigarettes, or any other preparation of tobacco; and
 - 2. Any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body by inhalation; but does not include any cessation product specifically approved by the U. S. Food and Drug Administration for use in treating nicotine or tobacco dependence.
- e) “Medical Marijuana Product” means any substance containing or derived from cannabinoids, including concentrates, that have been extracted from

plant material or the resin therefrom by physical or chemical means and is intended for administration to a qualified patient, including but not limited to oils, tinctures, edibles, pills, topical forms, gels, creams, forms medically appropriate for administration by vaporization or a nebulizer, patches, tinctures, and liquids excluding live plant forms.

- (3) Restriction on Smoking of Tobacco or Tobacco-Derived Products and Marijuana or Marijuana-Derived Products for Medicinal Purpose. The smoking of any tobacco or tobacco-derived product or any medical marijuana or marijuana products by any legally authorized person shall be prohibited in the following locations:
 - a) In any location prohibited or restricted by any State law or rule;
 - b) In any enclosed, indoor facility or within twenty-five (25) feet of the entrance or exit of any such facility which is now or which may hereafter be owned or under the jurisdiction and control of the City of Bartlesville, whether located within or outside the corporate boundaries of the City; and
 - c) In or within the following areas located within city parks, parkways, trails, recreation areas, and open space lands which are now or which may hereafter be owned or under the jurisdiction and control of the City of Bartlesville, whether located within or outside the corporate boundaries of the City, and as further set forth in Article 13:
 - 1. In or within fifty (50) feet of any playground or play court;
 - 2. In or within fifty (50) feet of the fenced confines of any outdoor recreational facility;
 - 3. In or within fifty (50) feet of all bleachers and stands used by spectators at public events; and
 - 4. On the Pathfinder Parkway Trail System and in the associated trailheads.
- (4) This section shall not prohibit smoking in a private, enclosed room or office occupied exclusively by one or more smokers, even if the room or enclosed office may be visited by a nonsmoker.

§ 2. Code Amendment. That Chapter 13, Parks and Recreation, Article I, In General, Section 13-6 Prohibited Acts, be amended by adding the following paragraph (12):

- (12) Smoking.
 - a. To smoke any tobacco or tobacco-derived product or any medical marijuana or marijuana products by any legally authorized person (1) in or within fifty (50) feet of any playground or play court; (2) within the fenced confines of any outdoor recreational facility, (3) in or within fifty (50) feet of all bleachers and stands used by spectators at public events; and (4) on the Pathfinder Parkway Trail System and in the associated trailheads.

- b. For the purposes of this ordinance, the following definitions shall apply:
- i) A playground shall be defined as any portion of public park land that is designed and equipped with play structures such as swings, climbing structures, water features or the like, primarily, but not exclusively, set aside for children's play. This definition shall include a skateboard park.
 - ii) A play field or play court shall be defined as any portion of public park land that is designed, equipped, and prepared for playing of a game or match, such as soccer, football, baseball, softball, tennis, volleyball, or the like, either fenced or unfenced, that is used for recreational or competitive play.

§ 3. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance, except that the effective date provision shall not be severable from the operative provisions of the ordinance.

PASSED by the City Council and **APPROVED** by the Mayor of the City of Bartlesville, Oklahoma this _____ day of _____, 2018

Dale Copeland, Mayor

ATTEST:

City Clerk

MEMO

TO: Mike Bailey, City Manager
FROM: Lisa Beeman, Community Development Director
DATE: August 7, 2018
RE: State Alcohol Modernization Laws

SUMMARY

A new State alcohol law, passed by the voters as State Question 792 in November of 2016, overhauled Oklahoma's alcohol laws paving the way for wine (up to 15% alcohol content) and full-strength beer (up to 8.99% alcohol content) sales in grocery stores. Codified as Title 37A and commonly cited as the Alcohol Alcoholic Beverage Control, this law goes into effect on October 1, 2018. While the higher alcohol content is perhaps the biggest change in the law, other key changes are also included, which impact several areas of City law as discussed herein.

