

CITY OF NORMAN, OK CITY COUNCIL CONFERENCE

Municipal Building, Executive Conference Room, 201 West Gray, Norman, OK 73069

Tuesday, October 25, 2022 at 5:00 PM

AGENDA

Virtual meeting of the City Council, Norman Utilities Authority, Norman Municipal Authority, And Norman Tax Increment Finance Authority

It is the policy of the City of Norman that no person or groups of persons shall on the grounds of race, color, religion, ancestry, national origin, age, place of birth, sex, sexual orientation, gender identity or expression, familial status, marital status, including marriage to a person of the same sex, disability, retaliation, or genetic information, be excluded from participation in, be denied the benefits of, or otherwise subjected to discrimination in employment activities or in all programs, services, or activities administered by the City, its recipients, sub-recipients, and contractors. In the event of any comments, complaints, modifications, accommodations, alternative formats, and auxiliary aids and services regarding accessibility or inclusion, please contact the ADA Technician at 405-366-5424, Relay Service: 711. To better serve you, five (5) business days' advance notice is preferred.

CALL TO ORDER

AGENDA ITEMS

- 1. DISCUSSION REGARDING AMENDMENTS TO THE SMOKING ORDINANCE.
- DISCUSSION REGARDING THE USE AND OWNERSHIP OF WHITTIER AND IRVING RECREATION CENTERS.

ADJOURNMENT



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 10/25/2022

REQUESTER: Jason Olsen, Director of Parks and Recreation

PRESENTER: Jason Olsen, Director of Parks and Recreation

ITEM TITLE: CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT,

AND/OR POSTPONEMENT OF ORDINANCE O-2223-18 UPON FIRST READING BY TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 10-502 OF ARTICLE V, CHAPTER 10 OF THE CODE OF CITY OF NORMAN AMENDING THE DEFINITION OF PUBLIC PARK AND ADDING DEFINITIONS FOR VAPING AND VAPOR PRODUCT; AMENDING SECTION 10-503 TO PROHIBIT SMOKING OR VAPING ON ANY MUNICIPAL PROPERTY; AND PROVIDING FOR THE SEVERABILITY

THEREOF.

BACKGROUND:

In 1996, the Oklahoma Attorney General filed a lawsuit against "Big Tobacco" for predatory marketing and egregious efforts to normalize smoking. By 1998, 45 other states had filed similar lawsuits and four of the largest tobacco companies agreed to negotiate a master settlement. As part of the settlement, the tobacco companies agreement to cease efforts to promote its products to youth. The settlement also banned branded merchandise, free product samples in facilities open to minors, and most sponsorships by tobacco companies. Each state receives an annual payment as long as cigarettes are sold nationally.

After bipartisan support for legislation creating a state question to amend the Oklahoma Constitution, voters approved the creation of the Tobacco Settlement Endowment Trust (TSET) in 2000, making Oklahoma the first to protect its settlement payments in a constitutional trust. Seventy-five percent (75%) of each annual payment is deposited in the trust and only the interest earnings are used to provide grants and programs aimed at reducing Oklahoma's leading causes of death – cancer, heart disease and stroke – by focusing on programs that reduce tobacco use and obesity, the greatest contributing factors to cancer and cardiovascular disease.

Locally, the Cleveland County Turning Point Coalition/Tobacco Free Cleveland County was formed in 2004 as a result of a TSET Grant that supported the Communities of Excellence Tobacco Prevention Program in Cleveland County, to combat tobacco use and secondhand smoke in our community. Cleveland County Turning Point Coalition/Tobacco Free Cleveland

County was made up of representatives from various agencies and municipalities, including the Cleveland County Health Department, Norman Regional Health Systems, the Cities of Moore, Norman, and Noble and their respective school districts, and others. As a result of this effort, the City adopted Ordinance O-0607-45 in 2007 to prohibit the sale of tobacco products to a minor and regulate where tobacco products were placed with regard to youth access to such products, as well as to bring the Code into alignment with new (at the time) state laws related to youth access to tobacco products and smoking in public places.

In 2009, Council adopted Ordinance O-0809-39 expanding the prohibition of smoking in all City-owned public parks, but excluded parking lots of any public park or playground and the Westwood Golf Course. In 2020, Council adopted Ordinance O-1920-65 changing the minimum age to purchase tobacco or vapor products from 18 to 21 consistent with a state law signed by Governor Stitt in May 2020. In 2021, Council adopted O-2021-41 expanding the definition of "public place" and prohibiting the smoking of marijuana or vape marijuana in addition to tobacco, in public places, indoor workplaces, vehicles providing public transportation, or at a meeting of a public body, consistent with State law. This prohibition applies to all City-owned public parks, excluding the parking lots of any public park or playground and the Westwood Golf Course.

