

CITY OF NORMAN, OKLAHOMA

**CITY COUNCIL COMMUNITY PLANNING AND
TRANSPORTATION COMMITTEE AGENDA**

**Municipal Building Conference Room
201 West Gray**

Thursday, April 26, 2018

4:00 P.M.

- 1. CLEVELAND AREA RAPID TRANSIT (CART) RIDERSHIP REPORT INCLUDING SAFERIDE AND EXTENDED SERVICE FOR THE MONTH OF MARCH 2018.**
- 2. DISCUSSION REGARDING VEGETATIVE MANAGEMENT IN THE CITY RIGHTS-OF-WAY.**
- 3. DISCUSSION REGARDING MUNICIPAL ORDINANCES AND POLICIES THAT MAY BE IMPACTED WITH PASSAGE OF STATE QUESTION 788 (MEDICAL MARIJUANA).**
- 4. MISCELLANEOUS COMMENTS.**

ITEM 1

CART REPORTS



Community Planning & Transportation Committee Meeting, April 26th, 2018 CART Monthly Report for March 2018

CART – Ridership Report Summary

- CART transported 112,378 passengers in March – a 0.04% increase over March 2017. The daily average ridership was 5,566, an increase of 129 or 2%.
- Fiscal year to date ridership (July – March) is 916,460 – a decrease of 8.9% over the same period last year.
- There were 623 riders who traveled with bicycles (0.6%) and 346 with wheelchairs (0.3%). Route 11-Lindsey East carried the most passengers with bicycles (222) and wheelchairs (136).

CARTaccess – Ridership Report Summary

- CARTaccess transported 2,549 passengers in March – a decrease of 16% or 480. Average daily ridership was 114, a decrease of 13% or 16. Primary zone ridership decreased by 480 or 16% in March; Secondary Zone ridership increased by 39 or 8%.
- For FY18 year to date (July to March), CARTaccess ridership is 25,175 – a decrease of 12%. Primary Zone ridership has decreased by 3,699 or 15% FYTD; Secondary Zone ridership has increased by 419 or 12%. Secondary Zone ridership comprises 16% of all CARTaccess trips FYTD.

CART Activities

- CART staff attended the Southwest Transit Association (SWTA) conference in Denver, CO on from March 5-7. Training sessions included questions and answers with FTA staff, marketing, procurement, safety and security, and innovation.
- CART met with Proterra, an electric bus manufacturer, for a demonstration of its vehicle on March 27. Proterra staff made a presentation of the vehicle, its performance, and cost. CART staff then had the opportunity to participate in a ride and drive of the vehicle. Afterwards, ACOG held their Clean Cities Stakeholder meeting at CART.
- On March 30, EMBARK hosted an open house to unveil the new Streetcars that will begin operating around December 2018. The event was open to the public and CART staff were able to see the inside of the vehicle and discuss the operations with EMBARK staff.
- CART participated in a Turn Up for Transit event on the OU campus on April 11 from 11 am to 2 pm on the South Oval. Staff from CART, Parking Services, OU SafeRide, and the OU Student Government Association were available to answer questions related to the different transportation options when commuting to campus and around Norman.
- CART will be participating in a few community events in the month of April. Those events are Norman Open Streets (April 15) and the Norman Earth Day Festival (April 22). CART plans to have a booth at both events with a CART vehicle to demonstrate the bike rack, a Crimson Cruiser bike, and staff to answer questions about either mode of transportation.

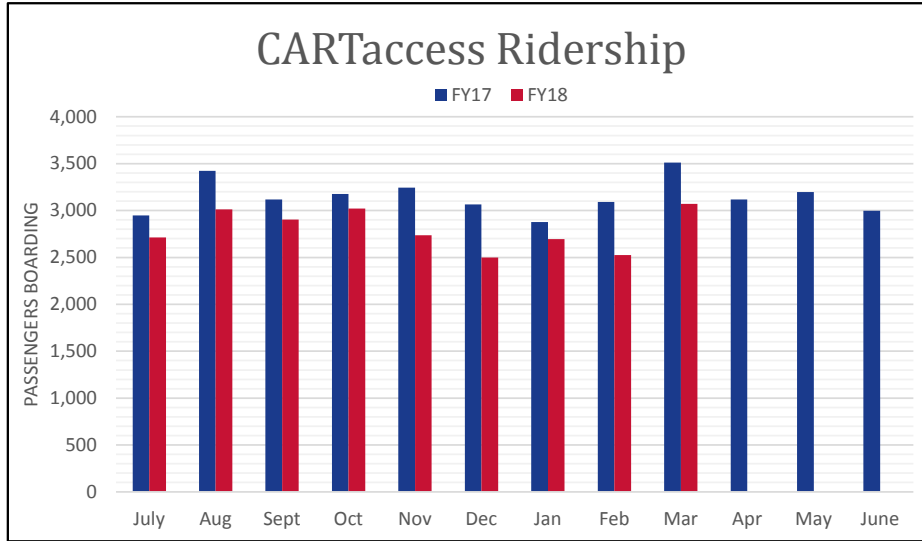
CART Detours/Construction

- Route 52-Campus Loop is missing its stop at the Oklahoma Memorial Student Union due to construction of a new engineering building on Felgar Street. Riders are encouraged to use stop 181 at Jenkins Avenue and Felgar Street.
- Due to the construction for the OKC Streetcar, the route 24-Sooner Express is taking a few detours from its regular route. To view the latest detours, please visit www.ridecart.com/detours-and-alerts.

