



City of Enid
401 W. Owen K. Garriott Road
Enid, Oklahoma 73701
580-234-0400

BOARD OF COMMISSIONERS

NOTICE OF STUDY SESSION

Mayor and Board of Commissioners of the City of Enid, Oklahoma, the Trustees of the Enid Municipal Authority, a Public Trust, the Trustees of the Enid Economic Development Authority, a Public Trust, and the Trustees of the Enid Public Transportation Authority, a Public Trust.

Notice is hereby given that the Mayor and Board of Commissioners of the City of Enid, Oklahoma, the Trustees of the Enid Municipal Authority, a Public Trust, the Trustees of the Enid Economic Development Authority, a Public Trust, and the Enid Public Transportation Authority, a Public Trust will meet in regular session at 5:00 p.m. on the 21st day of November, 2017, in the Lower Level Conference Room of the City Administration Building, located at 401 W. Owen K. Garriott Road in said city, and the agenda for said meeting is as follows:

- AGENDA -

REGULAR STUDY SESSION AGENDA

1. **CALL TO ORDER/ROLL CALL.**
2. **AT THE COMMISSIONERS' REQUEST, DISCUSS ANY ITEM OF CONCERN ON THE REGULAR SESSION AGENDA OF NOVEMBER 21, 2017.**
3. **UPDATE ON CROSSLIN SOFTBALL FIELDS.**
4. **UPDATE ON WILLOW BRIDGE REPAIR/REPLACEMENT.**
5. **PRESENTATION OF UPDATE ON STATE LEGISLATIVE BUSINESS BY CURT ROGGOW.**
6. **DISCUSS AND REVIEW ORDINANCE AMENDING OFFENSES AGAINST DECENCY AND PUBLIC PEACE AND ORDER.**
7. **DISCUSS AND REVIEW ORDINANCE AMENDING ALCOHOL, LOW POINT BEER AND MARIJUANA OFFENSES.**
8. **ADJOURN.**

Meeting Date: 11/21/2017

SUBJECT:

DISCUSS AND REVIEW ORDINANCE AMENDING OFFENSES AGAINST DECENCY AND PUBLIC PEACE AND ORDER.

Attachments

Ordinance

ORDINANCE NO. 2017-_____

AN ORDINANCE AMENDING THE ENID MUNICIPAL CODE, 2014, TITLE 5 , “PUBLIC SAFETY”, CHAPTER 5, “GENERAL OFFENSES”, AMENDING ARTICLE D, “OFFENSES AGAINST DECENCY AND MORALITY” SECTION 5-5D-1 TO BE “LEWD EXPOSURE, PROSTITUTION, MATERIALS HARMFUL TO MINORS”, AMENDING 5-5D-1(A) TO PROVIDE OFFENSE OF LEWD EXPOSURE TO REPLACE OFFENSE OF PUBLIC URINATION; AND AMENDING ARTICLE E, ENTITLED “OFFENSES AGAINST PEACE AND ORDER”, AMENDING SECTION 5-5E-3, “OBSTRUCTING STREETS AND SIDEWALKS”; SECTION 5-5E-4, “JOSTLING PEOPLE IN PUBLIC”; SECTION 5-5E-5 “PUBLIC PROFANITY AND OBSCENE GESTURES”, SECTION 5-5E-6, ENTITLED “FIGHTS OR QUARRELS” TO LOWER FINES AND REMOVE JAIL TIME FROM PUNISHMENT; TO CREATE SECTION 5-5E-7 ENTITLED “PUBLIC URINATION” PROVIDING FOR REPEALER, SAVINGS CLAUSE, SEVERABILITY AND CODIFICATION.

