

**CITY COUNCIL OVERSIGHT COMMITTEE MEETING**

**MULTI-PURPOSE ROOM – MUNICIPAL BUILDING  
201 WEST GRAY**

**WEDNESDAY, MARCH 12, 2014**

**5:30 P.M.**

- 1. DISCUSSION REGARDING FEES FOR CITY BREWER PERMITS.**
- 2. DISCUSSION REGARDING SMOKING REGULATIONS ON MUNICIPAL PROPERTIES.**
- 3. MISCELLANEOUS DISCUSSION.**



DATE: March 6, 2014

TO: City Council Oversight Committee

FROM: Brenda Hall, City Clerk

SUBJECT: Permit Fees for Brewers

office memorandum

Planning Department Staff recently met with an applicant seeking to open a Craft Brewery in Norman. Staff reviewed the applicant's plan and City requirements regulating breweries, one of which is obtaining a "Brewer" permit from the City Clerk's Office at a cost of \$1,000 per year.

Following the meeting with the potential brewery owner, Staff was contacted by members of Council inquiring how the license/permit fees were established and questioned the inconsistency of fees between license/permit types; e.g., Oklahoma Winemaker at \$50 per year and a Brewer at \$1,000 per year. It was suggested Council Oversight Committee review said fees and determine whether adjustments should be made. This memorandum will outline the issue raised, results of staff's research on license/permit fees, and a consideration for a possible amendment to the current ordinance.

The Alcoholic Beverage Laws Enforcement (ABLE) Commission enforce the alcoholic beverage laws in the state of Oklahoma as outlined in the Oklahoma Alcoholic Beverage Control Act. Municipalities are authorized to enact local ordinances consistent with the Act. In accordance therewith, City Council adopted Ordinance No. O-7475-8 in 1974 incorporating a fee schedule for various City licenses, permits and occupational taxes, which mirrored ABLE's fee schedule at the time of adoption. At that time an ABLE Brewer License was \$1,000 per year, a Winemaker was \$500 per year, and an Oklahoma Winemaker was \$50 per year.

Since that time, ABLE has increased the cost of a Brewer license to \$1,250 per year and in 2010 established an Oklahoma Brewer license at a cost of \$125 per year. This would enable the City of Norman to amend its current ordinance to add a category for an Oklahoma Brewer at an annual cost of \$125 bringing it more in line with that of an Oklahoma Winemaker. Since adoption of the ordinance in 1974, Norman has never issued a Brewer permit; therefore, if Council so desires adding this category would not have an adverse impact on existing permits.

cy: Steve Lewis, City Manager  
Jeff Bryant, City Attorney



**DATE:** March 5, 2014  
**TO:** City Council Oversight Committee  
**FROM:** Leah Messner, Assistant City Attorney *LM*  
**SUBJECT:** Smoking Regulations on Municipal Property

**BACKGROUND:**

In 2007, the City of Norman adopted an Ordinance regulating smoking in indoor public places and within twenty-five feet of the entrances to those buildings. At that time, City Council voted down an amendment to include banning smoking in City-owned public parks. In 2009, new interest was voiced to adopt an Ordinance banning smoking in City-owned public parks but excluding adjacent parking areas and the Westwood Golf Course. The Board of Parks Commissioners, at their April 3, 2009 meeting, recommended that City Council adopt such an Ordinance by a vote of six to one.

Ordinance No. 0809-39 was adopted by the City Council on June 23, 2009. The Ordinance was codified in Chapter 10, Sections 501-513 of the Code of Ordinances of the City of Norman. "Public park" was added in the definitions section and defined as: "All unenclosed areas of a park or playground that is owned and operated by the City of Norman to which members of the general public have been granted a right to access. 'Public park' shall exclude: parking lots located on the same property as a park or playground, and the Westwood Golf Course." In addition, language was added to the list of places where smoking is prohibited. The new prohibitory language reads: "The grounds of all City-owned public parks excluding: the parking lots of any public park or playground and the Westwood Golf Course." The Ordinance is attached.

**DISCUSSION:**

The Oversight Committee has expressed interest in a possible amendment to the current Ordinance to ban smoking on all municipal property not just within City buildings, parks, and within twenty-five feet of entrances to City buildings. Adoption of such an Ordinance amendment might enhance the City's ability to receive grant funding from the Tobacco Settlement Endowment Trust. In considering whether to move forward with such an amendment, the Oversight Committee has asked for some information.