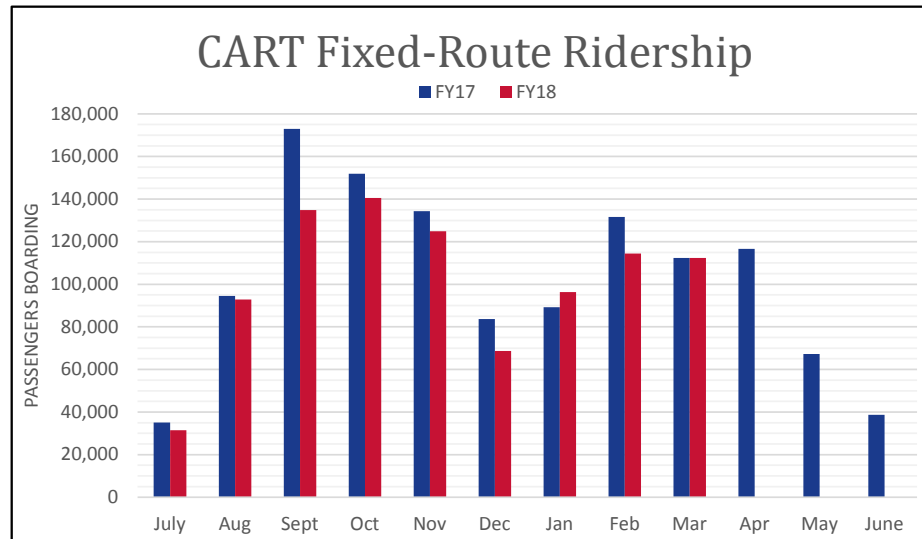
Attachments

- CART Fixed-route and CARTaccess Ridership Graphs for FY17 and FY18.

CART Ridership Summary City of Norman Community Planning & Transportation Committee



CARTaccess Ridership by Month			
	FY17	FY18	Change
July	2,948	2,714	-8%
Aug	3,422	3,011	-12%
Sept	3,118	2,905	-7%
Oct	3,177	3,022	-5%
Nov	3,244	2,736	-16%
Dec	3,065	2,498	-18%
Jan	2,878	2,695	-6%
Feb	3,092	2,524	-18%
Mar	3,511	3,070	-13%
Apr	3,118		
May	3,196		
June	2,997		
July - Mar	28,455	25,175	-12%
FY17 Total	37,766		



Fixed-Route Ridership by Month			
	FY17	FY18	Change
July	35,072	31,500	-10%
Aug	94,507	92,808	-2%
Sept	173,011	134,812	-22%
Oct	151,858	140,553	-7%
Nov	134,347	124,836	-7%
Dec	83,667	68,733	-18%
Jan	89,238	96,358	8%
Feb	131,650	114,482	-13%
Mar	112,329	112,378	0%
Apr	116,616		
May	67,325		
June	38,645		
July - Mar	1,005,679	916,460	-9%
FY17 Total	1,228,265		

FY18: July 1, 2017 - June 30, 2018

FY17: July 1, 2016 - June 30, 2017

ITEM 2

VEGETATIVE MAINTENANCE OF CITY ROWS



office memorandum

DATE: April 20, 2018

TO: Members of the Community Planning and Transportation Committee

THROUGH: Jeff Bryant, City Attorney *JB*

FROM: Kathryn L. Walker, Assistant City Attorney III *KLW*

RE: Vegetation Management

Background

In August 2018, Council was asked to consider adopting Ordinance No. O-1718-1, which would send to the voters the question of renewing the franchise that gives OG&E the right to access our rights of way to provide electricity in Norman. Council voted on several amendments to the agreement, including, a provision that would require approval by Council before OG&E sprayed chemicals for the purpose of killing trees or other vegetation, approval by a property owner prior to removal trees of a certain size, and a posted notice five days in advance of trimming, removing or mowing vegetation, shrubs and smaller trees. OG&E, by letter dated September 25, 2017 committed to work in good faith with the City to develop a vegetation management plan that would address chemical use, tree trimming and tree removal for all companies and government entities operating within the City's rights-of-way. Ordinance No. O-1718-1 was ultimately rescinded and Staff has been working with outside counsel to negotiate a new franchise agreement with OG&E and develop a vegetation management ordinance. The purpose of this memorandum is to provide the regulatory framework already in place for vegetation management and to get feedback from Council on additional areas to be regulated.