TSET continues to fund a program in Cleveland County, now called the Healthy Living Program, which is a partnership with the Norman Regional Health System. TSET offers Healthy Incentive Grants for Communities each year to help municipalities adopt and implement best and promising practices for tobacco-free environments, access to healthy foods and physical activity opportunities in an effort to improve the health and quality of life for residents. Healthy Living Program staff began working with the City of Norman to expand its tobacco and smoking ordinance in 2015 to broaden existing smoking bans to include parking lots of public parks or playgrounds and the Westwood Golf Course. Healthy Incentive Grants from TSET are available at different funding levels to communities who meet grant criteria. Norman previously received awards in 2012 and 2013 totaling \$50,000. In 2012, grant funding was used to purchase playground equipment and a water fountain for Eastridge Park. In 2013, grant funding was used to install a fitness walking trail at Saxon Park. For FYE2023, Healthy Incentive Grants mare open for application during November 2022 and March 2023,

On June 9, 2022, the Cleveland County Program Coordinator of the Healthy Living Program gave a presentation to the Council Oversight Committee regarding the revised TSET Healthy Incentive Grant Program. Committee members were advised that the grant program criteria had been updated, and maximum funding had been increased to \$150,000. Under the new criteria, Norman was advised it may be eligible for a \$100,000 grant if the ordinance is expanded to prohibit tobacco use on the Westwood Golf Course and in park parking lots and playgrounds. Council committee members asked the Healthy Living Program staff to gather additional survey data related to the use of tobacco products at Westwood Golf Course.

On September 1, 2022 TSET gave a presentation to the Parks Board, which included data from the additional survey efforts at Westwood Golf Course, and was supportive of the request to modify the City's Ordinance. Another presentation was provided to the Council Oversight Committee on October 13, 2022 by TSET which included survey data and proposed ordinance changes. Proposed ordinance changes include prohibiting the use of tobacco and vapor products in all indoor and outdoor City-owned and operated properties. State law prohibits the City from enacting provisions related to smoking in public places that are more restrictive than

state law, unless such restrictions are limited to our own property. After the September Council Oversight Committee presentation, requests from more than three Councilmembers were received by the City Clerk to place this item on Council's next agenda for action. The City Manager has also scheduled a discussion of this proposed ordinance at Council's Conference scheduled for October 25, 2022 to allow the opportunity for full Council input. Any changes Council desires will be prepared for amendment during Second and Final Reading on November 8, 2022.

It should be noted that adoption of the proposed ordinance changes is one of a number of criteria that must be met to be eligible for TSET grant funding. The Healthy Incentive Grant for Communities Criteria & Resources for Fiscal Year 2023 is attached for Council's information. Additional work will be necessary to ensure other criteria are met. It is unlikely all of the items required to meet the criteria could be accomplished in time for the November 2022 application period.

DISCUSSION:

Ordinance O-2223-18, if adopted, would expand the City's existing prohibition of smoking tobacco or marijuana, or vaping marijuana to all parking lots located on the same property as a public park or playground and the Westwood Golf Course. It also adds a definition for "vaping" and "vapor product" and adds a prohibition against vaping of tobacco on City property, including within 25 feet of the entrance of municipal buildings and public parks.

It should be noted that adoption of the proposed ordinance changes is one of a number of criteria that must be met to be eligible for TSET grant funding. The Healthy Incentive Grant for Communities Criteria & Resources for Fiscal Year 2023 is attached for Council's information. Additional work will be necessary to ensure other criteria are met. It is unlikely all of the items required to meet the criteria could be accomplished in time for the November 2022 application period.

Local entities who have passed ordinances banning smoking and vapor products, as well as smokeless tobacco on public property include Cleveland County (January 1, 2016); Edmond (October 18, 2021); and Moore Norman Technology Center (July 1, 2013). Other entities who have banned smoking and vapor products, but not smokeless tobacco, include Oklahoma City (February 18, 2020); and Moore (May 21, 2019).

RECOMMENDATION:

Staff forwards Ordinance O-2223-18 to Council for its consideration.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 10-502 OF ARTICLE V, CHAPTER 10 OF THE CODE OF CITY OF NORMAN AMENDING THE DEFINITION OF PUBLIC PARK AND ADDING DEFINITIONS FOR VAPING AND VAPOR PRODUCT; AMENDING SECTION 10-503 TO PROHIBIT SMOKING OR VAPING ON ANY MUNICIPAL PROPERTY; AND PROVIDING FOR THE SEVERABILITY THEREOF.