The State of Oklahoma has adopted the Smoking in Public Places Act that regulates where smoking may occur statewide. 63 O.S. Section 1-1521 et seq. Previously, the Act preempted municipal ordinances that were more stringent than the smoking restrictions contained within the Act. However, in 2013, the Oklahoma Legislature passed Senate Bill 501 that amended the Act to authorize cities and towns to "enact laws restricting smoking on properties owned or operated by the respective governing bodies. Nothing in this section shall be construed as to prevent county or municipal governments, at the discretion of the respective governing bodies, from prohibiting smoking in or on property

office memorandum


To: City Council Oversight Committee  
Re: Smoking on City Property  
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owned or operated by the respective governing bodies.” 63 O.S. Section 1-1527. With this amendment, municipalities are now able, at the discretion of their governing bodies, to prohibit smoking on any property owned or operated by the municipality. For that reason, if the City Council chose to amend the current Ordinance to ban smoking on all City property, that ordinance would not be preempted by the Smoking in Public Places Act.

Also attached to this memo is information provided by staff at Norman Regional Hospital regarding grant criteria, funding levels, and suggested Ordinance amendments to help qualify for the grant funding.

### **CONCLUSION**

Staff will be available for questions, comments, and direction at the Committee’s discussion of this topic at the March 12, 2014 Oversight Committee meeting.

Reviewed By: Steve Lewis, City Manager  
Jeff Bryant, City Attorney 

xc: Jud Foster, Director of Parks and Recreation  
Gala Hicks, Director of Human Resources

Attachments: Chapter 10, Sections 501-513 of the Code of Ordinances  
Materials from NRHS Staff

## Sec. 10-501. Purpose.

Smoking in certain areas has been determined to be injurious to human health, to constitute a source of annoyance and discomfort to nonsmokers, and to be a public nuisance due to the following:

- (1) Reliable studies have shown that breathing sidestream or secondhand smoke is a significant health hazard for certain population groups, including elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease; and
- (2) Health hazards induced by breathing sidestream or secondhand smoke include lung cancer, respiratory infection, decreased exercise tolerance, decreased respiratory function, bronchoconstriction, and bronchospasm; and
- (3) Nonsmokers with allergies, respiratory diseases and those who suffer other ill effects of breathing sidestream or secondhand smoke may experience a loss of job productivity or may be forced to take periodic sick leave because of adverse reactions to same; and
- (4) The smoking of tobacco, or any other weed or plant, is a danger to health.

Therefore, no person shall smoke or carry any lighted smoking instrument in a public place, public park, or at a public meeting except in permitted smoking areas.

(Ord. No. 0-8788-44, § 1; Ord. No. 0-0809-39, § 1)

## Sec. 10-502. Definitions.

The following words and phrases used in this article, shall for the purposes of this article, have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

*Eating establishment:* A place designed for the consumption of food by humans, including every coffee shop, cafeteria, short-order cafe, luncheonette, sandwich shop, soda fountain and restaurant.

*Educational facility:* A building owned, leased or under the control of a public or private school system, college or university.

*Enclosed:* Closed in by a roof and walls with appropriate openings for ingress and egress and is not intended to mean areas commonly described as public lobbies.

*Health facility:* An entity which provides health services, including but not limited to hospitals, nursing homes, long-term care facilities, kidney disease treatment centers, health maintenance organizations and ambulatory treatment centers.

*Licensed premises:* Any portion of a building, structure, room or enclosure located on real estate which is owned, leased, used, controlled or operated by a licensee authorized by the Alcoholic Beverage Laws Enforcement Commission to sell liquor for consumption on the premises.

*Meeting:* A meeting as defined in the Open Meeting Act, Section 304 of Title 25 of the Oklahoma Statutes.

*Person:* Any individual, firm, fiduciary, partnership, corporation, trust, or association, however formed.

*Proof of age:* A driver's license, license for identification only, or other generally accepted means of identification that describes the individual as eighteen (18) years of age or older and contains a photograph or other likeness of the individual and appears on its face to be valid.

*Public body:* A public body as defined in the Open Meeting Act, Section 304 of Title 25 of the Oklahoma Statutes.

*Public park:* All unenclosed areas of a park or playground that is owned and operated by the City of Norman to which members of the general public have been granted a right to access. "Public park" shall exclude parking lots located on the same property as a park or playground, and the Westwood Golf Course.