Existing Regulatory Framework related to Vegetation Management

The Federal Power Act, codified at 16 USCA §824 et seq., empowered the Federal Energy Regulatory Commission (FERC) was created to regulate the public utility industry transactions made in interstate commerce, primarily the sale of power from one utility to another. In 2005, after rolling blackouts impact large areas of the United States and Canada, the Energy Policy Act was adopted to improve electric grid reliability. FERC's jurisdiction was expanded under this Act to all users, owners and operators of the bulk power system, except facilities limited to local distribution. Local distribution facilities are usually governed by State agencies, like the Oklahoma Corporation Commission. Although most of OG&E and OEC infrastructure in Norman is related to local distribution, there are major transmission lines in Norman that could be impacted by a vegetation management ordinance.

FERC, through the adoption of Reliability Standard FAC-003-4, requires that vegetation be managed to prevent encroachment into the Minimum Vegetation

Clearance Distance of transmission lines. The minimum distance requirements vary from 1.1 feet to 14.3 feet based upon the maximum system voltage and it is noted in the standards that prudent vegetation management practices dictate that substantially greater distances will be achieved at the time of vegetation management. Vegetation inspections of transmission lines and vegetation work plans are required annually.

The Oklahoma Corporation Commission (OCC) is granted general supervision over all public utilities in 17 Okla. Stat. §152, and is empowered to fix rates and promulgate rules affecting services, operation, management and conduct of business. According to *People's Electric Co-Op, Inc. v. State ex rel. Oklahoma Corporation Commission*, 50 P.3d 579 (2002), the term “public utilities” includes rural electric cooperatives even if they have voted to exempt themselves from OCC regulation regarding rates. Rules promulgated by the OCC prevail over city ordinances that materially affect rights and duties of franchised utilities where the activity under consideration affects the utility’s duty to repair, maintain, or install its equipment. *City of Chickasha v. Arkansas Louisiana Gas Co.*, 625 P.2d 638 (1981). This is true in rate setting or in regulation of day-to-day affairs of the utility. *Id.*

The OCC rules related to vegetation management are focused on distribution reliability. Each utility is required to have a reliability program that limits the frequency and duration of electric service interruptions and to maintain acceptable electric service reliability levels and to sustain it over time. OAC 165:35-25-14. The program must address all the factors that impact the reliability of the distribution system, including, but not limited to, the age, distribution, and location of equipment on each circuit; the number, density, and location of customers on each circuit; the location and density of trees on the system; an annual vegetation plan; and impacts on distribution system reliability of animals, winds, storms, ice and automobile accidents. *Id.* The reliability program must also include inspection, maintenance, repair and replacement standards to ensure timely and efficient service restoration. *Id.*

OCC defines vegetation management as “all activities associated with the trimming, removal, or control of plant materials in the proximity of energized electric utility conductors and equipment”. OAC 165-35-25-15. Each utility is required to submit an annual vegetation management plan to the Commission as part of its reliability program. *Id.* The plan must include a definition and calendar of activities, implementation plan, criteria to assess the result of the plan, and the contact information for a company representative who knows the plan, the implementation and the results. *Id.* Utilities must, at a minimum perform vegetation management on a four year cycle. *Id.* All costs of the vegetation management must be tracked by the utility as they are part of the rate justification. *Id.*

The OCC sets forth the timeline for notification of vegetation management activities. The utility is required to make a “reasonable attempt to contact the landowner, customer or tenant at a minimum of 24 hours prior to beginning work on the area”. OAC 165:35-25-16. In rural area, the notice requirement is different. In a rural area, the utility must make a “reasonable attempt to contact the landowner, customer or tenant, if known, a

reasonable time prior to beginning work on the property.” *Id.* The form of the contact isn’t dictated by the OCC – it can be a written notice, a telephone call or an in-person contact. *Id.* If a property owner, customer or tenant wants to be present when the work is done on his or her property, the utility is required to make a reasonable effort to accommodate such request. *Id.* In the case of an emergency repair, no notice is required. *Id.*

Approaches in Other Cities

As stated earlier, vegetation management for distribution facilities by public utilities is typically governed by state public utility commissions and industry standards. City ordinances dealing with utility vegetation management present somewhat of a cautionary tale.

After receiving complaints from citizens about Duke Energy’s vegetation management activities, the City of Greensboro worked collaboratively with Duke Energy to develop a Utility Vegetation Management Ordinance. There were 4 proposed areas of regulation that Duke and the City could not reach agreement on. Those areas involved trimming standards, the length of the trimming cycle, a local appeals process for tree removal, and large debris removal. Duke and the City agreed to present those provisions to the North Carolina Utilities Commission to determine whether or not they were preempted by State law. The North Carolina Utilities Commission found that the City was preempted in all four areas because they all involve service activities upon which Duke has created company-wide plans and policies that have been filed with the Commission and upon which the Commission has jurisdiction.

