

**GROVE CITY COUNCIL  
SPECIAL MEETING  
WEDNESDAY, AUGUST 22, 2018  
4:00 PM  
MINUTES**

The Grove City Council met in special session on Wednesday, August 22, 2018 at 4:00 PM with Mayor, Ed Trumbull presiding. Members present were Josh McElhaney, Don Nielsen, Marty Dyer and Ivan Devitt. Also present was City Manager, Bill Keefer; Attorney, Darren Cook; Assistant City Manager, Debbie Bottoroff and City Clerk, Bonnie Buzzard.

Trumbull opened the floor for discussion with respect to the review and discussion of policies and ordinances related to medical marijuana and alcoholic liquor. Keefer reported that the packet of information is relating to State Question 788 and Medical Marijuana as well as Alcoholic Liquor. This information was prepared by Assistant City Manager, Debbie Bottoroff who spent numerous hours reviewing the information gathered primarily from the Oklahoma Municipal League (OML) and the Oklahoma Municipal Assurance Group (OMAG) as well as sample ordinances from other cities and multiple reviews and discussions by Staff and the City Attorney. Keefer noted that at this time, there are a number of questions and “gray” areas for which there are no answers. Unfortunately many of these questions will not be clearly resolved until the State passes legislation or the court system renders their opinions. Bottoroff presented and discussed in detail the following proposed draft ordinance:

AN ORDINANCE OF THE CITY OF GROVE, OKLAHOMA ADDING PART 18, MARIJUANA ESTABLISHMENTS, TO THE CITY OF GROVE CODE OF ORDINANCES TO BE CONSISTENT WITH STATE LAWS AND REGULATIONS; DIRECTING CODIFICATION; AND PROVIDING FOR SEVERABILITY AND THE REPEAL OF CONFLICTING ORDINANCES; AND DECLARING AN EMERGENCY.

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

**SECTION ONE:**

Part 18, Chapter 1, of the City of Grove Code of Ordinances shall be added and shall read as follows:

**PART 18  
MEDICAL MARIJUANA ESTABLISHMENTS**

<b>Subject:</b>	<b>Chapter</b>
Medical Marijuana Establishments .....	1

**CHAPTER 1  
MEDICAL MARIJUANA ESTABLISHMENTS**

- SECTION:**
- 18-101: Definition
  - 18-102: Business License and Permit Required
  - 18-103: Location Restrictions
  - 18-104: Conditions of Operation
  - 18-105: Inspections
  - 18-106: Smoking of Marijuana on City Property is prohibited; Public Nuisance
  - 18-107: Penalty

18-108: Revocation of License

18-101: DEFINITION: Medical Marijuana Dispensary: Any business that is licensed by the State of Oklahoma to legally sell medical marijuana and medical marijuana products including mature plants and seedlings.

Medical Marijuana Grower: Any business who is licensed by the State of Oklahoma to legally grow marijuana for medical purposes. Licensed growers can sell to processors and dispensaries only. Growers shall not sell directly to consumers.

Medical Marijuana Processor: Any business who is licensed by the State of Oklahoma to legally prepare consumable forms of marijuana for medical purposes. Licensed processors may sell to dispensaries only. Processors shall not sell directly to consumers.

Medical Marijuana Growing Facility for Personal Use: any person licensed by the State of Oklahoma to grow marijuana at their residence for personal medical use.

18-102: BUSINESS LICENSE AND PERMIT REQUIRED

- A. All operators of commercial Medical Marijuana Establishments are required to obtain a Medical Marijuana Establishment Business license from the City Clerk on or before the date upon which he enters upon such business or occupation. The licensee shall provide a current copy of state license before a Business License will be issued. Thereafter, the licensee shall renew their Business License annually on or before July 1.
- B. The commercial Medical Marijuana Establishment License Fee shall be six hundred dollars (\$600.00) per year. The fee shall be used to offset municipal expenses covering costs related to licensing, inspection, administration and enforcement of commercial marijuana establishments.
- C. Upon payment of the Business License Fee, the city shall issue a receipt to the state licensee, which the licensee shall post in a conspicuous place on the premises wherein he carries on his business or occupation.
- D. All individuals operating a Medical Marijuana Growth Facility for Personal Use are required to obtain a Registration Permit prior to beginning operations. The licensee shall provide a current copy of their state license before a Registration Permit will be issued. Thereafter, the licensee shall renew their Registration Permit annually on or before July 1.
- E. The Medical Marijuana Growth Facility for Personal Use Registration Permit Fee shall be five dollars (\$5.00) per year.