*Public place:*

- (1) An enclosed, indoor area owned or operated by a state or local governmental agency and used by the general public or serving as a place of work for public employees or a meeting place for a public body, including an office, educational facility, health facility, auditorium, arena, meeting room or public conveyance, or
- (2) An enclosed indoor area which is not owned or operated by a state or local governmental agency which is used by the general public and which is:
  - (a) An educational facility;
  - (b) A health facility;
  - (c) An auditorium;
  - (d) An arena;
  - (e) A theatre;
  - (f) A museum;
  - (g) An eating establishment;
  - (h) Licensed premises;
  - (i) A concert hall;
  - (j) Any other facility during the period of its use for a performance or exhibit of the arts.

*Sample:* A tobacco product distributed to members of the public at no cost for the purpose of promoting the product.

*Smoking:* The carrying or holding of a lighted pipe, cigar, cigarette, or any other lighted smoking device.

*Tobacco product:* Any product that contains tobacco and is intended for human consumption.

*Transaction scan:* The process by which a seller checks, by means of a transaction scan device, the validity of a driver's license or other government-issued photo identification.

*Transaction scan device:* Any commercial device or combination of devices used at a point of sale or entry that is capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of a driver's license or other government-issued photo identification.

(Ord. No. 0-8788-44, § 2; Ord. No. 0-0607-45, § 2; Ord. No. 0-0809-39, § 1)

## **Sec. 10-503. Smoking in certain public places prohibited.**

- (1) The possession of lighted tobacco in any form is a public nuisance and dangerous to public health and is hereby prohibited when such possession is in any public place, public transportation, or any indoor workplace, except where specifically allowed by law.

As used in this section, "indoor workplace" means any indoor place of employment or employment-type service for or at the request of another individual or individuals, or any public or private entity, whether part-time or full-time and whether for compensation or not. Such services shall include, without limitation, any service performed by an owner, employee, independent contractor, agent, partner, proprietor, manager, officer, director, apprentice, trainee, associate, servant or volunteer. An indoor workplace includes work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, any other spaces used or visited by employees, and all space between a floor and ceiling that is predominantly or totally enclosed by walls or windows, regardless of doors, doorways, open or closed windows, stairways or the like. The provisions of this section shall apply to such indoor workplaces at any given time, whether or not work is being performed.

- (2) All buildings, or portions thereof owned or operated by this municipality shall be designated as nonsmoking.
- (3) No smoking shall be allowed within twenty-five (25) feet of the entrance or exit of any building specified in subsection (2) of this section.
- (4) The grounds of all City-owned public parks excluding the parking lots of any public park or playground and the Westwood Golf Course.
- (5) The restrictions provided in this section shall not apply to stand-alone bars, stand-alone taverns, and cigar bars as defined in 63 O.S. 2001, §1-1522.
- (6) The restrictions provided in this section shall not apply to the following:
  - (a) The room or rooms where licensed charitable bingo games are being operated; but only during the hours of operation of such games;
  - (b) Up to twenty-five (25) percent of the guest rooms at a hotel or other lodging establishment;
  - (c) Retail tobacco stores predominantly engaged in the sale of tobacco products and accessories and in which the sale of other products is merely incidental and in which no food or beverage is sold or served for consumption on the premises;
  - (d) Workplaces where only the owner or operator of the workplace, or the immediate family of the owner or operator, performs any work in the workplace, and the workplace only has incidental public access. "Incidental public access" means that a place of business has only an occasional person, who is not an employee, present at the business to transact business or make a delivery. It does not include businesses that depend on walk-in customers for any part of their business.
  - (e) Workplaces occupied exclusively by one (1) or more smokers, if the workplace has only incidental public access;
  - (f) Private offices occupied exclusively by one (1) or more smokers;
  - (g) Workplaces within private residences, except that smoking shall not be allowed inside any private residence that is used as a licensed child care facility during hours of operation;
  - (h) Medical research or treatment centers, if smoking is integral to the research or treatment;
  - (i) A facility operated by a post or organization of past or present members of the Armed Forces of the United States, which is exempt from taxation pursuant to Section 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section 501(c)