Options for Norman

Given recent Legislative attempts to thwart local control through state preemption, it is not hard to imagine the Greensboro scenario happening in Oklahoma. However, given OG&E’s expressed intent to work in good faith with the City to develop a vegetation management plan, there appears to be some areas where the City could cooperatively legislate and avoid preemption.

Annual Vegetation Management Plan

Given that utilities already provide statewide plans to the OCC, it is not unreasonable to ask that vegetation management plans specific to Norman be provided on an annual basis. This would provide a tool for better communication with the utility and with impacted residents. Such plan should depict the areas involved in the maintenance plan and the schedule for line maintenance. They should also include the method of maintenance, i.e. trimming, removal, chemical application, etc. Vegetation management plans and its contribution to the rate structure often rely on application of chemicals to avoid repeated maintenance at a higher cost to ratepayers. An ordinance could require vegetation management plans to list the chemicals to be used. The City’s ordinance could express a preference for limited chemical application to certain instances or certain kinds of

chemicals, but banning the use of chemicals would likely lead to a challenge and/or result in a higher electric rate.

Notification to Owners or Residents of Occupied Property

As stated herein, the OCC requires a reasonable attempt to give notice to impact property owners, customers or tenants at least 24 hours in advance. The City could assist with notice by posting such information on the City's website and issuing press releases ahead of vegetation management work. The City could also define a reasonable time for notice of scheduled maintenance.

Supervision and Oversight of Contractors

This is an area that the OCC doesn't regulate. Industry standards typically call for a specially certified contractor when trimming trees near electric lines. Such standards could be codified in the City's ordinance.

Vegetation Management Clean-Up

The OCC doesn't address removal of debris from vegetation management. The City's ordinance could address how often debris must be removed from a vegetation management work area.

Resident Education

Probably the most effective way to avoid many conflicts over vegetation maintenance is through preventative education to residents. The Arbor Day Foundation is a great resource for information. If trees in the rights of way are limited to small trees with a maximum height of 25 feet or less, many conflicts could be avoided. Integrated vegetation management methods could help as well. Additional related information is attached for your reference.

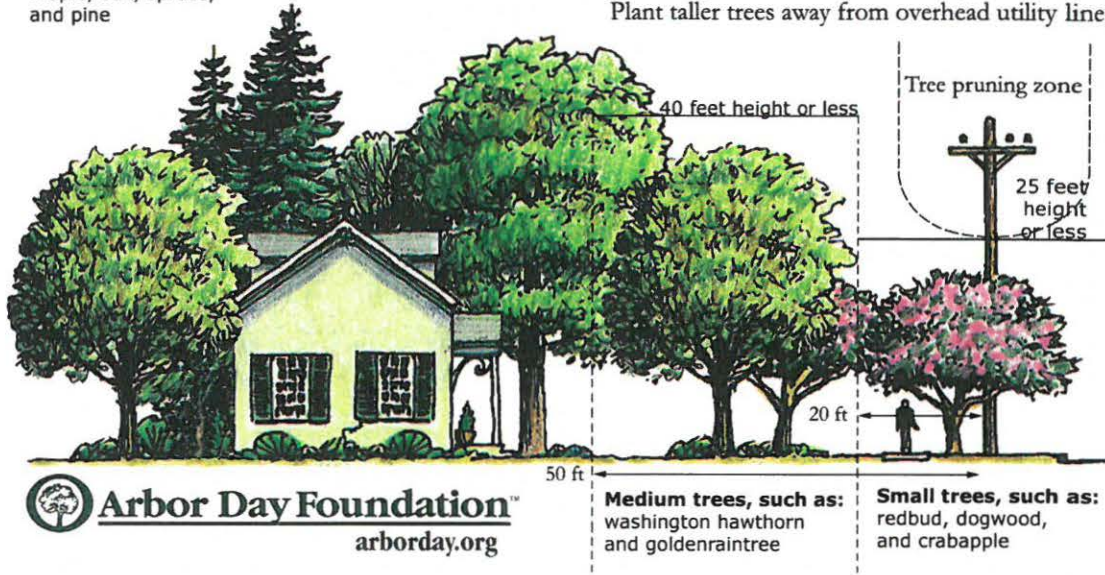
Conclusion

Staff will be available at the Community Planning and Transportation Committee meeting on April 26, 2018 for additional discussion.

Tall trees, such as:
maple, oak, spruce,
and pine

Plant the right tree in the right place

Plant taller trees away from overhead utility lines



 **Arbor Day Foundation™**
arborday.org

Fact Sheet

Integrated Vegetation Management

What Is Integrated Vegetation Management?

Integrated Vegetation Management (IVM) is generally defined as the practice of promoting desirable, stable, low-growing plant communities—that will resist invasion by tall growing tree species—through the use of appropriate, environmentally-sound, and cost-effective control methods. These methods can include a combination of chemical, biological, cultural, mechanical, and/or manual treatments. The IVM approach strives to manage vegetation and the environment by balancing the benefits of:

- Cost,
- Control,
- Environmental quality,
- Public health, and
- Regulatory compliance.

