



CITY OF NORMAN, OK CITY COUNCIL CONFERENCE

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

Tuesday, September 14, 2021 at 5:30 PM

AGENDA

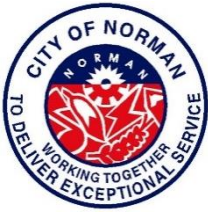
It is the policy of the City of Norman that no person or groups of persons shall on the grounds of race, color, religion, ancestry, national origin, age, place of birth, sex, sexual orientation, gender identity or expression, familial status, marital status, including marriage to a person of the same 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 PROPOSED ORDINANCE O-2122-17 REGARDING COMMUNITY RESOURCE REFRIGERATORS.

ADJOURNMENT



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 09/02/2021

REQUESTER: Business and Community Affairs Committee

PRESENTER: Anthony Purinton, Assistant City Attorney

ITEM TITLE: DISCUSSION REGARDING PROPOSED ORDINANCE O-2122-17
REGARDING COMMUNITY RESOURCE REFRIGERATORS.

BACKGROUND:

In early 2021, certain community members began operating a refrigerator outside of a local storefront for the purposes of providing free, donated food to anyone who needed it. After about six months of operation, City staff received several complaints related to the refrigerator and, upon investigation, provided notice that the refrigerator was not compliant with multiple City Code provisions, namely 10-204, which prohibits any unattended appliances. City staff were asked to draft an ordinance that would amend Section 10-204 of the City Code to allow these “Community Resource Refrigerators” to operate. City staff were also asked to draft regulatory code provisions to ensure minimum compliance and safety standards.

DISCUSSION:

Attached is Ordinance O-2122-17, which proposes adding permitting requirements for community resource refrigerators, as well as changes to Section 10-204 that excepts community refrigerators that have a valid City permit from the general prohibition on unattended appliances.

City staff consulted with community stakeholders and relevant city enforcement officials prior to drafting the proposed language. The resulting proposed ordinance attempts to balance the need for minimum regulatory requirements to ensure safe operation and the ability for community members to engage in these volunteer efforts that provide low-barrier access to donated food. There is a definite tension between those two needs, as increased safety requirements and regulations increase the cost of establishing community refrigerators, which may make the endeavor cost-prohibitive.

Key elements of the proposed ordinance are as follows:

Changes to Section 10-204.

As stated, Section 10-204 currently prohibits unattended appliances. The proposed language adds subsection (c), which exempts “Community Resource Refrigerators” that have a valid

permit under the newly-added Article 36 in Chapter 13 of City Code. This exemption allows operation of community refrigerators, provided the requirements of Article 36 are met.

Addition of Article XXXVI – Community Resource Refrigerators

Basic regulatory and safety guidelines are proposed by adding Article 36 to Chapter 13, Licenses and Occupations. This Article provides the requirement for a City-issued permit, the permitting procedure, and necessary safety and location requirements.

Permit applications would have five basic requirements:

1. Identification of applicant, property owner, and lessee;
2. Address of the proposed location;
3. A site plan with the proposed refrigerator location clearly marked (site plans are easily obtainable by accessing the interactive map on the City's website);
4. A signed acknowledgement from the property owner (if applicable), stating that they consent to the proposed use of the property; and
5. A copy of the donation guidelines that the applicant plans to post on the refrigerator (for assurance that guidelines have been contemplated and will be in place once operational)

Once the application is received, the City Clerk and the Department of Planning and Community Development will review the application to ensure that the application meets the requirements and the proposed location does not extend into a right of way. As community refrigerators are, by definition, intended to be donation locations and are not commercial in nature, no fee is required to submit an application.

Additionally, the proposed language requires that the community refrigerators be on private, nonresidential zoned property. Allowing community refrigerators on public property is not advisable due to potential risk of liability. To ensure compliance with certain requirements of the fire code, outdoor outlet protectors are required and the language does not allow for the use of extension cords. Of course, each situation will be different, so applicants should take steps to ensure that the proposed location and operation are in compliance with all fire prevention requirements prior to beginning operation.

In regard to food safety, the proposed language simply requires that donation guidelines be implemented and physically posted on each community refrigerator for the purposes of promoting safe donation practices. This eliminates the need for City enforcement to monitor food donations that are deposited in each refrigerator. No specific or set food safety regulations are proposed since there are no State regulations that would apply to non-commercial food establishments. Self-regulation of these community refrigerators are expected, which is why there is also a requirement that a contact number be posted on the refrigerator, in the event that an issue needs to be addressed. However, the City would still have the ability to address any public safety hazards that result from a failure of the expected self-regulation and enforcement, pursuant to Section 10-203.