- (8)), 501(c)(10), or 501(c)(19), when such facility is utilized exclusively by its members and their families for the conduct of post or organization nonprofit operations, except during an event or activity which is open to the public; and
- (j) Any outdoor seating area of a restaurant; provided, smoking shall not be allowed within fifteen (15) feet of any exterior public doorway or any air intake of a restaurant.
- (7) An employer not otherwise restricted from doing so may elect to provide smoking rooms where no work is performed except for cleaning and maintenance during the time the room is not in use for smoking, provided each smoking room is fully enclosed and exhausted directly to the outside in such a manner that no smoke can drift or circulate into a nonsmoking area. No exhaust from a smoking room shall be located within fifteen (15) feet of any entrance, exit, or air intake.
- (8) If smoking is to be permitted in any space exempted in subsections (6) or (7) of this section or in a smoking room pursuant to subsection (3) of this section, such smoking space must either occupy the entire enclosed indoor space or, if it shares the enclosed space with any nonsmoking areas, the smoking space shall be fully enclosed, exhausted directly to the outside with no air from the smoking space circulated to any nonsmoking area, and under negative air pressure so that no smoke can drift or circulate into a nonsmoking area when a door to an adjacent nonsmoking area is opened. Air from the smoking room shall not be exhausted within fifteen (15) feet of any entrance, exit, or air intake. Any employer may choose a more restrictive smoking policy, including being totally smoke free.
- (9) Restaurants shall be totally nonsmoking or may provide nonsmoking areas and designated smoking rooms. Food and beverage may be served in such designated smoking rooms, which shall be in a location which is fully enclosed, directly exhausted to the outside, under negative air pressure so smoke cannot escape when a door is opened, and no air is recirculated to nonsmoking areas of the building. No exhaust from such room shall be located within twenty-five (25) feet of any entrance, exit or air intake. Such room shall be subject to verification for compliance with the provisions of this subsection by the Oklahoma State Department of Health.
- (10) The person who owns or operates a place where smoking or tobacco use is prohibited by law shall be responsible for posting a sign or decal, at least four (4) inches by two (2) inches in size, at each entrance of the building indicating that the place is smoke-free or tobacco-free. "Breathe Easy" decals meet this requirement.
- (11) Responsibility for posting signs or decals shall be as follows:
- a. In privately owned facilities, the owner or lessee, if lessee is in possession of the facilities, shall be responsible;
  - b. In corporately owned facilities, the manager and/or supervisor of the facility involved shall be responsible; and
  - c. In publicly owned facilities, the manager and/or supervisor shall be responsible.
- (12) The person who owns or operates a place where smoking or tobacco use is prohibited by law shall ask smokers to refrain from smoking upon observation of anyone violating the provisions of this act.

*(Ord. No. 0-8788-44, § 3; Ord. No. 0-9697-26; Ord. No. 0-0607-45, § 3; Ord. No. 0-0809-39, § 1)*

## **Sec. 10-504. Furnishing or sale of tobacco products to minors.**

- (a) It shall be unlawful and an offense for any person to sell, give, or furnish in any manner any tobacco product to another person who is under eighteen (18) years of age or to purchase in any manner a tobacco product on behalf of any such person. It shall not be unlawful for an employee under eighteen (18) years of age to handle tobacco products when required in the performance of employee duties.



- (b) Any person engaged in the sale or distribution of tobacco products shall demand proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be under eighteen (18) years of age.

If an individual engaged in the sale or distribution of tobacco products has demanded and was shown proof of age from a prospective purchaser or recipient who is not under eighteen (18) years of age, the failure to subsequently require proof of age shall not constitute a violation of subsection (b) of this section.

- (c) If the sale of a tobacco product to a minor is made by an employee of the owner of a store at which tobacco products are sold at retail, the employee shall be guilty of the violation and shall be subject to the fine. If employees of the owner of the store at which tobacco products are sold at retail are found to be in violation of this section, the owner of the store, if the owner knew of the employee's previous violations, shall also be found to be in violation and shall be subject to an identical fine.

An owner of a store licensed to sell tobacco products shall not be deemed in violation of the provisions of subsections (a) or (b) of this section for any acts constituting a violation by an employee of the store owner, if the violation occurred prior to actual employment of the person by the store owner, or the violation occurred at a location other than the owner's store.

- (d) *Record to be sent to the Alcoholic Beverage Laws Enforcement Commission:* Upon conviction for violating the provisions of subsections (a) or (b) of this section, a report of the conviction of the person shall be forwarded by the Municipal Court Clerk of the City of Norman to the Alcoholic Beverage Laws Enforcement (ABLE) Commission for possible administrative action.

- (e) *Defenses:* Proof that the defendant demanded, was shown, and reasonably relied upon proof of age shall be a defense to prosecution under subsections (a) or (b) of this section. A person cited for violation of this section shall be deemed to have reasonably relied upon proof of age, and such person shall not be found guilty of such violation, if such person proves that:

1. The individual who purchased or received the tobacco product presented a driver's license or other government-issued photo identification purporting to establish that such individual was eighteen (18) years of age or older; and
2. The person cited for the violation confirmed the validity of the driver's license or other government-issued photo identification presented by such individual by performing a transaction scan by means of a transaction scan device.
3. Provided, that this defense shall not relieve from liability any person cited for a violation of this section if such person failed to exercise reasonable diligence to determine whether the physical description and picture appearing on the driver's license or other government-issued photo identification was that of the individual who presented it. The availability of the defense described in this subsection does not affect the availability of any other defense under any other provision of law.