IVM strategies are both integrative and site-specific. By properly evaluating a site and choosing the most appropriate IVM strategy, IVM practices can generate numerous benefits:

- Lower overall vegetation management costs,
- Safer managed sites,
- More effective long-term vegetation control and management,
- Reduced environmental impacts on land, water, habitat and wildlife, and
- Reduced environmental and human health risks.

Where Can I Use IVM?

IVM strategies can be applied wherever there is a need to manage vegetation. IVM programs are frequently used to manage vegetation along rights-of-way (ROW) to balance safe, reliable, and cost-effective vegetation management—while minimizing risk to human health and the environment.

Proper vegetation management, on ROW in particular, is essential for avoiding problems attributed to poorly managed vegetation and overgrowth, such as:

- Service or function disruption,
- Forest fires, erosion, and pollutants, and
- Worker endangerment.

Examples of ROW

- Federal, state, county, and township highways and roads
- Public airports
- Railroads
- Electric utilities
- Pipelines
- Public surface drainage ways and irrigation waterways
- Banks of public barge ways
- Areas around locks and dams
- Bicycle, bridle, and other public paths or trails (outside established recreational areas).

Who Can Use IVM?

Any individual or organization seeking to control unwanted or poorly managed vegetation can implement IVM strategies. For example:

- Land managers and public officials can use IVM to address vegetation management issues in military installations, wildlife refuges, parks, forests, and communities;
- Utility and transportation industries can use IVM to manage vegetation on ROW, to ensure the safe, reliable, and cost-effective transmission of electric power; or
- Road and highway managers can use IVM to help maintain safe road conditions while enhancing roadside scenery.

How Do IVM Programs Work?

IVM is not a single vegetation management tool but rather, a combination of management approaches, including: site assessment, control, evaluation, and maintenance. Each IVM program is designed around individual goals, needs, and resources in the context of a specific environment or setting. Consequently, every IVM program is unique. By tailoring an IVM program to an individual's or organization's need, IVM programs integrate the appropriate vegetation management strategies to ensure safe, cost-effective, reliable service or function, while reducing environmental and human health risks. Successful IVM programs use a four-tiered approach: site assessment, control, evaluation, and maintenance.

1. Site Assessment

Before designing an IVM program, users must first assess the site and determine the site's:

- Geography,
- Habitat and wildlife needs, and
- Habitat needed to attract desired wildlife species.

Sites assessed for an IVM program can vary greatly. For example, ROW situated on woodlands or less-developed areas offer the greatest potential for wildlife habitat improvement. On the other hand, ROW along cropland, pasture, residential areas, and industrial developments offer less habitat potential, but can provide niche habitats.

2. Control

IVM programs combine various vegetation management control methods, such as biological, chemical, manual, mechanical, and cultural controls.

Biological Control – Within IVM programs, this involves using living organisms to control and manage unwanted vegetation – often through destruction or competition.

Examples of biological control include: animals, plants, fish, insects, and disease organisms (e.g., bacteria, viruses, parasites, fungi, etc.). There are two primary biological control methods:

- **Living systems** – Grazing sheep, goats, cattle, and horses can be used to control weed growth.
- **Beneficial predators** – Predatory species are introduced to a site to destroy and/or out-compete unwanted vegetation.

Chemical Control – Within IVM programs, herbicides are judiciously applied in a focused, selective manner. Not only is

this method more efficient and cost-effective, it also reduces the environmental and human health risks associated with herbicide application.

Mechanical and Manual Control – Within IVM programs, these controls physically damage or remove vegetation on a site. This can include, but is not limited to: mowing, cutting, grubbing, hand-pulling, girdling, tilling, and thermal control (i.e., prescribed burns). IVM programs sometimes work to reduce mechanical and manual controls to:

- Increase worker safety,
- Reduce environmental and landscape alteration and damage,
- Increase long-term efficacy and costs, and
- Reduce wildlife's and workers' exposure to petroleum products from machinery.

Cultural Control – Within IVM programs, this involves the introduction of specific plants or mulches to control vegetation growth or promote a desirable plant community. Examples of cultural control include:

- Reintroduction of native species,
- Use of weed barriers, such as hardscapes and weed mats, and
- Use of mulch and compost.

3. Evaluation

Regular evaluation of an IVM program examines the IVM program's efficacy and indicates if any adjustments are necessary to improve the IVM program.

4. Maintenance

An IVM program is a long-term approach to vegetation management that requires less vegetation management as the IVM program matures over time. Maintaining a successful IVM program will reduce the cost and effort required to manage vegetation, and will:

- Reduce vegetation management costs,
- Reduce environmental risks, and
- Reduce human health risks.



For More Information...

