

CITY COUNCIL
BUSINESS AND COMMUNITY AFFAIRS COMMITTEE MINUTES

November 7, 2019

The City Council Business and Community Affairs Committee of the City of Norman, Cleveland County, State of Oklahoma, met for a regular meeting at 4:00 p.m. in the Executive Conference Room located at 201 West Gray on the 7th day of November, 2019. Notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray and at www.Normanok.gov twenty four hours prior to the beginning of the meeting.

MEMBERS PRESENT:	Councilmembers Wilson, Bierman, Petrone, Scanlon, and Hall
ABSENT:	Councilmember Carter
OTHERS PRESENT:	Mayor Clark Mr. Darrel Pyle, City Manager Ms. Kristina Bell, Assistant City Attorney I Ms. Beth Muckala, Assistant City Attorney II Ms. Jane Hudson, Planning and Community Development Director Ms. Gala Hicks, Director of Human Resources Ms. Jamie Meyer, Administrative Technician III

Item 1, being:

DISCUSSION REGARDING ANNUAL PERCENTAGE RATE CAPS ON PAYDAY LOANS.

Ms. Beth Muckala, Assistant City Attorney, stated that the Deferred Deposit and Lending Act is the State law that applies to this subject. This Act was passed in 2003 and it does not have a statutory APR cap in it. A maximum rate and fee is \$15 per \$100 for up to \$300; additional \$10 per \$100 for \$301 to \$500. The permitted loan term is between 12 and 45 days. So this analysis of Oklahoma law leads to a conclusion that the average APR is 390% based on a \$100/14-day loan. That there will not be more that two loans at once and rollovers are not permitted. After five loans, a 2-business day “cooling off” period is required before the debtor is allowed to take a sixth. Repayment plans available after third consecutive loan with 4 installments at a 10% fee capped at \$15.

Ms. Muckala explained the types of preemption which are field or implied. A conflict preemption is a type of implied preemption and it is typically applied to municipal laws where state law on payday loans exist. Some Oklahoma case examples are alcoholic beverages and is a good example of field preemption. In a Colorado example a court determined the municipal ordinance prohibited conduct that the state law allowed. The court struck down the part of the APR cap and now the City has since repealed and has nothing in place currently. Preemption Analysis of Oklahoma law does have the potential of finding a field preemption due to the passage of the comprehensive Act in 2003. There is a strong potential for conflict preemption due to the fact that Oklahoma statute does not set an APR limit itself, and thus allows APRs of as much as 390-395%.

Item 1, continued,

Ms. Muckala said as a result of this a Norman ordinance setting an APR cap is likely to be invalidated by state law. However, City zoning power is likely validly exercised in compliance with state law, but there could be issues of grandfathered locations.

Councilmember Wilson asked for a memo to get more information on the preemptions, amendments as well as any disclosures, penalties or requirements for a municipality.

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Item 2, being:

DISCUSSION REGARDING THE BAN THE BOX INITIATIVE.

Ms. Kristine Bell, Assistant City Attorney, said that Ban the Box is a civil rights advocacy campaign that legislation put in place prohibiting employers from inquiring about previous felony convictions and/or other criminal history on employment applications. This has also been referred to as “Fair Chance” hiring. In 2016, Governor Fallin issued Executive Order 2016-03. This order was the result of recommendations made by the Oklahoma Justice Reform Steering Committee and four subcommittees comprised of 40 professionals in criminal justice, corrections, mental health, substance abuse, and re-entry services. Currently this only applies to the State of Oklahoma employment agencies, not a private agency. Employment after a felony conviction is always a challenge and an individual’s ability to gain employment is a critical and necessary component to reducing recidivism. Thus, it is necessary to remove unnecessary barriers to employment for Oklahomans with felony convictions. State employment hiring policies should allow full and fair consideration of those with a criminal history, where appropriate. This will provide state applicants at least the initial opportunity for consideration for employment, and opportunity to discuss their conviction record and provide information that indicates rehabilitation, and allows applicants to be considered based upon their qualifications without the stigmas of a conviction record. The Order does not prohibit employers from inquiring about felony convictions during the interview process or conducting background checks on prospective employees. An exclusion is made of convicted felons when required by law for sensitive governmental positions in which a criminal history would be an immediate disqualification. While looking at other jurisdictions that have similar legislation. I found that out of 35 states, 13 of those states have extended the prohibition to government contractors and 18 states have extended it to private employers. In Austin, Texas, and in Kansas City, Missouri, they have an Ordinance that prohibits inquiry into criminal history until after conditional job offer is made. They do have exceptions for positions where criminal conviction excludes applicants by local, state, or federal law or regulation. The City of Norman employment application asks if you have been convicted of a felony in the last 7 years or if you are currently charged with the commission of a felony. If the response is yes, then please state what, when and how. The City does accept applications from persons with arrest and conviction records and will consider employment of good risks. There is no automatic exclusion unless direct connection with the crime for which the individual has been convicted of and the job for which they are applying for. Such as a position in the Finance Department but they were recently convicted of embezzlement. Also, an exclusion could be warranted if the area is of sufficient sensitivity or where the degree of trust is great enough. The City also takes into consideration the nature and seriousness of offense; circumstance under which offense occurred; how long ago offense occurred; whether or not it was an isolated or repeated incident; person’s age at time of offense; social conditions which may have contributed to the offense; evidence of rehabilitation; and lastly the kind of position sought.

Item 2, continued:

Ms. Bell said the City policy is to be considered by the Human Resource Director and the hiring supervisor. Background checks are made on every applicant, but only after a conditional job offer is made and all information is confidential.

Ms. Bell did state that persons with felony convictions are prohibited by law from being employed as a commissioned police officer.

Item 3, being:

DISCUSSION REGARDING A POSSIBLE PROGRAM FOR AMBULANCE INSURANCE.

Ms. Muckala stated the Oklahoma City Ambulance Insurance program is ten years old, and outlined some of the important facts about it. First, State Statute – municipalities can bid for a provider for all “emergency” transport in the municipality. There are some exceptions such as federal and state transport services. EMSA in Oklahoma City and Tulsa are set up as a public trust with both as the beneficiary. This provides transport services in metro areas. Oklahoma City’s program is collected through utility accounts and there are different options for landlords and renters. The cost ranges from \$1.80 per apartment unit to \$3.65 per month for a single family home.

Councilmember Wilson asked how it would affect the rural residents of Norman that do not have a utility bill and whether this would have to go to the vote of the people. Additionally, I think it would be beneficial to get more information from EMSA.

Ms. Muckala explained that his program fully covers emergency transport whether the patient has a third-party insurance or not. Non-Emergency transport is covered where a third-party insurance company or other coverage pays a portion and a physician certification statement is provided. However, if there is no coverage or if coverage is denied, but certification is provided, a reduced rate is paid for medically necessary non-emergency transport. Some items that need to be considered is does the City want to do a Public Trust or do competitive bidding. Something to also consider is to have the “opt in” or “opt out” option on their utility bill, which would not have to go to the voters. I do think it would be beneficial to coordinate and communicate about this with EMSTAT/Norman Regional Hospital.

Councilmember Petrone would like to know what the cost is to transport to OU Medical or to another local trauma center.

Councilmember Scanlon would like to know if this insurance would cover Medi-Flight expenses.

Councilmember Bierman would like to see a rough draft of how this would benefit Norman in a few months.

Item 4, being:

MISCELLANEOUS COMMENTS:

None

ADJOURNMENT

The meeting adjourned at 5:18 p.m.

ATTEST:

CITY CLERK

MAYOR