SIGNIFICANT CHANGES TO THE ALCOHOL BEVERAGE LAWS

The End of Low-Point Beer. Currently, the Alcoholic Beverage Laws Enforcement Commission (ABLE) does not monitor low-point beer, sometimes called non-intoxicating beverages, which are defined as any beverage containing 3.2% or less alcohol by volume (ABV). This includes low-point beer, wine coolers, and other such beverages which can currently be purchased in grocery stores and similar retail establishments. Due to the changes in State law, it is anticipated that such retail facilities that currently sell these products will restock their shelves with full-strength beer and wine as allowed by the new State laws.

In its place, the sales and purchases of all alcohol, anything with a 0.05% alcohol content or higher, will be regulated by ABLE. Significant changes to the State alcohol beverage laws include the following:

1. Grocery stores, gas stations, convenience stores, and other retail establishments will be allowed to sell refrigerated full-strength beer up to 8.99% ABV and wine up to 15% ABV.
2. Liquor stores will be the only retailer permitted to sell spirits, but they will also be able to sell refrigerated beer and wine.
3. Liquor stores will also be the only retailer permitted to sell beer in excess of 8.99% ABV and wine in excess of 15% ABV.
4. Wine and spirits stores will be able to sell items other than alcohol (i.e. products you could normally find in a grocery or convenience store), provided those sales don't exceed 20% of monthly sales.
5. On-premise consumption locations, such as restaurants and bars, may serve alcohol between 8:00 a.m. and 2:00 a.m. on any day.
6. Off-premises consumption locations, like grocery stores and convenience stores, can sell from 6:00 a.m. to 2:00 a.m. on any day.

7. Liquor stores will now be able to open at 8:00 a.m. and sell until midnight, Monday through Saturday. Previously, such stores were only allowed to be open from 10:00 a.m. to 9:00 p.m. Sunday's are still off limits for liquor stores unless changed by the County Commissioners with voter approval.
8. The 300-foot buffer area (from schools or churches) currently required for mixed-beverage and wine bars, and liquor stores remains in place and will now apply to new beer bars as well. Previously this buffer did not apply if the beer bar sold 3.2% or less. Existing low-point beer bars will be grandfathered.

IMPACT OF STATE LAW UPON CITY REGULATIONS

1. Business Licensing and Operational Regulations. An amendment is needed to Chapter 5 of the Municipal Code as it regulates the licensing and operating regulations of alcoholic beverage establishments.
2. Low-Point Beer or Non-Intoxicating Beverages. All references made in the Municipal Code to low-point beer or non-intoxicating beverages needs to be removed.
3. Adoption of Updated State Laws. Adoption of the updated State statutes on alcoholic beverages needs to be added to the Municipal Code by reference and offenses relating thereto (consumption of public property, consumption on private property, public intoxication) need to be included.

CONCLUSION

Attached for Council consideration is a draft ordinance which would amend the Municipal Code of the City of Bartlesville to regulate alcoholic beverages as per the Oklahoma State law. Please include this for consideration by the City Council at its Monday, August 13 workshop meeting.

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BARTLESVILLE, OKLAHOMA AMENDING CHAPTERS 5, 12, 13, AND 18 OF THE MUNICIPAL CODE OF THE CITY OF BARTLESVILLE, OKLAHOMA, TO PROVIDE CONSISTENCY WITH OKLAHOMA STATE LAWS AND REGULATIONS, COMMONLY CITED AS THE OKLAHOMA ALCOHOLIC BEVERAGE CONTROL ACT; REMOVING ALL REFERENCES TO NON-INTOXICATING BEVERAGES OR LOW POINT BEER; PROVIDING FOR VIOLATIONS AND PUNISHMENT THEREOF; ACKNOWLEDGING AN INTERIM PERIOD; AND PROVIDING FOR THE SEVERABILITY THEREOF.

WHEREAS, the State of Oklahoma codified a new section of law cited the “Oklahoma Alcoholic Beverage Control Act” which becomes effective on October 1, 2018; and

WHEREAS, this law impacts the City’s regulation of all businesses which involve the manufacture, distribution, and/or sale of alcoholic beverages, and as such, requires the City of Bartlesville to update its regulations concerning same to comply with Oklahoma State Law; and

WHEREAS, this law impacts the City’s regulation of a person’s use of alcoholic beverages on both public and private property.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BARTLESVILLE, OKLAHOMA:

§ 1. Code Amendment. That Chapter 5, Business Taxes, Licenses, and Regulations, Article III, Alcoholic Beverages, Sections 5-36 through 5-55 of the Code of the City of Bartlesville shall be amended to read as follows:

Article III. Alcoholic Beverages

Sec. 5-36. Adoption of Title 37A. The City of Bartlesville hereby adopts by reference all regulations now contained or hereafter contained in Title 37A of the Oklahoma Statutes, known and cited as the Oklahoma Alcoholic Beverage Control Act.