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

§ 1. THAT Section 10-502 of Chapter 10 of the Code of Ordinances of the City of Norman shall be amended to read as follows:

* * *

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.

* * *

Vaping: The using of a vapor product.

Vapor product: Any noncombustible product that may or may not contain nicotine, THC or marijuana, that employs a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce a vapor in a solution or other form. Vapor product shall include any vapor cartridge or other container with or without nicotine, THC or marijuana or other form that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device any vapor cartridge or other container of a solution, that may nor may not contain nicotine, marijuana or THC, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, or electronic device.

§ 2. THAT Section 10-503 of Chapter 10 of the Code of Ordinances of the City of Norman shall be amended to read as follows:

Sec. 10-503. – Smoking and vaping in certain public places prohibited.

- (1) Except where specifically allowed by law, no person shall smoke tobacco or marijuana or vape marijuana in a public place, in an indoor workplace, in any vehicle providing public transportation, or at a meeting of a public body.
- (2) All buildings, or portions thereof owned or operated by this municipality shall be designated as non-smoking and non-vaping.

Item 1.

Ordinance No. O-2223-18

Annotated

- (3) No smoking <u>or vaping</u> of tobacco or marijuana or vaping marijuana shall be allowed within twenty-five (25) feet of the entrance or exit of any building specified in subsection (2) of this section.
- (4) No smoking <u>or vaping</u> of tobacco or marijuana <u>or vaping marijuana</u> shall be allowed on the grounds of any City-owned public parks <u>excluding the parking lots of any public park or playground and the Westwood Golf Course</u>.

* * *

§ 3. <u>Severability.</u> 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.

ADOPTED this	_ day	NOT ADOPTED this	day
of	, 2022.	of	, 2022.
Larry Heikkila, Mayor		Larry Heikkila, Mayor	
ATTEST:			
Brenda Hall, City Clerk	<u></u>		

Healthy Incentive Grant for Communities Criteria & Resources

Fiscal Year 2023 (7/1/2022 – 6/30/2023)

ALL Classification Levels Criteria	Documentation Required to Fulfill Criteria	Resources Related to Criteria Requirements
Signed and Dated Non-Acceptance of Tobacco Funds Certification Form from TSET	Provide a copy of the signed and dated Non-Acceptance of Tobacco Funds Certificate form from TSET.	Attachment A: Non-Acceptance of Tobacco Funds Certification Form
Comprehensive Tobacco-free City-owned Property Ordinance	Provide a copy of the ordinance.	Ordinance must meet the elements outlined in the sample ordinance, which includes restricting tobacco use, smoking and vaping indoors and outdoors on city-owned and operated property. To indicate that the ordinance has been passed by proper authorities, include proof of passage (e.g., council meeting minutes, presences on city website, or signature of authorized official and date ordinance was passed).
Promote the Oklahoma Tobacco Helpline within the Community	Provide documentation of how you promote the Oklahoma Tobacco Helpline.	To indicate how the Oklahoma Tobacco Helpline is being promoted, include proof of promotion (e.g., links to city/chamber/local businesses' website, copies of flyers, photos of posted flyers & location, cities social media accounts, etc.) Order Free Resources to promote the Oklahoma Tobacco Helpline.
Promote the Shape Your Future website throughout the Community	Provide documentation of how you promote the Shape Your Future website.	To indicate how the <u>Shape Your Future</u> website is being promoted, include proof of promotion (e.g., links to city/chamber/local business' website, copies of flyers, photos of posted flyers & location, cities social media accounts, etc.) Order <u>Free Resources</u> to promote the Shape Your Future website.

