The City of Durant encourages participation from all its citizens. If participation at any public meeting is not possible due to a disability, notification to the City Clerk at least 48 hours prior to the scheduled meeting is encouraged in order to make the necessary accommodations. The City of Durant may waive the 48-hour rule if interpreters for the deaf (signing) or translation services for limited English proficient (LEP) individuals are not the necessary accommodation.

DURANT CITY COUNCIL

4:30 PM **Roscoe J. Hatfield Council Chambers, Durant City Hall, 300 W. Evergreen, Durant, OK** **October 23, 2018**

SPECIAL AGENDA

DURANT CITY HALL
300 W. EVERGREEN, DURANT, OK
ROSCOE J. HATFIELD COUNCIL CHAMBERS

CALL TO ORDER

INVOCATION/FLAG SALUTE

ROLL CALL

ORDER OF BUSINESS

1. Consideration For Support And Approval To Submit A 2018 Homeland Security FEMA Assistance to Firefighters Grant (AFG) Application For Vehicle Acquisition Funding To Purchase A 1500 GPM Aerial Apparatus For The Durant Fire Department.
2. Consider Approval of Ordinance 1866 - A New Chapter in Durant's Code on Beverage Gardens.
3. Consider Approval of Ordinance 1867 - A New Chapter in Durant's Code on Medical Marijuana.
4. Receive Governing Board Training from Oklahoma Municipal Assurance Group (OMAG)
5. **Executive Session**
   a. Consider Executive Session for Confidential Communication with Attorney Concerning Pending Claim Against the City of Durant - Ballard v. City of Durant, CV-17-92 (This Executive Session Authorized by Title 25, Section 307 B(4) of the Oklahoma State Statutes)
   b. Consider Action Pursuant to 5(a) Above

ADJOURNMENT

CERTIFICATE

This is to certify that in conformity with the Oklahoma Open Meeting Act, public notice of the date, time and place of this meeting was filed with the City Clerk of Durant on the 18th day of October, 2018 and that an agenda of said meeting was posted at the place of such meeting at 3:20 p.m. on the 19th day of October, 2018.

_____

Cynthia J. Price, City of Durant

Agenda Item: 1.

The City of Durant

Grants Department

Memorandum

Date:	10/19/2018
To:	Mayor and City Council
From:	Rebecca Collins, Grants Coordinator
Re:	Consideration For Support And Approval To Submit A 2018 Homeland Security FEMA Assistance to Firefighters Grant (AFG) Application For Vehicle Acquisition Funding To Purchase A 1500 GPM Aerial Apparatus For The Durant Fire Department.

Chief Joines is requesting support to apply for a 1500 GPM Aerial Apparatus through the 2018 Homeland Security FEMA Assistance to Firefighters Grant (AFG) Program.

The application cycle is open until October 26, 2018. According to the grant criteria, the Durant Fire Department is considered a RURAL Fire Department and the project budget will include a 5% match per FEMA calculation.

Application Budget:

Vehicle Cost estimate:	$ 1,200,000
Approx Grant Award:	$ 1,142,857
Approx 5% Cash Match:	$ 57,143 (local funds)

- FEMA has a 12-month time frame beyond October 26 to award the grants.
- Upon an award, there is a 12-month grant performance period to expend the funds, with an allowance for an extension if necessary.
- With awards expected to begin early 2019, and the length of time for a vehicle to be built, it would be highly unlikely there would be any expenditure before July 1.

Chief Joines will provide justification at the meeting for this vital Aerial Apparatus (vehicle).

Council Information / Action Requested

Support And Approve Submission Of The 2018 Homeland Security FEMA Assistance to Firefighters Grant (AFG) Application For Vehicle Acquisition Funding To Purchase A 1500 GPM Aerial Apparatus For The Durant Fire Department.

City Staff Information / Action Follow-up, if Council authorizes this action:

Becca will complete application to submit electronically by October 26.

The City of Durant

Office of Community Development

Memorandum

Date:	10/19/2018
To:	Mayor and City Council
From:	Matthew Nahrstedt, Community Development Director
Re:	Consider Approval of Ordinance 1866 - A New Chapter in Durant's Code on Beverage Gardens.

Council Information / Action Requested

To approve or deny Ordinance 1866

City Staff Information / Action Follow-up, if Council authorizes this action:

- City Clerk and Mayor to sign ordinance.
- City Clerk to file ordinance.

ATTACHMENTS:

Description	Type	Upload Date
Ordinance 1866	Ordinance	10/19/2018

ORDINANCE 1866

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF DURANT BY ADDING A NEW SUBCHAPTER PERTAINING TO BEVERAGE GARDENS AND DECLARING AN EMERGENCY

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

Section I: That Chapter 111 shall be added to the Durant City Code to read as follows:

111.01 BEVERAGE GARDEN

111.011 Beverage garden—Defined.

A beverage garden is a designated area on public property where alcoholic beverages are served and consumed and shall be allowed as set forth in the sections below.

111.012 Alcohol area "beverage garden" permit.

(a) Application for a beverage garden permit shall be made in conjunction with a special event permit to the city clerk and may be granted upon satisfying the conditions set forth in this article. The application shall contain the following information:

(1) The name, address and telephone number of the applicant;

(2) A site plan showing the proposed designated area for the beverage garden. The sponsoring organization will designate on the site plan the location for multiple vendors, if there will be more than one.