Sec. 5-37. Definitions.

- (a) All beverages which contain alcohol, unless otherwise defined by law, shall be considered alcoholic beverages and therefore governed by this Article and all other applicable laws.
- (b) All terms and phrases used herein shall be defined in the Oklahoma Alcoholic Beverage Control Act, Title 37A, Oklahoma Statutes, effective October 1, 2018.

Sec. 5-38. Occupational License and Tax.

No person shall operate or maintain any business in this City involving the manufacture, distribution or sale of alcoholic beverages unless the appropriate license, if any, as provided in this Article is first obtained and the appropriate occupational tax as hereinafter levied has been collected.

- (a) An occupational tax, as hereinafter set forth, shall be levied and collected by the Clerk, or the Clerk’s representatives, prior to the issuance of any of the following occupation licenses or permits.

License Type	Fee
Supplier	
Brewer	\$1,250 per year
Small Brewer	\$125 per year
Small Brewer Self-Distribution	\$750 per year
Brew Pub Self-Distribution	\$750 per year
Winemaker	\$625 per year
Small Farm Winery	\$75 per year
Winemaker Self-Distribution	\$750 per year
Distiller or Rectifier	\$3,125 per year
Wine and Spirits Wholesaler	\$3,000 per year
Beer Distributor	\$750 per year
Off Premise Consumption	
Retail Spirits (includes retail wine and beer)	\$900 per year
Retail Wine (wine only)	\$1,000 per year
Retail Beer (beer only)	\$500 per year
On Premise Consumption	
Mixed Beverages	\$1,000 first year \$900 renewal
Beer and Wine	\$500 first year \$450 renewal
Brew Pub	\$1,000 per year
Brew Pub if licensee also holds a mixed beverage or wine and beer permit	\$50 per year
Mixed beverage/caterer combination	\$1,250 first year \$1,150 renewal
Caterer	\$1,000 first year \$900 renewal
Hotel or Airline/Railroad Beverage	\$1,000 first year \$900 renewal

Events	
Annual Special Event	\$55 per year
Quarterly Special Event	\$55 per quarter
Annual Public Event	\$1,000 per year
One-Time Public Event	\$255 per event
Charitable Auction	\$1 per auction
Charitable Alcoholic Beverage Event	\$55 per event

- (b) The occupational license fee for a mixed beverage license for those service organizations or fraternal beneficiary societies which are exempt under Section 501(c)(19), (8), or (10) of the Internal Revenue Code shall be five hundred dollars (\$500.00) per year.
- (c) All occupational licenses shall expire annually at midnight on June 30th. No renewal of a license shall be issued until payment has been made in full of all delinquent business licenses taxes. It shall be the responsibility of each business licensee to obtain and pay for a renewal license regardless of whether or not such licensee has received a renewal notice from the City. The annual fee for a new license granted after the commencement of the license year shall be prorated on a monthly basis. No proration shall be granted for existing license holders who are renewing late.
- (d) The issuance of all occupational licenses required herein are also subject to compliance with all other applicable City, County, State, and Federal laws, rules, and regulations.

Sec. 5-39. Certificate of Compliance.

The City Manager shall be authorized to issue a statement of compliance to the Alcohol Beverage Laws Enforcement Commission indicating compliance by a license applicant with all zoning, building, fire, health, and safety codes of the City. Prior to such certification, all appropriate inspections shall be made to ensure that all codes are complied with.

Sec. 5-40. Operating Rules and Regulations. All occupational license holders shall comply with the following regulations as applicable.

- (a) Brewers and Brewpubs.
 - 1) Hours of Operation. No brewery or brewpub nor any agent, servant or employee of such establishment shall sell, dispense, serve or allow to be consumed any beer on the premises between the hours of 2:00 a.m. and 8:00 a.m.