ORDINANCE

BE IT ORDAINED BY THE MAYOR AND BOARD OF COMMISSIONERS OF THE CITY OF ENID, OKLAHOMA:

Section I: That Title 5, Chapter 5, Article D, Section of the Enid Municipal Code, 2014, is hereby amended to read as follows:

5-5D-1: ~~PROSTITUTION; PUBLIC URINATION~~ LEWD EXPOSURE; MATERIALS HARMFUL TO MINORS:

A. ~~Public Urination~~; Outrage Against Public Decency:

1. No person shall ~~urinate or defecate in a public place, other than a public restroom.~~ lewdly expose his or her person or genitals in any public place or in any public place or in any place where there are present other persons to be offended or annoyed thereby;
2. No person shall willfully or wrongfully commit any act which grossly disturbs the peace or health or which openly outrages decency or which is injurious to public morals.
3. The violation of this subsection shall be punishable by a fine not to exceed five hundred dollars (\$500.00) plus costs.

Section II: That Title 5 Chapter 5 of the Enid Municipal Code 2014, Article E Sections 5-5E-3 through and 5-5E-6 are hereby amended and Section 5-5E-7 is hereby created as follows:

5-5E-3: OBSTRUCTING STREETS AND SIDEWALKS:

- A. Obstructing Free Passage: Any person who collects or assembles and stands or sits in crowds or loiters about or hinders, obstructs, impedes or blocks the free and uninterrupted passage on any sidewalk, street, alley or driveway or in front of any place of business, or in any hall, stairway, office, building or any other public place and who fails to disperse upon the command of a police officer or other lawful authority shall be guilty of an offense.
- B. Written Waiver: It shall be an affirmative defense to any prosecution under this section if any person or group has received a written waiver from the chief of police that allows the person or group to collect, assemble, stand, sit or protest based on the exercising of first amendment rights protected by the constitution, such as the free exercise of religion, speech or assembly.
- C. Violation: The violation of this section shall be punishable by a fine of not more than ~~five~~ three hundred dollars (\$300.00) plus costs. (Ord. 2013-48, 11-19-2013)

5-5E-4: JOSTLING PEOPLE IN PUBLIC:

Any person who shall be found jostling or roughly crowding people unnecessarily in a public place by being offensive to public order shall be guilty of an offense. A violation of this section shall be punishable by a fine of not more than ~~five~~ one hundred dollars (\$100.00) plus costs. (Ord. 2013-48, 11-19-2013)

5-5E-5: PUBLIC PROFANITY AND OBSCENE GESTURES:

Any person who utters any indecent, lewd or filthy words, or uses any threatening language toward any other person, or makes any obscene gesture to or about any other person in any public place which is likely to provoke the average person to retaliation and thereby cause a breach of the peace shall be guilty of an offense. A violation of this section shall be punishable by a fine of not more than one hundred dollars (\$100.00) plus costs, ~~or by imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment.~~ (Ord. 2013-48, 11-19-2013)

5-5E-6: FIGHTS OR QUARRELS:

No person shall wrangle, quarrel, fight or challenge another to fight within the city, where such actions disturb the peace and quiet of any neighborhood, family or person. A violation of this section shall be punishable by a fine of not more than one hundred dollars (\$100.00) plus costs, ~~or by imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment.~~ (Ord. 2013-48, 11-19-2013)

5-5E-7 PUBLIC URINATION:

- A. Prohibition: No persons shall urinate or defecate in any public place other than a public restroom.

B. Violation: The violations of this section shall be punishable by a fine of not to exceed two hundred dollars, plus costs.

Section III: Savings Clause. Nothing in this ordinance hereby adopted shall be construed to affect any suit or proceedings now pending in any court, or any rights acquired or liability incurred, nor any cause or causes of action accrued or existing, under any act or ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired or affected by this ordinance.

Section IV: Severability. If any one or more of the sections, sentences, clauses or parts of this ordinance, chapter or section shall, for any reason, be held invalid, the invalidity of such section, clause or part shall not affect or prejudice in any way the applicability and validity of any other provision of this ordinance. It is hereby declared to be the intention of the City Commission of the City of Enid that this section of the Enid Municipal Code would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part not been included.