Visit EPA's Pesticide Environmental Stewardship Program Web site at:

www.epa.gov/pestwise/pesp



ITEM 3

**STATE QUESTION 788
MEDICAL MARIJUANA**



office memorandum

DATE: April 20, 2018
TO: Community Planning and Transportation Committee
THROUGH: Jeff H. Bryant, City Attorney
BY: Jeanne Snider, Assistant City Attorney
RE: State Question 788 - Medical Marijuana

BACKGROUND

State Question 788, entitled Medical Marijuana, is set for vote on the next primary election on June 26, 2018. If approved by the voters, Oklahoma would join 29 other states that have legalized marijuana for medicinal use. In anticipation of voter consideration of this statewide question, the Legal Department has been asked to touch on areas of municipal law that could impact the City by this proposal.

DISCUSSION

State Question 788

State Question 788 enables the usage and sale of marijuana for medicinal purposes. If passed, a regulatory office will be established under the Oklahoma State Department of Health which will receive and review applications for medical license recipients, dispensaries, growers, and packagers within sixty (60) days of the passage of SQ 788. A copy of the ballot language and the new law is attached (Attachment 1). Some of the provisions are listed below:

1. A person in possession of a state issued medical marijuana license may consume and possess marijuana legally;
2. Applications for a medical marijuana license may only be rejected based on the applicant not meeting stated criteria or an improper completion of the application;
3. 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;
4. All applications must be signed by an Oklahoma Board certified physician; there are no qualifying conditions;
5. The bill provides separate methods for obtaining a medical marijuana license (the individual and caregiver), a medical marijuana dispensary license (to sell marijuana), a commercial grower license (to grow marijuana), a marijuana processing license (to distill marijuana into edible products), and a marijuana transportation license (to transport marijuana);
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 store;
9. The location of any retail marijuana store is prohibited within one thousand feet of any school; 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.

Medical Marijuana License Holder, possession and use

The new law states in Section 1(A) the amount a person with a state issued medical marijuana license shall be able to consume and legally possess. That amount is:

- Up to 3 ounces of marijuana on their person
- 6 mature marijuana plants
- 6 seedling plants
- 1 ounce of concentrated marijuana
- 72 ounces of edible marijuana
- 8 ounces of marijuana in their residence

Section 1(N) states counties and cities may enact medical marijuana guidelines allowing medical marijuana license holders or caregivers to exceed the State's limits set forth in subsection A of the new law.

Zoning

The new law states in Section 5(F) that no city or local municipality may unduly change or restrict zoning laws to prevent the opening of a retail marijuana establishment. Part G states the location of any retail marijuana establishment is specifically prohibited within 1,000 feet from any public or private school entrance. Attached are maps of areas within 1,000 feet of public and private schools in Norman and the City's designated zoning districts (Attachments 2 and 3).

In Norman, agricultural crops are allowed in A-1 General Agricultural Districts and A-2 Rural Agricultural Districts. Section 3(D) of the new law states there shall be no limits on how much marijuana a commercial licensed grower can grow. For medical license holders it appears each medical license holder can grow up to six (6) plants for personal use. RE (residential estates) and R-1 (single family) allow only general purpose farm or garden. R-1-A (single family attached dwelling), R-2 (Two family dwelling district), RM-2 (low

density apartment district), RM-6 (medium district apartment district), and R-3 (multi-family dwelling district) allow any use permitted in R-1.

Drug-Free Workplace/Personnel Manual

Section 5(B)(2) of the new law states:

“Employers may take action against a holder of a medical marijuana license holder if the holder uses or possess 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.”

This provision may create some inconsistencies with other existing state statutes or our city personnel policies.

Oklahoma State 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 (Attachment 4).

City of Norman’s Personnel Manual

Section 305.9 of the City of Norman’s Personnel manual sets out the causes for disciplinary action up to termination. The reason may include the “use, possession, sale, solicitation or transfer of drugs”. The definition of “drug” in the Personnel Manual includes cannabinoids.

Section 308 “Drug-Free Workplace Policy” states the City of Norman 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. Section 308 is attached (Attachment 5).

If the State Question passes then provisions of the Norman City criminal code would need to be amended for consistency.

Municipal Criminal Law

Under the proposed 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 Norman City Code defines marijuana in Sec. 15-110 and makes it unlawful for any person knowingly or intentionally to possess marijuana in Sec. 15-408. Sec. 15-413(12) as related to the possession or sale of drug related paraphernalia states objects used or intended for use in ingesting, inhaling or otherwise introducing marijuana (and other drugs) as illegal. The current penalty in Norman Municipal Court is \$50 - \$750 and/or sixty (60) days in jail. Sec. 14-310(5) states the first offense for possession of marijuana is \$200 (Attachment 6).

CONCLUSION

Since SQ 788 was approved as a statutory rather than constitutional measure, the legislature would be able to amend the law. Chip Paul, founder of the Oklahomans for Health SQ 788, Frank Grove with Vote Yes on 788 and a lobbyist for the Oklahoma Medical Association, all agree another bill(s) may be introduced either through a special session or in the next legislative session.