- (f) *Notice to be sent to the Department of Public Safety:* Upon failure of the employee to pay the fine within ninety (90) days of the day of the assessment of such fine, the Clerk of the Municipal Court shall notify the Department of Public Safety and the Department shall suspend or not issue a driver's license to the employee until proof of payment has been furnished to the Department of Public Safety. Upon failure of a store owner to pay the fine within ninety (90) days of the assessment of such fine, the Clerk of the Municipal Court shall notify the Oklahoma Tax Commission and the Oklahoma Tax Commission shall suspend the store's license to sell tobacco products until proof of payment has been furnished to the Oklahoma Tax Commission.

- (g) For purposes of determining the liability of a person controlling franchises or business operations in multiple locations for any violation of Subsections (a) or (b) of this section, each individual franchise or business location shall be deemed a separate entity.

(Ord. No. 0-8788-44, § 4; Ord. No. 0-0607-45, § 4)

### **Sec. 10-505. Receipt of tobacco products by minors.**

- (1) It shall be unlawful and an offense for any person who is under eighteen (18) years of age to purchase, receive, or have in their possession a tobacco product, or to present or offer to any person any purported proof of age which is false or fraudulent for the purpose of purchasing or receiving any tobacco product. It shall not be unlawful for an employee under age eighteen (18) years of age to handle tobacco products when required in the performance of the employee's duties.
- (2) The City shall establish rules to provide for notification to a parent or guardian of any minor cited for a violation of this section.

(Ord. No. 0-8788-44, § 5; Ord. No. 0-0607-45, § 5)

### **Sec. 10-506. Distribution of tobacco product samples.**

- (a) It shall be unlawful and an offense for any person to distribute tobacco product samples to any person under eighteen (18) years of age.
- (b) Notwithstanding subsection (a) of this section, no person shall distribute tobacco product samples in or on any public street, sidewalk, or park that is within three hundred (300) feet of any playground, school, or other facility when the facility is being used primarily by persons under eighteen (18) years of age.
- (c) *Notice to be sent to the Department of Public Safety:* Upon failure of an individual to pay any fine within ninety (90) days of the assessment of such fine, the Clerk of the Municipal Court shall notify the Department of Public Safety, and the Department shall suspend or not issue a driver's license to the individual until proof of payment has been furnished to the Department of Public Safety.

(Ord. No. 0-8788-44, § 6; Ord. No. 0-9596-45; Ord. No. 0-9697-1; Ord. No. 0-9900-11; Ord. No. 0-0405-26; Ord. No. 0-0506-10; Ord. No. 0-0607-45, § 6)

### **Sec. 10-507. Sale of tobacco products except in original, sealed package.**

It is unlawful and an offense for any person to sell cigarettes except in the original, sealed package in which they were placed by the manufacturer.

(Ord. No. 0-0607-45, § 7)

### **Sec. 10-508. Signs in retail establishments required.**

Every person who sells or displays tobacco products at retail shall post conspicuously and keep so posted at the place of business a sign, as specified by the Alcoholic Beverage Laws Enforcement (ABLE) Commission, stating the following: "IT'S THE LAW. WE DO NOT SELL TOBACCO PRODUCTS TO PERSONS UNDER 18 YEARS OF AGE." The sign shall also provide the toll-free number operated by the Alcoholic Beverage Laws Enforcement (ABLE) Commission for the purpose of reporting violations of the Prevention of Youth Access to Tobacco Act.

(Ord. No. 0-0607-45, § 8)

### **Sec. 10-509. Notice to retail employees.**

- (a) Every person engaged in the business of selling tobacco products at retail shall notify each individual employed by that person as a retail sales clerk that state law.

1. Prohibits the sale or distribution of tobacco products to any person under eighteen (18) years of age and the purchase or receipt of tobacco products by any person under eighteen (18) years of age; and
  2. Requires that proof of age be demanded from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser or recipient may be under eighteen (18) years of age.
- (b) This notice shall be provided before the individual commences work as a retail sales clerk. The individual shall signify that he or she has received the notice required by this section by signing a form stating as follows:
- "I understand that state law prohibits the sale or distribution of tobacco products to persons under eighteen (18) years of age and out-of-package sales, and requires proof of age of purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser or recipient may be under eighteen (18) years of age. I promise, as a condition of my employment, to obey the law. I understand that violations by me may be punishable by fines, suspension, or non-issuance of my driver's license. In addition, I understand that violations by me may subject the store owner to fines or license suspension."