- (b) Wine, Beer, and Mixed Beverage Sales for On Premise Consumption
 - 1) Hours of Operation. No establishment licensed for the on premise consumption of wine, beer, and/or mixed beverage sales, nor any agent, servant or employee of such establishment shall sell, dispense, serve or allow to be consumed any mixed beverages, beer or wine on the premises between the hours of 2:00 a.m. and 8:00 a.m.
 - 2) Location. It shall be unlawful for any mixed beverage establishment or beer and wine establishment which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises to be located within three hundred (300) feet of any public or private school or church property primarily and regularly used for worship services and religious activities, unless otherwise exempted as per Oklahoma State Statute.

- (c) Retail Spirits or Package Stores Selling Spirits, Wine and/or Beer for Off Premise Consumption
 - 1) Hours of Operation. No establishment licensed as a retail spirits or package store, nor any agent, servant or employee of such establishment shall sell, or allow to be sold any alcoholic beverages at any hour other than between the hours of 8:00 a.m. through midnight, Monday through Saturday, and shall not be permitted to be open on Thanksgiving Day or Christmas Day.
 - 2) Location. It shall be unlawful for any retail spirits or package store to be located within three hundred (300) feet of any public or private school or church property primarily and regularly used for worship services and religious activities, unless otherwise exempted as per Oklahoma State Statute.

- (d) Retail Stores Selling Wine or Beer for Off Premise Consumption
 - 1) Hours of Operation. No establishment licensed as a retail wine or retail beer establishment, nor any agent, servant or employee of such establishment shall sell, or allow to be sold wine or beer for retail sale at any hour other than between the hours of 6:00 a.m. and 2:00 a.m. the following day, Monday through Sunday.

- (e) Prohibited performances, displays or acts. No owner, operator, partner, manager, or person having supervisory control of any establishment licensed to sell or serve alcoholic beverages pursuant to these regulations shall permit any of the following on or about any commercial premises where such beverages are dispensed or consumed:
 - 1) Any display, act, action, activity, or performance involving nudity or specified sexual activities as defined by the Bartlesville Zoning Regulations.

- (f) All establishments licensed pursuant to these regulations shall comply with all

other applicable City, County, State, and Federal laws, rules, and regulations.

Section 5-41. Violations. The violation of any provision of this Article shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00) plus court costs, an imprisonment not to exceed ninety (90) days, or both such fine and imprisonment.

Sections 5-42 through 5-55, inclusive. Reserved.

- § 2. Code Repealed. That Chapter 5, Article IV, Low-Point Beer, Sections 5-56 through 5-70 of the Code of the City of Bartlesville shall be repealed in its entirety and reserved for future use.

ARTICLE IV. Reserved.

Sections 5-56 through 5-70, inclusive. Reserved.

- § 3. Code Amendment. That Chapter 12, Offenses, Article V, Controlled Substances, Sections 12-76, Public Intoxication Prohibited, and 12-77, Certain (alcoholic beverage) Sales, etc., Prohibited, be repealed and reserved for future use.

Sections 12-76 through 12-77, inclusive. Reserved.

- § 4. Code Amendment. That Chapter 12, Offenses, Article IX, Nonintoxicating Beverages, Sections 12-146 through 12-160, inclusive, of the Code of the City of Bartlesville shall be retitled and amended to read as follows:

ARTICLE IX. ALCOHOLIC BEVERAGES

Sec. 12-146. Adoption of Title 37A. The City of Bartlesville hereby adopts by reference all misdemeanor offenses now contained or hereafter contained in Title 37A of the Oklahoma Statutes, known and cited as the Oklahoma Alcoholic Beverage Control Act.

Sec. 12-147. Definitions. For the purposes of this Article, all terms and phrases used herein shall be defined in the Oklahoma Alcoholic Beverage Control Act, Title 37A, Oklahoma Statutes, effective October 1, 2018. In addition, the following definitions shall apply:

- (a) “Open container” shall mean any bottle, can or other receptacle containing any alcoholic beverage which has been opened, which has a seal broken, or the contents of which have been partially removed.
- (b) “Public property” shall mean and include, but is not limited to, any sidewalk, street, alley, park, parkway, or other property which is owned by the City of Bartlesville, and to which the public has access.