18-103: LOCATION RESTRICTIONS

- A. A Medical Marijuana Dispensary will be allowed only within a C-3 Highway Commercial and Commercial Recreation Zoned District and shall be prohibited from all other zoning districts; and

Shall be prohibited from locating within one thousand feet (1,000') of the *entrance* of a building or unit of the following:

- 1. Private or public preschool, elementary school, secondary school, vocational or trade school, college or university;
- 2. Library or museum;
- 3. Child care center;
- 4. Place of worship or religious assembly;
- 5. Public park, playground, pool or recreation facility;
- 6. Juvenile or adult halfway house, correctional facility or substance abuse rehabilitation or treatment center; or

7. Another medical marijuana dispensary.

The distance requirements shall be computed by direct measurement in a straight line from the nearest entrance to a building or unit of the said use listed above to the nearest property line on which the medical marijuana dispensary is located.

- B. Marijuana Growing Facility for Personal Medical Use will be allowed only on the *primary residence* of the applicant, and shall be prohibited from all other locations.
- C. A Medical Marijuana Grower shall be prohibited from locating within the corporate limits of the City of Grove.
- D. A Medical Marijuana Processor shall be prohibited from locating within the corporate limits of the City of Grove.

18-104: CONDITIONS OF OPERATION:

- A. Buildings where marijuana is stored or dispensed must be equipped with ventilation/air filtration systems so that no odors are detectable off premises.
- B. The Medical Marijuana Dispensary must collect the city sales tax of three and fourth tenths (3.4) percent on all sales.
- C. The Medical Marijuana Dispensary hours of operation shall be between the hours of 10:00 a.m. to 9:00 p.m. Monday through Saturday. Further, no person shall open or operate a Medical Marijuana Dispensary at any time on the following days:
  - 1. Sunday
  - 2. New Year's Day
  - 3. Memorial Day
  - 4. 4<sup>th</sup> of July
  - 5. Labor Day
  - 6. Thanksgiving Day
  - 7. Christmas Day

It is the intent of the City of Grove that nothing in the Medical Marijuana Establishment Ordinance be construed to:

- 1. Allow persons to engage in conduct that endangers or causes a public nuisances;
  - 2. Allow the use of marijuana for non-medical purposes;
  - 3. Allow any activity that is otherwise illegal and not permitted by state law.
- D. All Medical Marijuana Establishments shall comply with Oklahoma State law and Oklahoma Department of Health rules and regulations.

18-105: INSPECTIONS AND OTHER REQUIREMENTS

- A. All new Business Licenses outlined in this ordinance will be subject to inspection by an authorized municipal inspector prior to issuance.
- B. The inspection prior to issuance of a Business License will occur at a time scheduled and approved by both the applicant and municipal inspector.
- C. The applicant will be required to be present during the inspection.

18-106: SMOKING OF MARIJUANA PROHIBITED ON PUBLIC PROPERTY; PUBLIC NUISANCE

- A. Smoking or using marijuana shall be prohibited on all city property including vehicles, buildings, parks and other facilities.
- B. The smell or noxious odor emitted from smoking or consumption of marijuana by a person possessing a valid state issued medical marijuana license shall be treated as a public nuisance.

18-107: PENALTY

- A. Failure to Comply.

Any person who engages in any of the businesses or occupations without obtaining a Business License in advance of such operation, is guilty of an offense against the city, and upon conviction thereof, shall be fined to the sum of not more than five-hundred dollars (\$500.00), including costs and penalties, if any. Each day of such violation shall constitute a separate offense.

18-108: REVOCATION OF LICENSE:

- A. Any violations of this section will result in the revocation of a Medical Marijuana Establishment License.

SECTION TWO: The City Clerk is hereby directed to enter the added Part 18 into the appropriate place in the City of Grove, Oklahoma Code of Ordinances, as authorized and approved by this Ordinance.

SECTION THREE: If any section, paragraph, sentence, cause or phrase of this Ordinance is declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION FOUR: EMERGENCY CLAUSE. An immediate necessity existing for the preservation of the public peace, health and safety, an emergency is hereby declared to exist by reason of which this ordinance shall be in full force and effect from and after its passage, approval and publication or posting.

Trumbull opened the floor for discussion and entertained questions, comments and concerns from the following individuals:

- Lisa Jewett
- James Grimm
- Gary Bates, and
- Les Goodman

The discussion lasted for approximately 45 minutes. The Council suggested that a 'Letter of Compliance' be required for the State license application. The Staff indicated no problem with that.