*(Ord. No. 0-0607-45, § 9)*

### **Sec. 10-510. Vending machine sales restricted.**

- (a) It shall be unlawful for any person to sell tobacco products through a vending machine unless the vending machine is located:
1. In areas of factories, businesses, offices, or other places that are not open to the public; or
  2. In places that are open to the public, but to which persons under eighteen (18) years of age are not admitted.

*(Ord. No. 0-0607-45, § 10)*

### **Sec. 10-511. Display or sale of tobacco products.**

It shall be unlawful for any person or retail store to display or offer for sale tobacco products in any manner that allows public access to the tobacco product without assistance from the person displaying the tobacco product or an employee or the owner of the store. The provisions of this subsection shall not apply to retail stores which do not admit into the store persons under eighteen (18) years of age.

*(Ord. No. 0-0607-45, § 11)*

### **Sec. 10-512. Restrictions on manner of enforcement.**

- (a) Any conviction for a violation of sections 10-503 through 10-511 of this article and compliance checks conducted by the City pursuant to subsection (b) of this section shall be reported in writing to the Alcoholic Beverage Laws Enforcement (ABLE) Commission within thirty (30) days of the conviction or compliance check. Such reports shall be compiled in the manner prescribed by the ABLE Commission.
- (b) Persons under eighteen (18) years of age may be enlisted by the City to assist in enforcement of sections 10-503 through 10-511 of this article; provided such persons may be used to test compliance only if written parental consent has been provided and the testing is conducted under the direct supervision of the Alcoholic Beverage Laws Enforcement (ABLE) Commission or conducted by another law enforcement agency if such agency has given written notice to

the ABLE Commission in the manner prescribed by the ABLE Commission. The City may conduct, pursuant to rules of the ABLE Commission, compliance checks without prior notification to the ABLE Commission and shall be exempt from the written notice requirement of this subsection. This subsection shall not apply to the use of persons under eighteen (18) years of age to test compliance if the compliance test is being conducted by or on behalf of a retailer of cigarettes, as defined in 68 O.S. 2001, §301, at any location the retailer of cigarettes is authorized to sell cigarettes.

*(Ord. No. 0-0607-45, § 12)*

### **Sec. 10-513. Enforcement/penalties.**

- (1) Persons convicted of any violation of section 10-503 shall be punished by a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), excluding costs, fees, and assessments.
- (2) Persons convicted of any violation of subsection 10-504(a), (b), or (c) shall be punished by a fine of not more than one hundred dollars (\$100.00) for the first offense; not more than two hundred dollars (\$200.00) for the second offense within a two-year period following the first offense; not more than three hundred dollars (\$300.00) for a third offense within a two-year period following the first offense; and not more than three hundred dollars (\$300.00) for a fourth or subsequent offense within a two-year period following the first offense.
- (3) Any person violating the provisions of subsection 10-505(1) shall be guilty of an offense and upon conviction shall be punished by a fine of:
  - a. Not more than one hundred dollars (\$100.00), excluding costs, fees, and assessments, for a first offense.
  - b. Not more than two hundred dollars (\$200.00), excluding costs, fees, and assessments, for a second or subsequent offense within a one-year period following the first offense.
  - c. Upon failure of the individual to pay any fine within ninety (90) days of the day of assessment of such fine, the Clerk of the Municipal Court shall notify the Department of Public Safety and the Department shall suspend or not issue a driver's license to the individual until proof of payment has been furnished to the Department of Public Safety.
- (4) Persons convicted of any violation of subsection 10-506(a) or (b) shall be punished by a fine of not more than one hundred dollars (\$100.00) for the first offense; not more than two hundred dollars (\$200.00) for the second offense; and not more than three hundred dollars (\$300.00) for a third or subsequent offense.
- (5) Any person violating the provisions of subsection 10-507(a) shall be guilty of an offense and upon conviction shall be punished by a fine of not more than two hundred dollars (\$200.00), excluding costs, fees and assessments, for each offense.
- (6) Any person violating the provisions of subsection 10-508(a) shall be guilty of an offense and upon conviction shall be punished by a fine of not more than fifty dollars (\$50.00), excluding costs, fees and assessments, for each day a violation occurs. Each day a violation is continuing shall constitute a separate offense. The notice required by subsection (a) of this section shall be the only notice required to be posted or maintained in any store that sells tobacco products at retail.
- (7) Any person violating the provisions of subsection 10-510(a) or 10-511(a) shall be guilty of an offense and upon conviction shall be punished by a fine of not more than two hundred dollars (\$200.00), excluding costs, fees and assessments, for each offense.