Sec. 12-148. Drinking, possession, and transportation on public property.

- (a) It is unlawful for any person to drink or consume any alcoholic beverage upon any public right-of-way (including the street, sidewalk, and public property up to the private property line), lane, alley, public park, and any other public property unless the consumption of alcoholic beverages is expressly permitted for that location pursuant to a permit or ordinance and the consumption is in conformance with the terms of that permit or ordinance, or except as may be otherwise authorized by the City.
- (b) It is unlawful for any person to possess or transport any can, bottle, or other container of any alcoholic beverage which has been opened, or a seal broken, or the contents of which has been partially removed, upon any public right-of-way (including the street, sidewalk, and public property up to the private property line), lane, alley, public park, and any other public property unless the consumption of alcoholic beverages is expressly permitted for that location pursuant to a permit or ordinance and the consumption is in conformance with the terms of that permit or ordinance, or except as may be otherwise authorized by the City.
- (c) This section is intended to have no application to situations which would invoke application of State laws, including but not limited to, regulating the drinking, possession, storage, or transportation of alcoholic beverages on any public property or in any place which is open to the public.

Sec. 12-149. Drinking and possession on private property.

- (a) It is unlawful for any person to drink, consume, or possess an open container of any alcoholic beverage while upon any private parking lot open to the public unless expressly permitted by the owner or operator of the private parking lot in conformance with a permit or ordinance or as otherwise authorized by the City.
- (b) It is unlawful for any person to permit any individual under twenty-one (21) years of age who is an invitee to the person's residence, any building, structure or room owned, occupied, leased or otherwise procured by the person or on any land owned, occupied, leased or otherwise procured by the person, to possess or consume any alcoholic beverage in such place.
- (c) This section is intended to have no application to situations which would invoke application of State laws, including but not limited to, regulating the drinking, possession, storage, or transportation of alcoholic beverages on private property or on any private property which is open to the public.

Sec. 12-150. Public intoxication prohibited. Any person who shall be under the influence of alcohol at a level that presents a danger to others or creates a disturbance of the peace in or upon any public or private road, in any vehicle, any public place or building, at any public gathering, place accessible to the public or open to being viewed by others, shall be guilty of an offense.

Sec. 12-151. Violations. The violation of any provision of this Article shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00) plus court costs, an imprisonment not to exceed ninety (90) days, or both such fine and imprisonment.

Sec. 12-152 through 12-160, inclusive. Reserved.

§ 5. Code Amendment. That Chapter 13, Parks and Recreation, Article I, In General, Section 13-6, Prohibited Acts, be amended by removing the words “or non-intoxicating” in paragraph (4) Alcoholic Beverages, causing this paragraph to read as follows:

(4) Alcoholic Beverages.

- a. To bring or carry in, or in any manner whatsoever possess any intoxicating beverages as defined by the statutes of the State of Oklahoma.
- b. To sell or dispense any intoxicating beverages as defined by the statutes of the State of Oklahoma, except pertaining to special events approved in advance or permissions granted by the city manager.

§ 6. Code Amendment. That Chapter 18, Taxation and Finance, Article II, Sales Tax, Sections 18-21, Exemptions, be amended by removing the following paragraph (1) and renumbering the remaining paragraphs from (1) to (22).

To be removed:

(1) Sale of nonintoxicating beverages taxed as provided by State law;

§ 7. Interim Period. It is acknowledged that qualified retail spirits, wine and spirits wholesaler, beer distributor, retail beer, and retail wine state licensees are permitted to perform interim activities that will be permissible under these licenses as fully effective on October 1, 2018, *except* for the actual sale of wine and beer to the public. These interim activities include, but are not limited to, the purchasing, stocking, and storing of wine and/or beer on the licensed premises. In order to qualify for these interim activities, the licensee must satisfy all the requirements set forth by the Oklahoma Constitution and Oklahoma State law.

§ 8. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance, except that the effective date provision shall not be severable from the operative provisions of the ordinance.

PASSED by the City Council and **APPROVED** by the Mayor of the City of Bartlesville,
Oklahoma this _____ day of _____, 2018

Dale Copeland, Mayor

ATTEST:

City Clerk