While marijuana is still illegal under the federal level, enforcement of federal marijuana laws have 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. There are other areas for further review such as compliance with federal grants and the collective bargaining agreements.

Reviewed by: Steve Lewis, City Manager
Susan Connors, Planning and Community Development Director
Keith Humphrey, Chief of Police

Community Planning Transportation Committee

State Question 788 -Medical Marijuana
April 26, 2018



State Question 788

Medical Marijuana

- Oklahoma State Question 788, the Medical Marijuana Legalization Initiative, will be on the ballot in Oklahoma on June 26, 2018.
- A “yes” vote supports this measure to legalize the licensed cultivation, use, and possession of marijuana for medicinal purposes; a “no” vote opposes the measure.
- If SQ 788 passes, OK Department of Health which will regulate medical license recipients, dispensaries, growers and packagers and must have promulgated rules within 60 days.



Topics Covered

- Licensing
 - Holder
 - Dispensary (Retail)
 - Commercial Grower
 - Processing
 - Transportation
- Zoning
- Municipal Criminal Law
- Drug-Free Workplace



Medical Marijuana License Holder

- \$100 application fee for 2 years; \$20 if on Medicaid, Medicare or Sooner Care
- 18 or older unless special exemption
- All applications signed by OK Board certified physician; no qualifying conditions
- Medical marijuana license must be recommended according to accepted standards a reasonable, prudent physician would follow when recommending/approving any medication
- No physician may be unduly stigmatized, harassed for signing medical marijuana application
- Caregiver license will be available for qualified caregivers of a medical marijuana license holder who is homebound; have same rights as medical license holder
- Temporary license issued for 30 days for medical marijuana holders from other states; \$100 fee



Medical Marijuana License Holder Possession and Use

- A person in possession of state issued medical marijuana license shall be able to consume marijuana legally and possess:
 - Up to 3 ounces of marijuana on their person
 - 6 mature marijuana plants
 - 6 seedling plants
 - 1 ounce of concentrated marijuana
 - 72 ounces of edible marijuana
 - 8 ounces of marijuana in their residence
- Counties and cities may enact medical marijuana guidelines allowing license holders to exceed the limits noted above.



Medical Marijuana Dispensary License (retail)

- \$2500 application fee
- Oklahoma resident; registered to do business in Oklahoma; 25 or older
- All members, managers, board members must be Oklahoma residents
- Non-OK residents may not exceed 25%
- OK Department Health shall review application, approve or reject, mail approval/rejection letter within two weeks to applicant
- Only nonviolent felony convictions with 2 years; other felonies within 5 years
- Inmates or person currently incarcerated may not qualify
- Location prohibited within 1000 feet of any public, private school
- Penalties for fraudulent sales is \$5000 fine for initial offense; revocation for second offense



Commercial Grower License

- Fee and resident requirements same as Dispensary License
- Considered wholesale, not subject to taxation
- Cannot sell marijuana directly to a medical marijuana license holder
- If federal restrictions lifted, allowed to sell marijuana between states
- No limits on how much marijuana a licensed grower can grow
- Fraudulent sales reporting if gross discrepancy exists and cannot be explained; \$5000 first offense; revocation second offense



Medical Marijuana Processing License

- Fee and resident requirements same as Dispensary License
- Ok Health Dept to make available standards used in preparation of edible products
- Be in line with current food preparation guidelines; no excessive, punitive rules
- Annual inspection
- Wholesale, not subject to taxation
- Cannot sell marijuana or marijuana product directly to medical marijuana license holder
- Licensed processor can process cannabis into concentrated form for medical license holder for a fee



Marijuana Transportation License

- Issued to qualified applicant for a marijuana retail, growing or processing license at the time of approval for application
- Allows holder to transport marijuana to/from an Oklahoma licensed medical marijuana retailer, licensed growing facility or licensed processor facility
- All marijuana or marijuana products shall be transported in a locked container and clearly labeled “Medical Marijuana or Derivative”