*(Ord. No. 0-0607-45, § 13)*

## Leah Messner

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**From:** McGinnis, Stephanie <smcginnis@nrh-ok.com>  
**Sent:** Thursday, March 06, 2014 2:10 PM  
**To:** Leah Messner  
**Cc:** Sebero, Heather A.  
**Subject:** Certified Healthy Community

Hello Leah. Heather and I are very excited that the City of Norman is interested in reviewing the tobacco legislation. It will be great for wellness as well as giving us the opportunity to apply for another TSET grant.

Let me apologize up front for this very long email.

The application includes many different areas. Below I have listed 3 areas that need to be worked on in order to receive an excellence.

### Requirements for Tobacco

With regards to tobacco legislation, the wording on the certification application was as follows. We were not able to meet this requirement.

- Community has adopted an ordinance that prohibits the use of smokeless tobacco products on all city owned properties indoors and outdoors including chewing/tobacco/snuff and e-cigarettes.

In order to meet the requirement, the wording of Norman's ordinance would need to be as follows.

- 2) All Buildings, or portions thereof owned or operated by this municipality shall be designated as nonsmoking. All buildings and other properties, including indoor and outdoor areas, owned or operated by this city, shall be entirely tobacco free to include all forms of tobacco products including electronic smoking devices.

Outdoor area means any covered area, partially covered area or area open to the sky that is on a property owned by the city. Tobacco product means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, snus, bidis, or any other preparation of tobacco; and 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. "Tobacco Product" does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence. Electronic smoking device means an electronic and/or battery-operated device, the use of which may resemble smoking that can be used to deliver an inhaled dose of nicotine or other substances. Electronic smoking device includes any such device, whether manufactured, distributed, marketed or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor.

- 4) The grounds of all City-owned public parks excluding the parking lots of any public park or playground and the Westwood Golf Course. All indoor and outdoor recreational

areas owned or operated by this city, shall be entirely tobacco free to include all forms of tobacco products including electronic smoking devices.

*Recreational area* means any area that is owned, controlled or used by the City of Norman and open to the general public for recreational purposes, regardless of any fee or age requirement. The term 'Recreational Area' includes but is not limited to parks, picnic areas, playgrounds, sports fields, golf courses, walking paths, gardens, hiking trails, bike paths, riding trails, swimming pools, roller- and ice-skating rinks, beaches surrounding lakes and skateboard parks. ”

### **Requirements for Post-Prom and Post-Graduation Activities**

The application has also asked what type of support our community gives to post-prom and post-graduation activities. Norman used to have post-prom and post-graduation activities years ago. Those students and parents have long graduated and there are no longer any organized activities. A few years ago, I called a bunch of the churches around town to see if any of them held programs. The answer unfortunately was no. However, one or two churches rented out their space and other communities would have activities there for their students. For the past 2 years, Norman Regional has put advertisements in the paper and advertised on the local radio to educate about safe activities and not to drink and drive. We even asked the announcer at a cross-town rivalry soccer game to announce it over the P.A.

The wording on the Certification application about the post prom and post graduation activities is as follows. We did not meet this requirement.

- Community has safe, alcohol-free activities from prom and graduation.

### **Requirements for Alcohol Marketing/Advertising**

We did not meet the requirement for two questions regarding alcohol products.

- Community has an ordinance to prohibit the distribution of free or low-cost alcohol products, coupons, coupon offers, gift certificates, gift cards, rebate offers or similar offers.
- Community has an ordinance that restricting specific alcohol marketing/advertising at retail stores.

### **Here is a little history of the certification and grants in the past few years.**

1. In January 2012, we received the Basic Certification for our 2011 application. We then applied and received a 15,000 grant. The money was used to install a water fountain and a shade covering for Eastridge Park which is adjacent to Reagan Elementary School.
2. In January 2013, we received the Merit Certification for our 2012 application. We then applied and received a \$35,000 grant.
3. In January 2014, we were notified that we received a Merit Certification again.

The grant funding levels were also based on the size of our community. TSET has different levels depending on population.

In the past, a community could only apply for a grant one time per level. This year, we have not applied for a grant because we had already received the Merit level grant. However, we were told that the requirements have now changed. They are now calling the grants bronze, silver and

gold. We have already received the bronze and silver but we are eligible for the gold. They are no longer tied directly to the certification levels of Basic, Merit and Excellence.