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Bronze Classification Level

Criteria	Documentation Required to Fulfill Criteria	Resources Related to Criteria Requirements
City has Workplace Wellness Champion, Team, or Committee	Provide documentation of City's Workplace Wellness Champion, Team, or Committee.	If the city has <u>less than 10 full time paid employees</u> , provide name and title of identified wellness champion, team, or committee. If the city has <u>more than 10 full time paid employees</u> , provide names and titles of wellness team or committee members.
City Supports the Tobacco Ordinance and Assesses Employee Health Promoting Policies, Programs, and Activities	Provide a detailed summary of information gathered as it pertains to current and future wellness policy, programs, and activities. Include a copy of your current worksite wellness policy, if applicable. *	Regarding tobacco- Provide statement of city's commitment to ensuring that your workplace is a tobacco-, smoke-, and vape-free environment, at all times. Regarding nutrition and physical activity- Gather employee input on current and potential wellness policies, programs, & activities (e.g., surveys, focused discussion groups, etc.). Sample Workplace Wellness Policy Resolution for Local Governments *To indicate that the policy has been passed by proper authorities, include proof of passage (e.g., signature of authorized official and date policy was passed).
City has a Youth Access to Tobacco Ordinance	Provide a copy of the city's ordinance that prohibits the sale, gifting or furnishing in any manner any tobacco product or vapor product to another person who is under 21 years of age.	Sample Youth Access to Tobacco Ordinance Contact Oklahoma ABLE Commission in order to report your community's enacted enabling ordinance. Captain Erik Smoot, Erik.Smoot@able.ok.gov (405) 522-3117 (office) (405) 837-9740 (mobile) To indicate that the ordinance has been passed by proper authorities, include proof of passage (e.g., signature of authorized official and date ordinance was passed, webpage link to publicly available ordinances, etc.).

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		SNAP Retailer Locator (arcgis.com)	Item 1.
City has Completed a Community Assessment of the Food Retail Environment Prov	Provide a detailed description of the food retail environment in your community. Include information on the availability of healthy food from community farmers' markets, corner stores and/or grocery stores. Provide a list of stores and markets that accept WIC, SNAP, and Senior Nutrition Vouchers within or nearby your community.	Oklahoma WIC Approved Grocers and Pharmacies Healthy Food Access Example Videos Consider utilizing the Find, Afford, Choose, Use Frame page 10 of the Partnering with Local Governments to Healthy Food Retail Policy Guidebook to begin converwithin your community.	Create
	Provide a detailed description of the community landscape as it relates to active living (i.e., etc.). Include information that you have collected and analyzed that depict your community.	Sample Walkability Checklist Sample Bikeability Checklist Active Living and Transportation Toolbox	
City has Assessed the Community Landscape as it Relates to Active Living	Examples of active living landscapes: Park and open spaces, community based social support programs, active transportation infrastructure, etc. Examples of data collection for active living: Walkability/bikeability audits, photovoice projects, community park audits, etc.	Consider utilizing the Active Living and Transportation Plays guide to help communities partner with local governments healthy, active streets and encourage active transportation utilizing the Planning, Building, & Implementing Active Tran Infrastructure Fact Sheet as a tool for guidance through act transportation projects. The Community Park Audit Tool (CPAT) Guidebook and Con Park Audit Tool (CPAT) could be helpful tools as well.	to create . Also, asportation ive

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Silver Classification Level (must meet all Bronze level criteria +)

Criteria	Documentation Required to Fulfill Criteria	Resources Related to Criteria Requirements
City has Workplace Wellness Goals	Provide a copy of your documented worksite wellness goals.	If the city has less than 10 full time paid employees, provide documented wellness goals for your city as identified by your wellness champion, team, or committee. If the city has more than 10 full time paid employees, provide documented wellness goals for your city as identified by your wellness team or committee and a copy of the team or committee minutes from the most recent meeting.
City has a Worksite Wellness Policy and Provides Health Promotion Programs and Activities to Employees	Provide a copy of your current worksite wellness policy and description of health promotion programs and activities offered to employees.	Regarding tobacco- Provide statement of city's commitment to ensuring that your workplace is a tobacco-, smoke-, and vape-free environment, at all times. This must include policy language that supports the tobacco ordinance, provides cessation support, and outlines implementation and enforcement. Regarding nutrition and physical activity- The Worksite Wellness Policy must include elements within each section (Worksite Wellness Checklist) to meet the minimum requirement listed below: If the city has less than 10 full time paid employees- Wellness Program Support: 2 elements Nutrition: 8 elements PA: 4 elements If the city has more than 10 full time paid employees- Wellness Program Support: 4 elements Nutrition: 12 elements PA: 7 elements To indicate that the policy has been passed by proper authorities, include proof of passage (e.g., signature of authorized official and date policy was passed). Sample Workplace Wellness Policy Resolution for Local Governments