CONCLUSION:

Ordinance O-2122-17 is attached for your feedback and consideration.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING SECTION 10-204 TO EXEMPT REGISTERED COMMUNITY RESOURCE REFRIGERATORS; ADDING ARTICLE XXXVI COMMUNITY RESOURCE REFRIGERATORS, SECTIONS 13-3601 THROUGH 13-3606; ADDING DEFINITIONS, PERMIT REQUIREMENTS, PERMIT APPLICATION PROCEDURES, LOCATION REQUIREMENTS, SAFETY REQUIREMENTS, AND POSTING REQUIREMENTS; AND PROVIDING FOR THE SEVERABILITY THEREOF.

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

- § 1. That Sections 10-204 of Chapter 10 of the Code of the City of Norman shall be amended to read as follows:

Sec. 10-204. - Iceboxes, refrigerators, other appliances, a nuisance.

- (a) No person shall keep, maintain, or allow on any premises owned or controlled by him, any abandoned, unattended or discarded icebox, refrigerator, or other container or appliance of any kind; and the continued existence of such abandoned, unattended or discarded articles shall constitute a public nuisance.
- (b) Upon written notice by the City, the person keeping, maintaining, or allowing such an icebox, refrigerator, or container or appliance shall remove such nuisance.
- (c) This section shall not apply to Community Resource Refrigerators that have a valid permit as set forth in Article XXXVI of Chapter 13 of the City Code.

- § 2. That “Article XXXVI – COMMUNITY RESOURCE REFRIGERATORS” shall be added to Chapter 13 of the Code of the City of Norman as follows:

Sec. 13-3601. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Community Resource Refrigerator: A refrigerator located on private property that is openly accessible to the public and which serves as a point of direct distribution of food items to consumers without requiring anything of monetary value.

Public right-of-way: Any street or highway and property adjacent to streets and highways which is dedicated to public use and over which the Federal, State or municipal government, or any agency, department or subdivision thereof, exercises control and dominion; or any bridge, alley, sidewalk, pedestrian way, stairs or elevator which is dedicated to public use and over which the Federal, State or municipal government, or any agency, department or subdivision thereof, exercises control and dominion.

Section 13-3602. - Permit Required.

No person shall operate or maintain a community resource refrigerator without complying with all provisions of this article and without having previously obtained a permit as provided in this chapter.

Sec. 13-3603. - Application procedure for permit.

(a) Contents of application.

- (1) The full name, address and telephone number of both the owner and lessee (if applicable) on whose premises the community resource refrigerator will be installed, operated, connected or maintained.
- (2) Address of property where the community resource refrigerator will be located.
- (3) Site plan of the subject property with proposed location of the community resource refrigerator clearly marked.
- (4) If the applicant is not the property owner, a signed acknowledgement from the property owner stating that the property owner consents to the proposed use of the property.
- (5) A copy of donation guidelines that the applicant intends to post on the community resource refrigerator to comply with the requirement of Section 13-3605(a).

(b) Review of application. The City Clerk and the Department of Planning and Community Development shall review the application to ensure:

- i. That the above content requirements have been met; and
- ii. That the chosen location of the community resource refrigerator is located on a nonresidential use property and does not extend onto the public right of way.

(c) No fee shall be required to file an application under this section.

Sec. 13-3604. – Location requirements.

All community resource refrigerators must be located on private, nonresidential use property.

Sec. 13-3605. – Safety Requirements

- (a) All applicants for a community resource refrigerator permit shall implement and maintain appropriate donation guidelines that promote safe donation practices.
- (b) Daily temperature checks shall be taken to ensure that the inside temperature of the refrigerator is sufficient to maintain proper food safety.

- (c) If placed outdoors, the refrigerator must be connected directly to an appropriate outdoor outlet which is protected by an in-use receptacle cover that protects the outlet from the elements and is capable of preventing the refrigerator from being unplugged.

Sec. 13-3606. – Required information to be posted

The following shall be posted in a conspicuous place directly on the community resource refrigerator:

- (a) Language designating the refrigerator as a community resource refrigerator.
- (b) Donation guidelines that have been adopted pursuant to 13-3605(a).
- (c) Contact information, including a phone number, to contact in the event that the community resource refrigerator is nonfunctioning or is in need of service.
- (d) Contact information for the City of Norman Code Compliance Department.

§ 3. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional, 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.

ADOPTED this _____ day
of _____, 2021.

(Mayor)

NOT ADOPTED this _____ day
of _____, 2021.

(Mayor)

ATTEST:

(City Clerk)

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ADOPTED this _____ day
of _____, 2021.

(Mayor)

NOT ADOPTED this _____ day
of _____, 2021.