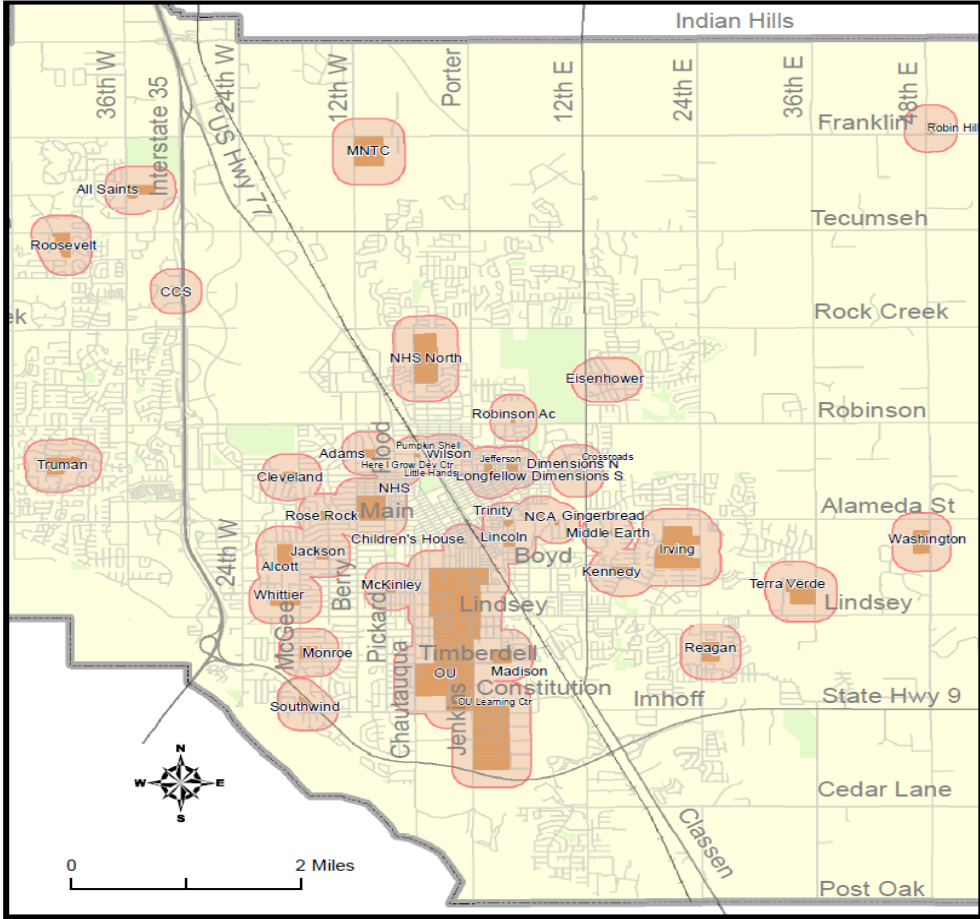


Zoning

- No city may unduly change, restrict zoning laws to prevent opening of retail marijuana store
- Location of any retail marijuana establishment prohibited within 1000 feet from any public or private school entrance
- No limit on how much marijuana licensed grower can grow
- Agricultural crops in Norman are allowed in A-1 and A-2



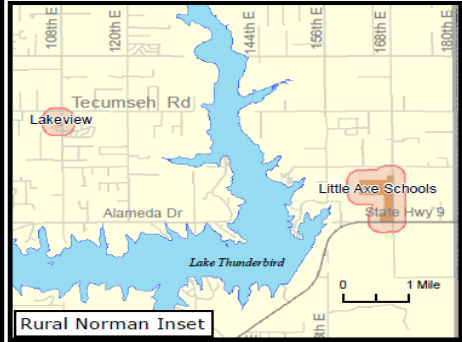
Norman Schools 1000 Foot Buffer



April 19, 2018



Map Produced by the City of Norman
Geographic Information System.
The City of Norman assumes no
responsibility for errors or omissions
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Norman Municipal Code

- Sec. 15-110 defines marijuana
- Sec. 15-408 makes it unlawful for any person knowingly or intentionally to possess marijuana
- Sec. 15-413(2) relates to paraphernalia and objects used or intended for use in ingesting, inhaling or introducing marijuana as illegal
- Sec. 15-203 states penalty is \$50-\$750 and/or up to 60 days in jail
- Sec. 14-310(5) states first offense for marijuana is \$200
- New law states unlicensed persons caught with marijuana, but who “can state a medical condition”, can be punished by a fine not exceeding \$400



Drug-Free Workplace

New Law states

Employers may take action against a holder of a medical marijuana license holder if:

- Holder uses or possess 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.



Drug-Free Workplace

Oklahoma Workplace Drug and Alcohol Testing Act

- Allows employers to require employees to take 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 follow-up to a rehabilitation project
- May also test if reasonable belief employee is under the influence of “drugs” at work
- If employer has in place a complying workplace drug and alcohol testing policy, and applicant tests positive for a prohibited substance, such as marijuana, applicant may be denied employment
- If employee tests positive for prohibitive substance employer has option of discipline suspension or termination of employee
- “Drug” definition include cannabinoids



Drug-Free Workplace

City of Norman's Personnel Manual

- 305.9 of the City's Personnel Manual sets out causes for disciplinary action up to termination
- Reason may include “use, possession, sale, solicitation or transfer of “drugs”
- Definition of “drug” includes cannabinoids



Conclusion

- SQ 788 will be on the ballot for voter consideration on June 26, 2018
- New law requires OK Dept of Health to accept, review application within 60 days of passage
- Still illegal at Federal level, but laws have not been strictly implemented
- More than likely, another bill(s) may be introduced at special session or next legislature



Questions?