Section V: Codification. This ordinance shall be codified as Title 5, Chapter 5, Article D, Section 5-5D-1(A) and Title 5, Chapter 5, Article E, Sections 5-5E-3 through 5-5E-7 of the Enid Municipal Code, 2014.

PASSED AND APPROVED by the Mayor and Board of Commissioners of the City of Enid, Oklahoma, on this ___ day of November, 2017.

CITY OF ENID, OKLAHOMA

William E. Shewey, Mayor

(SEAL)

ATTEST:

Alissa Lack, City Clerk

Approved as to Form and Legality:

Carol Lahman, Interim City Attorney

Meeting Date: 11/21/2017

SUBJECT:

DISCUSS AND REVIEW ORDINANCE AMENDING ALCOHOL, LOW POINT BEER AND MARIJUANA OFFENSES.

Attachments

Ordinance

ORDINANCE NO. 2017-_____

AN ORDINANCE AMENDING THE ENID MUNICIPAL CODE 2014, TITLE 5, "PUBLIC SAFETY", CHAPTER 5, "GENERAL OFFENSES", ARTICLE H BY AMENDING SECTION 5-5H-1 "DRUGS AND RELATED SUBSTANCES", SECTION 5-5H-2 "ALCOHOL AND LOW POINT BEER RESTRICTIONS; INTOXICATION", AND SECTION 5-5H-3 "SMELLING, INHALING OF GLUE OR OTHER SUBSTANCES"; TO REVISE DEFINITIONS AND OFFENSE; REDUCE FINES AND ELIMINATE IMPRISONMENT; PROVIDING FOR REPEALER, SAVINGS CLAUSE, SEVERABILITY AND CODIFICATION.

ORDINANCE

BE IT ORDAINED BY THE MAYOR AND BOARD OF COMMISSIONERS OF THE CITY OF ENID, OKLAHOMA:

Section 1: That Title 5, Chapter 5, Sections 5-5H1, 5-5H-2 and 5-5H-3 of the Enid Municipal Code, 2014 is hereby amended to read as follows:

5-5H-1: DRUGS AND RELATED SUBSTANCES:

A. Definitions: As used in this section, the following words and phrases shall have the meanings respectively ascribed to them in this section:

ADMINISTER: Shall be as defined in 63 Oklahoma Statutes section 2-101.

CONTROLLED DANGEROUS SUBSTANCE: Shall be as defined in 63 Oklahoma Statutes section 2-101.

DELIVER OR DELIVERY: Shall be as defined in 63 Oklahoma Statutes section 2-101.

DRUG PARAPHERNALIA: All equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled dangerous substance in violation of state law. It includes, but is not limited to the types of paraphernalia listed in 63 Oklahoma Statutes Section 2-101.

- ~~1. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled dangerous substance can be derived.~~
- ~~2. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled dangerous substances.~~

- ~~3. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled dangerous substance.~~
- ~~4. Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled dangerous substances.~~
- ~~5. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled dangerous substances.~~
- ~~6. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled dangerous substances.~~
- ~~7. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana.~~
- ~~8. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled dangerous substances.~~
- ~~9. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled dangerous substances.~~
- ~~10. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled dangerous substances.~~
- ~~11. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled dangerous substances into the human body.~~
- ~~12. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body, such as:
 - ~~a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.~~
 - ~~b. Water pipes.~~
 - ~~c. Carburetion tubes and devices.~~
 - ~~d. Smoking and carburetion masks.~~
 - ~~e. "Roach clips", meaning objects used to hold burning materials, such as a marihuana cigarette, that has become too small or too short to be held in the hand.~~
 - ~~f. Miniature cocaine spoons, and cocaine vials.~~
 - ~~g. Chamber pipes.~~~~

~~h. — Carburetor pipes.~~

~~i. — Electric pipes.~~

~~j. — Air driven pipes.~~

~~k. — Chillums.~~

~~l. — Bongs.~~

~~m. — Ice pipes or chillers.~~

~~In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:~~

~~Statements by an owner or by anyone in control of the object concerning its use.~~