The funding for each level has increased this year. I was also told that we would be eligible for the difference in amount we received for each level and the current increased level. (I hope that makes sense.)

	Basic	Merit	Excellence	Total
Amount we received in 2012 and 2013	15,000	\$35,000	\$0	\$50,000
Amount currently offered by TSET	\$25,000	\$50,000	\$100,000	\$175,000
Amount we can now apply for the following amount (difference of the funding levels)	\$10,000	\$15,000	\$100,000	\$125,000

Here is a link to the application. [http://www.ok.gov/tset/Programs/Healthy Communities Incentive Grants/Application.html](http://www.ok.gov/tset/Programs/Healthy_Communities_Incentive_Grants/Application.html) . I have attached the requirements in a separate document.

Please call me with any questions. I would be glad to be a part of this process. Thank you again.

Stephanie McGinnis  
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 405.307.3179 fax

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## Healthy Communities Incentive Grants 2014 Grant Criteria

### Bronze Incentive Level

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- Community has adopted an ordinance that prohibits smoking indoors and outdoors on city owned/operated properties. (Refer to 63 O.S. 2011 Section 1 - 1527 and Oklahoma Senate Bill 501 effective November 1, 2013)
- Community has an ordinance or policy allowing Farmer's markets
- Community makes information available to general public about the Oklahoma Tobacco Helpline 1-800-QUIT-NOW/1-800-784-8669 (i.e. health fairs, flyers, pamphlets, billboards, media, etc.)
- Community makes information available to general public about the Suicide Prevention Lifeline  
  
1-800-273-TALK/1-800-273-8255 (i.e. health fairs, flyers, pamphlets, billboards, media, etc.)
- Community requires approval for new retailers selling alcohol for off-site consumption near schools and places of worship.
- District has a 24/7 Tobacco Free policy for Students, Faculty, Staff, Visitors and anyone providing services on school property, inclusive of electronic cigarettes/vapor devices or any other product packaged for smoking or the simulation of smoking. (Largest public school district in community)
- There are Certified Healthy Businesses in our community. Community has a minimum of certified businesses, (other than health departments) based on community size, that were certified in 2013. Rural - 1 Business Small - 2 Businesses Medium - 3 Businesses Large - 4 Businesses Metro - 5 Businesses OKC & Tulsa - 10 Businesses

### **Silver Incentive Level (All Bronze Incentive Criteria plus the following)**

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- Community enforces the Social Host ordinance/law to hold those who allow underage drinking or drug use legally accountable if the property it occurs on is under their control
- Community ensures equal consideration for safety and mobility for all users of all modes of transportation "complete streets" (in planning efforts)
- Community does not allow alcohol marketing/advertising at city-sponsored events (i.e. county fairs, rodeos, motor sports, other sporting events, parades, concerts, museums, dances, festivals, etc.)
- Community does not allow tobacco/e-cig/vapor device marketing/advertising at city-sponsored events (i.e. county fairs, rodeos, motor sports, other sporting events, parades, concerts, museums, dances, festivals, etc.)
- Community makes information available to the general population about the Problem Gambling Hotline 800-522-4700
- Community provides information on how to access mental health and substance abuse treatment and clinical services (i.e. faith-based community efforts, local mental health and substance abuse providers, local website, flyers, pamphlets, billboards, media, etc.)
- Public health advocates and stakeholders are included in community development and zoning regulations (health in policies)

**Gold Incentive Level (All Bronze and Silver Incentive Criteria plus the following)**

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- Active Safe Routes to School or Walking School Bus program
- All city-owned/operated properties are alcohol and drug free (if alcohol is allowed at special events, community must have written policies)
- All city-owned/operated properties are tobacco\* free(indoors and outdoors)\* includes chewing tobacco, snuff and e-cigarettes
- Community farmer's markets, corner stores and grocery stores accept (WIC) Women, Infants and Children, (SNAP) Supplemental Nutrition Assistance Program, and Senior Nutrition Vouchers
- Community has frequent compliance checks conducted by local law enforcement to identify and discourage illegal sales of tobacco and alcohol and the results are made public.
- Community investment in safe, alcohol-free activities for prom and graduation
- Community is engaged in a local community needs assessment addressing public health issues
- Community regulates and limits storefront signage that contains advertisements covering windows
- District has a 24/7 Tobacco Free policy for Students, Faculty, Staff, Visitors and anyone providing services on school property, inclusive of electronic cigarettes/vapor devices or any other product packaged for smoking or the simulation of smoking

