



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 INDEFINITE POSTPONEMENT OF ORDINANCE O-2223-18: 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 are 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.

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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.