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City has a Tobacco Zoning Ordinance	Provide a copy of your zoning ordinance that prohibits the location of a tobacco/e-cigarette store within 300 feet of any playground, school or other facility being used primarily by persons under 21 years of age.	Sample Tobacco Zoning Ordinance To indicate that the ordinance has been passed by pr authorities, include proof of passage (e.g., signature of authorized official and date ordinance was passed, we link to publicly available ordinances, etc.).	of
Markets, Community Gardens, and/or Healthy Food	Provide a copy of your policies, ordinances, resolutions and/or legal codes, that have been adopted and implemented, to establish, support, and promote farmers' markets, community gardens, and/or healthy food and beverage options.	Example policies, ordinances, resolutions and/or lega Healthy Food Systems Resolutions Farmer's Markets Land Use for Healthy Food Acce	nas been ge (e.g.,
City has Policies, Ordinances, Resolutions, and/or Legal Codes that Establish, Support, and Promote Active Living	Provide a copy of your policies, ordinances, resolutions and/or legal codes, that have been adopted and implemented, to establish, support, and promote active living.	 Example policies, ordinances, resolution and/or legal Comprehensive Plans Complete Streets Resolution Safe Routes to School Policy Shared Use Policy Consider utilizing the Planning, Building, & Implementing A Transportation Infrastructure Fact Sheet as a tool for active transportation projects. To indicate that the policy, ordinance, or legal code h passed by proper authorities, include proof of passag signature of authorized official and date passed, web to publicly information, etc.). 	active e nas been ge (e.g.,

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Gold Classification Level (must meet Bronze and Silver level criteria +)			Item 1.
Criteria	Documentation Required to Fulfill Criteria	Resources Related to Criteria Require	ments
City has Leadership Support for Workplace Wellness	Provide documentation of leadership support for your workplace wellness policy, goals, and initiatives.	Provide documentation of leadership support of the wagoals and initiatives for your city, as identified by the watchampion, team, or committee (e.g., letter of support city manager, mayor, city councilperson, etc.).	vellness
City has a Worksite Wellness Policy and Provides Health Promotion Programs and Activities to Employees	Provide a copy of your current worksite wellness policy and description of health promotion programs and activities offered to employees.	Regarding tobacco- Provide statement of city's comminensuring that your workplace is a tobacco-, smoke-, are free environment, at all times. This must include policy language that supports the tobacco ordinance, provide cessation support, and outlines implementation and enforcement. Regarding nutrition and physical activity- The Worksite Wellness Policy must include elements we each section (Worksite Wellness Checklist) to meet the minimum requirement listed below: If the city has less than 10 full time paid employees-Wellness Program Support: 4 elements Nutrition: 12 elements PA: 7 elements If the city has more than 10 full time paid employees-Wellness Program Support: 5 elements Nutrition: 15 elements PA: 10 elements To indicate that the policy has been passed by proper autho include proof of passage (e.g., signature of authorized official policy was passed).	nd vape- y es vithin
		Sample Workplace Wellness Policy Resolution for Loca Governments	<u>I</u>
City conducts frequent underage tobacco checks in the community to identify and discourage illegal selling of tobacco and vapor products to minors and results are made public.	Provide a copy of the list of compliance checks conducted within the last 6 months. Include a copy of the publication notice.	Contact for Oklahoma ABLE Commission: Captain Erik Smoot Oklahoma ABLE Commission 50 N.E. 23rd Street Oklahoma City, OK. 73105 (405) 522-3117 (office) (405) 837-9740 (mobile)	12
	12	7/2	9/2(

		Item 1. To indicate that the ordinance has been passed by proper authorities, include proof of passage (e.g., signature of authorized official and date ordinance was passed, webpage link to publicly available ordinances, etc.).
affordability of or access to healthy foods, within	Examples of brick-and-mortar locations: Convenience store, markets, grocery store Examples of permanently recurring retail:	Within your description include answers to the following: How have your policies, ordinances, resolutions and/or legal codes, that were previously established, helped to increase support for brick-and-mortar locations or permanently recurring retail opportunities. In what ways has the city been able to increase affordability of or access to healthy foods (e.g., SNAP, Senior Vouchers at Farmers Markets, Double Up Oklahoma, etc.)? Who has benefited from that increased affordability and access?
		Other Tools and Resources: Healthy Picks-Healthy Retail Signage Farmer's Market Signage Within your description include answers to the following:
City Ensures the Residents have Access and Availability to a Community that Supports Active Living	Provide a detailed description of the city's recent efforts to increase access and availability for active living, within the last three years.	How have your policies, ordinances, resolutions, and/or legal codes, that were previously established, helped to support and promote active living within your city? In what ways has the city been able to increase access and availability to support active living (e.g., infrastructure to support walking/biking, social support physical activity programs, etc.)? Who has benefited from that increased access and availability?

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