~~Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled dangerous substance.~~

~~The proximity of the object, in time and space, to a direct violation of this section or of the state uniform controlled dangerous substances act.~~

~~The proximity of the object to controlled dangerous substances.~~

~~The existence of any residue of controlled dangerous substances on the object.~~

~~Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this section or the state uniform controlled dangerous substances act; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this section shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.~~

~~Instructions, oral or written, provided with the object concerning its use.~~

~~Descriptive materials accompanying the object which explain or depict its use.~~

~~National and local advertising concerning its use.~~

~~The manner in which the object is displayed for sale.~~

~~Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.~~

~~Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the~~

~~business enterprise.~~

~~The existence and scope of legitimate uses for the object in the community.~~

~~Expert testimony concerning its use.~~

MARIHUANA: Shall be as defined in 63 Oklahoma Statutes section 2-101.

SALE: Includes barter, exchange or gift, or offer therefor, and each such transaction made by any person, principal, proprietor, agent, servant or employee.

B. Possession:

1. It is unlawful for any person knowingly or intentionally to possess any ~~of the following~~ controlled dangerous substances or marihuana unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner, while acting in the course of his professional practice, or except as authorized by state law:
 - a. ~~Any substance listed in 63 Oklahoma Statutes sections 2-208, 2-209 or 2-210; or~~
 - b. ~~Any marihuana; or~~
 - c. ~~Any substance included in 63 Oklahoma Statutes section 2-206, subsection D.~~
2. The violation of this subsection B shall be punishable by a fine of not more than eight five hundred dollars (\$800.00) (\$500.00) plus costs, ~~or by imprisonment for up to sixty (60) days, or by both such fine and imprisonment.~~

C. Implements For Controlled Dangerous Substances:

1. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance ~~in violation of this section or state law.~~
2. It is unlawful for any person to deliver, possess with intent to deliver or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance ~~in violation of this section or state law.~~

3. It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.
4. In determining whether an object is drug paraphernalia, the court should consider the factors as delineated in 63 Oklahoma State Statutes Section 2-101.1.
5. The violation of this subsection shall be punishable by a fine of not more than ~~eight~~ five hundred dollars ~~(\$800.00)~~ (\$500.00) plus costs. (Ord. 2013-51, 11-19-2013)

5-5H-2: ALCOHOL AND LOW POINT BEER RESTRICTIONS; INTOXICATION:

- A. Public Intoxication Definitions: as used in this section, the following words and phrases shall have the meanings respectfully ascribed to them in this section:

Intoxicating Beverage: all beverages containing more than three and two-tenths percent (3.2%) alcohol by weight and all mixed beverage coolers, regardless of percent of alcoholic content.

Low Point Beer: all beverages containing more than one-half of one percent (0.5%) alcohol by volume, and not more than three and two-tenths percent (3.2%) alcohol by weight.

Mixed Beverage Cooler: any beverage by whatever name designated, consisting of an alcoholic beverage and fruit or vegetable juice, fruit or vegetable flavorings, dairy products or carbonated water including but not limited to "wine coolers".

1. ~~"Low point beer" means and includes beverages containing more than one half of one percent (0.5%) alcohol by volume, and not more than three and two tenths percent (3.2%) alcohol by weight, including, but not limited to, beer or cereal malt beverages obtained by the alcoholic fermentation of an infusion of barley or other grain, malt or similar products.~~

- B. Public Intoxication:

1. No person shall be drunk or intoxicated on any public or private road, or in any public conveyance, or any public place or building, or at any public gathering, from drinking or consuming any low point beer, intoxicating liquor, intoxicating substance or intoxicating compound or from inhalation of glue, paint or other intoxicating substance. No person shall be drunk or intoxicated from any cause and shall disturb the peace of any person.