Trumbull then opened the floor for discussion pertaining to the second half of the agenda item which related to the forthcoming changes to alcohol liquor laws in particular how it relates to the sale and consumption of high point beer. Again, Bottoroff presented and discussed in detail the following proposed changes to the existing Ordinance:

AN ORDINANCE AMENDING PART 3, CHAPTER 1 ALCOHOLIC BEVERAGES AND TAX, AND REPEALING PART 3, CHAPTER 2 NONINTOXICATING BEVERAGES OF THE CITY OF GROVE CODE OF ORDINANCES, TO BE CONSISTENT WITH STATE LAWS AND REGULATIONS EFFECTIVE OCTOBER 1, 2018; AND REPEALING AND REPLACING ALL ORDINANCES IN CONFLICT HERewith.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GROVE, OKLAHOMA:

SECTION ONE:

Part 3, Chapter 1, of the City of Grove Code of Ordinances shall be amended to read as follows:

ALCOHOLIC BEVERAGES AND TAX

3-101: DEFINITIONS AND INTERPRETATIONS

Word, phrases, and terms used in this chapter shall have the meanings prescribed by, and be construed in conformity with, the definitions of the section 506 of title 37 of the Oklahoma Alcoholic Beverage Control Act of 1959, force and effect as if the definitions were set forth in full in this chapter, unless the context clearly indicates a different meaning or construction.

<u>Able Commission</u>	<u>Occupation</u>
<u>Alcohol</u>	<u>Original Package</u>
<u>Alcoholic Beverage</u>	<u>Patron</u>
<u>Applicant</u>	<u>Person</u>
<u>Beer</u>	<u>Premises</u>
<u>Brewer</u>	<u>Private Event</u>
<u>Brewery</u>	<u>Public Event</u>
<u>Class B Wholesaler</u>	<u>Rectifier</u>
<u>Convicted/Conviction</u>	<u>Regulation/Rule</u>
<u>Director</u>	<u>Restaurant</u>
<u>Distiller</u>	<u>Retail Beer and/or Wine</u>
<u>Hotel/Motel</u>	<u>Retail Container for Spirits and Wines</u>
<u>Legal Newspaper</u>	<u>Retail Salesperson</u>
<u>Licensee</u>	<u>Retailer</u>
<u>Light Beer</u>	<u>Sale</u>
<u>Light Wine</u>	<u>Short Order Food</u>
<u>Manufacturer's Agent</u>	<u>Small Farm Winery</u>
<u>Manufacturer</u>	<u>Sparkling Wine</u>
<u>Meals</u>	<u>Spirits</u>
<u>Mini-Bar</u>	<u>Wholesaler</u>
<u>Mixed Beverage</u>	<u>Wine</u>
<u>Mixed Beverage Cooler</u>	<u>Winemaker</u>
<u>Motion Picture Theater</u>	<u>Winemaker, Oklahoma</u>

3-102: OCCUPATION TAX LEVIED; LICENSE TO BE ISSUED

A. There is hereby levied and assessed an annual occupational tax on every business or occupation relating to alcoholic beverages as specifically enumerated herein and the amount herein stated:

1. Brewer	<del>\$50.00</del>	<u>\$ 600.00</u>
2. Caterer	<del>\$50.00</del>	<u>\$ 600.00</u>
3. Distiller	<del>\$50.00</del>	<u>\$ 600.00</u>
4. On Premises Mixed Beverages, (Beer &/or Wine)	<del>\$50.00</del>	<u>\$ 600.00</u>
5. Rectifier	<del>\$50.00</del>	<u>\$ 600.00</u>
6. Retail Package Store	<del>\$50.00</del>	<u>\$ 600.00</u>
7. Retail Beer and/or Wine	<del>\$50.00</del>	<u>\$ 600.00</u>
8. Winemaker	<del>\$50.00</del>	<u>\$ 600.00</u>
9. Oklahoma Winemaker	\$50.00	\$ 50.00
10. Wholesaler – Beer, Wine & Spirits	<del>\$50.00</del>	<u>\$600.00</u>
11. Special Event (per day)	\$50.00	\$ 50.00
12. Exempt Organizations under IRS 501 (c) (19)	<del>\$50.00</del>	<u>\$500.00</u>

D. Except for the sale of wine or beer to the public, an Interim Occupational Tax shall allow all qualified retail wine and retail beer, beer distributors and wine and spirits wholesaler state licensees to perform all activities permissible under a full license including but not limited to purchasing, stocking and storing wine and/or beer on the premises prior to October 1, 2018. In order to qualify for an Interim Occupational Tax, the state licensee must satisfy all the requirements set forth in Article XXVIII A of the

Oklahoma Tax Commission and state law. After October 1, 2018, the Interim Occupational Tax shall convert to a full Occupational Tax and shall be renewed prior to July 1 of each year.

3-103: CITY CLERK TO SUBMIT ANNUAL REPORT

The City Clerk shall submit an annual report to the ABLE commission, covering the fiscal year, showing the number and class of license subject to the Occupation Tax and the amount of money received therefrom.