(Mayor)

ATTEST:

(City Clerk)

CITY OF NORMAN

Community Resource Refrigerators

Anthony Purinton

Asst. City Attorney



Background

- Jan/Feb of 2021: Community Fridge begins operating on Main St.
- June 2021: Code Compliance received complaints about the fridge
- July 2021: Fridge on Main St. is removed and relocated as it does not comply with 10-204 & 10-205
- Second fridge on Lindsey St. brought inside building after Main St. relocation



Current Barriers

Section 10-204

- Current City Code only allows “attended” community fridges
- Generally prevents community fridges from being placed outside

Staff Assignment: Code Change

Item 1.

in two weeks

Staff assigned to draft ordinance that:

- (1) Allows operation of “unattended” community refrigerators similar to the ones that had been operating (i.e., exemption from 10-204); &
- (2) Places safety regulations on operator of community refrigerators.

Step One: What is a “Community Refrigerator”

Item 1.

Process:

- Aggregate data from community refrigerators across U.S.
- Local Stakeholder interviews

Step One: What is a “Community Refrigerator”

Item 1.



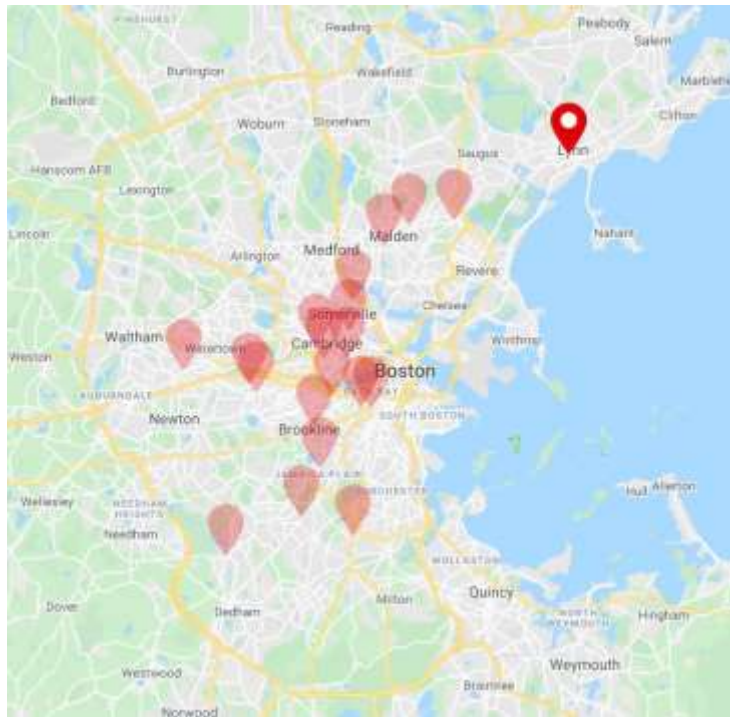
Step One: What is a “Community Refrigerator”

Item 1.



Step One: What is a “Community Refrigerator”

Item 1.



Step One: What is a “Community Refrigerator”

Item 1.

- Basic characteristics
 - Goal of addressing local food insecurity
 - Most are outdoors
 - Monitored and stocked by community volunteers
 - Low barrier (i.e., no requirement to take or give)
 - Hosted on local private property or business
 - Mutual Aid Model – “Solidarity, not charity”

Staff Assignment: Code Change

Item 1.

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Tension (

- (1) Allows operation of “unattended” community refrigerators similar to the ones that had been operating (i.e., exemption from 10-204); &
- (2) Places safety regulations on operator of community refrigerators.

Assignment reframed

Item 1.

How can we draft an ordinance that:

- (1) Imposes safety regulations on community refrigerators
- (2) In a way that still allows the operation of community refrigerators similar to the ones that had been operating

Step Two:

Regulatory Context

Item 1.

Other Municipalities:

- No other municipal regulation specific to community fridges
- At least one (Boston) has adopted informal guidance on how to operate

Oklahoma:

- No state health regulations “noncommercial”
- Other barriers may exist – both generally and in fact-specific situations

Step Three: Drafting

Item 1.

Overview:

- Exception included in Chapter 10 Sec. 10-204
- New Article added in Chapter 13 that allows for a permit
- Minimum safety guidelines and regulations (generally consistent with prior operations)

10-204

Item 1.

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Chapter 13: Licenses and Occupations

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Requirements:

Item 1.

Sec. 13-3602 – 13-3604

- Permit required – no fee to apply
- Application requirements:
 - Basic identification info of property & property owner/lessee
 - Site plan with fridge location marked
 - Signed acknowledgement from property owner (if applicable)
 - Reference copy of their donation guidelines they intend to post
- Location
 - Private property
 - Nonresidential property

Safety requirements

Sec. 13-3606

Item 1.

- Must post donation guidelines to promote safe donation practices
- Daily temperature checks
- If outdoors, need an appropriate outdoor outlet and an in-use receptacle cover
- Other code requirements may apply depending on situation (fire code, building code, etc.)

Posting requirements

Sec. 13-3606

Item 1.

- Language designating the refrigerator as a community resource refrigerator.
- Donation guidelines
- Contact information, including a phone number, to contact in the event that the community resource refrigerator is nonfunctioning or is in need of service.
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QUESTIONS?