2. The violation of this subsection shall be punishable by a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) plus costs, ~~or by imprisonment for not less than five (5) days nor more than thirty (30) days, or by both such fine and imprisonment.~~

BC. Consumption of Intoxicating Liquor:

1. No person shall consume or possess any intoxicating liquor in any street, alley or other public place, except as authorized or permitted by statute ~~or ordinance~~ as part of a special event pursuant to section 1-15-9 of this code.
- ~~2. The provisions of subsection B1 of this section shall not apply to persons in city owned facilities who are authorized to consume or possess such liquor by the city manager. The manager shall grant such authorization if the public health, safety and welfare will not be endangered thereby.~~
2. The violation of this subsection shall be punishable by a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) plus costs, ~~or by imprisonment for not less than five (5) days nor more than thirty (30) days, or by both such fine and imprisonment.~~

CD. Consumption Of Low Point Beer:

1. Consumption: No person shall consume any low point beer on or in any street or sidewalk, unless authorized as part of a special event pursuant to section 1-15-9 of this code.
2. The violation of this subsection shall be punishable by a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) plus costs, ~~or by imprisonment for not less than five (5) days nor more than thirty (30) days, or by both such fine and imprisonment.~~ (Ord. 2013-51, 11-19-2013)

5-5H-3: SMELLING, INHALING OF GLUE OR OTHER SUBSTANCES:

- A. Prohibition: It shall be unlawful for any person deliberately to smell, inhale, breathe, drink or otherwise consume any compound, liquid, chemical, ~~narcotic~~, drug or any other substance containing any ketones, aldehydes, organic acetones, ether, chlorinated hydrocarbons or metallic powders, such as, gasoline, glue, fingernail polish, adhesive cement, mucilage, dope, paint dispensed from pressurized containers or any other substance or combination thereof containing solvents releasing toxic vapors, with the intent to cause conditions of intoxication, inebriation, excitement, elation, stupefaction, paralysis, irrationality, dulling of the brain or nervous system, or any other changing, distorting or disturbing of the eyesight, thinking process, judgment, balance or coordination of such person.
- B. Exemptions: The provisions of subsection A of this section shall not pertain to:

1. Any person who inhales, breathes, drinks or otherwise consumes such material or substance pursuant to the direction or prescription of any licensed doctor, physician, surgeon, dentist or podiatrist; or
 2. The consumption of intoxicating liquor. ~~thereof containing solvents releasing toxic vapors, with the intent to cause conditions of intoxication, inebriation, excitement, elation, stupefaction, paralysis, irrationality, dulling of the brain or nervous system, or any other changing, distorting or disturbing of the eyesight, thinking process, judgment, balance or coordination of such person.~~
- C. Violation: The violation of this section shall be punishable by a fine of not more than five hundred dollars (\$500.00) plus costs. ~~or by imprisonment of up to sixty (60) days, or by both such fine and imprisonment.~~ (Ord. 2013-51, 11-19-2013)

Section 2: Repealer. All ordinances or parts thereof, which are inconsistent with this ordinance, are hereby repealed.

Section 3: Savings Clause. Nothing in this ordinance hereby adopted shall be construed to affect any suit or proceedings now pending in any court, or any rights acquired or liability incurred, nor any cause or causes of action accrued or existing, under any act or ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired or affected by this ordinance.

Section 4: Severability. If any one or more of the sections, sentences, clauses or parts of this ordinance, chapter or section shall, for any reason, be held invalid, the invalidity of such section, clause or part shall not affect or prejudice in any way the applicability and validity of any other provision of this ordinance. It is hereby declared to be the intention of the City Commission of the City of Enid that this section of the Enid Municipal Code would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part not been included.

Section 5: Codification. This ordinance shall be codified as Title 5, Chapter 5, Article H, Sections 5-5H-1, 5-5H-2 and 5-5H-3 of the Enid Municipal Code, 2014.

PASSED AND APPROVED by the Mayor and Board of Commissioners of the City of Enid, Oklahoma, on this ____ day of November, 2017.

William E. Shewey, Mayor

(SEAL)

ATTEST:

Alissa Lack, City Clerk

Approved as to Form and Legality:

Carol Lahman, City Attorney