3-104: CERTIFICATE OF COMPLIANCE

....Paying a verification and certification fee in the amount set by council by motion or resolution at the time of filing one-hundred dollar (\$100.00) Certificate of Compliance fee; such fee may be amended per action of the City Council.

....The above Certificate of Compliance shall be signed by the ~~Mayor~~ or City Manager or his designee.

3-105: BREWERY

No person shall operate or maintain a brewery without having previously paid the Occupational Tax as provided in the chapter.

- Hours of Operation.
- Location.
- Employment

3-106: WINE, BEER AND MIXED BEVERAGE SALES FOR ON PREMISES CONSUMPTION

- Hours of Operation
- Location

3-107: RETAIL PACKAGE STORES AND RETAIL STORES SELLING WINE OR BEER FOR OFF PREMISE CONSUMPTION

- Hours of Operation.

No wholesale dealer shall sell or deliver to any Retail Package Store on any of the days listed above.

Retail establishments selling Beer and/or Wine may offer for retail sale on Monday through Sunday between the hours of 6:00 a.m. and 2:00 a.m. the following day.

- Location.
- Employment.

Retail Package Stores shall not employ any person under the age of twenty-one (21) years of age in the selling of spirits.

Retail Stores selling Beer and/or Wine shall not employ any person under the age of eighteen (18) years of age in the selling of beer or wine.

C. Sale Only in Original Package.

Retail Package Stores and Retail Stores selling Beer and/or Wine may sell alcoholic beverages only in retail containers for consumption off the premises.

Retail Package Stores and Retail Stores selling Beer and/or Wine may sell Beer and Wine at refrigerated temperatures.

D. Sale of other goods allowed.

~~The premises of a retail package storage shall be separated from the premises on which any other goods, wares or merchandise are sold or services are rendered, by nontransparent walls which may be broken~~

~~by a passage way to which the public is not admitted for the purpose of selling, reselling or delivering in connection with the sale of the alcoholic beverages.~~

Retail Package Stores may sell anything sold in a grocery or convenience store including items such as lottery tickets, tobacco, Tylenol, etc. Sell of other goods shall not exceed twenty percent (20%) of their gross monthly sales.

E. Alcohol by Volume

Retail Beer License Holders may sell beer up to 8.99% Alcohol by Volume (ABV)

Retail Wine License Holders may sell wine up to 15% Alcohol by Volume (ABV)

3-108. WINE, WINEMAKER, WINERY

No person shall manufacturer, bottle, package, or sell Wine without having previously paid the occupational tax as provided in this chapter.

- Hours of Operation
- Location

3-109. REGULATIONS APPLICABLE TO ALCOHOLIC BEVERAGES:

3-110. PENALTY

B. Failure to Pay Occupation Tax or Violation of this Chapter.

Any person who engages in any of the businesses or occupations taxed by this chapter without paying the Occupation Tax imposed therefor in advance of such operation and any person who violates any provisions of this chapter shall be guilty of an offense against the city, and upon conviction thereof, shall be fined to the sum of not more than seven-hundred fifty dollars (\$750.00), plus costs and penalties, if any. Each day of such violation shall constitute a separate offense.

3-111. REVOCATION OF LICENSE:

The City Council shall have the power, after public hearing, to revoke any license granted hereunder for violation of law or ordinance by the license holder.

The Council again entertained questions, comments and concerns from the following individuals:

- Lisa Jewett, and
- Les Goodman

The Council discussed the proposed assessed amount of annual occupational tax on every business or occupation relating to alcoholic beverages as specifically enumerated herein and the amount herein stated by saying that the amount would be too steep for the businesses to incur, and the Council also suggested that the Staff address the issue of selling of wine at the Farmers Market. Bottoroff then presented and discussed with the Council the following proposed policy changes:

**WOLF CREEK PARK POLICY**

Section 12: Amended title  
Added ABLE definitions  
Removed Low Point Beer wording from policy and application

**CIVIC CENTER POLICY**

Section 14: Added ABLE definitions  
Removed Low Point Beer definition and wording  
Added Alcohol Fee - \$100 Flat Rate  
Added Cleaning Deposit for Events w/alcohol -  
\$250 flat fee for ½ building, \$500 flat fee for full building

**POOL POLICY - PRIVATE PARTIES**

Section 5.3: Added ABLE definitions, removed unnecessary definitions

Section 5.4: Amended to prohibit Alcoholic Beverages  
Section 5.5: Removed – Right to Limit Consumption  
Section 5.6: Removed wording regarding liability due to alcohol related occurrences  
Section 5.7: Removed Security required when alcohol is consumed.  
Removed Low Point Beer wording from policy and application

At 5:10 PM Devitt made the motion to adjourn. Seconded by Nielsen. AYE: McElhaney, Nielsen, Dyer, Devitt and Trumbull. NAY: None. Motion carried.