(3) The dates when the beverage garden shall be conducted;

(4) A copy of the applicant's current license for alcoholic beverages issued by the City of Durant, Bryan County and the State of Oklahoma, if required;

(5) Each vendor shall present a certificate of liability insurance coverage, with limits of liability as required by the City of Durant;

(6) A statement, signed by the applicant and each vendor, certifying that if a permit is approved, the applicant agrees to abide by all applicable laws and ordinances of the city and to indemnify and hold the city harmless from any and all liability arising out of the use or condition of the premises or operation of the beverage garden; and

(7) Other information as the city manager or his designee deems appropriate.

(b) No permit shall be issued for a beverage garden unless application for the same is submitted to the city clerk at least ten working days in advance of the community-wide activity.

111.013 Beverage gardens: Conditions for approval.

(a) Permits for beverage garden may be authorized only in connection with and during community activities, events and festivals as may from time to time be recognized by the city manager or his designee. The duration of a beverage garden permit shall not exceed three consecutive calendar days, or the period of the celebration, event or festival for which it is a part.

(b) Only those persons holding a current valid license for alcoholic on-premises consumption issued by the City of Durant, Bryan County or State of Oklahoma, pursuant to this chapter and other applicable state or county licenses, shall be eligible for a beverage garden permit.

(c) The designated area of a beverage garden shall be restricted to those public streets and properties which the city in its discretion elects to close during the period of the celebration, event or festival. Nothing in this article shall be construed to require the city to close any property, street or property during any community-wide activity.

111.014 Beverage gardens: Fees.

(a) For each designated area permitted for use as a beverage garden, a fee in the amount set forth in the miscellaneous fee schedule of the City of Durant. A permit shall be issued only for the designated area shown in the original application.

(b) Permits shall not be transferable to other persons or other designated areas.

111.015 Beverage gardens: Continuing compliance.

It shall be unlawful for any person to operate or maintain a beverage garden, except in continuous conformity with the following regulations:

(1) Beverage gardens shall be limited to a serving capacity of one person for each ten square feet of designated area.

(2) The boundaries of the designated area shall be clearly marked. Where applicable, a fence or barrier shall comply with all city ordinances regarding sight clearance at intersections. Ingress and egress to the designated area shall be from public property. All persons entering the beverage garden must be 21 years of age or older. Personnel must be placed at a clearly-defined entrance to the garden and they shall check identification.

(3) No beverage garden may operate on any Sunday, New Year's Day, Memorial Day, the Fourth of July, Labor Day, Veterans Day, Thanksgiving Day or Christmas Day or, while the polls are open, on the day of any general, primary, runoff primary or special election, whether national, state, county or city or on any other day except between the hours of 10:00 a.m. and 9:00 p.m.

(4) No beverage garden may operate between the hours of 11:01 p.m. and 6:59 a.m.

(5) All electrical wiring shall comply with applicable electrical codes.

(6) All beverages shall be sold or dispensed in non-glass containers. All combustible trash shall be stored in noncombustible covered trash receptacles.

(7) Each beverage garden, while in operation, shall be conducted in conformance with all applicable city, county and state laws regulating the dispensing and on premises consumption of alcoholic beverages, and all other applicable laws and ordinances.

(8) The permit issued pursuant to this article shall be kept on the premises of the beverage garden during all hours of operation and shall be made available for inspection upon request of law enforcement authorities of the city or of another city official.

111.016 Beverage gardens: Penalty.

Any person who violates any provision of this article or who allows or attempts to allow a beverage garden permit to be used by another person to operate a beverage garden, or who applies for a permit with the intent to transfer or attempt to transfer the permit, shall be guilty of an offense and upon conviction thereof, shall be fined as set forth in Section 10.99. Each day of violation shall constitute a separate offense.

111.017 Consumption of alcoholic beverages in beverage gardens.

(a) To the extent that all City of Durant ordinances pertaining to the possession, consumption or sale of alcoholic beverages conflict with this article; this article shall govern and be controlling.

(b) The public consumption or possession of alcoholic beverages by persons 21 years of age or older within the boundaries of an establishment shall be permitted, subject to the requirements set forth in this section:

(1) Private sponsored or sanctioned events, provided such consumption and/or possession of alcoholic beverage is confined to a beverage garden or sidewalk tables appurtenant to a bar, tavern, or food service establishment provided that such service shall be limited to seated patrons only.

(2) It shall be unlawful and an offense for any patron receiving such service to remove alcoholic beverages purchased for consumption at a sidewalk table from such area or the bar, tavern, or food service establishment where such beverage was purchased.

(3) It shall be unlawful and an offense for the owner or operator of a bar, tavern, or food service establishment providing such service to permit a patron to remove alcoholic beverages purchased for consumption at a sidewalk table from such area or the bar, tavern or food service establishment where such beverage was purchased.

(c) Any person violating the provisions of this section shall be guilty of an offense and upon conviction thereof, shall be fined as set forth in Section 10.99.

Section II: DECLARATION OF EMERGENCY. For the immediate preservation of the peace, health and safety of the City of Durant, Oklahoma, and the inhabitants thereof, it is necessary that this ordinance shall become operative and go into effect immediately upon its passage, approval and publication.

Passed and approved this 9th day of October, 2018, in regular session of the Durant City Council.

CITY OF DURANT

_____

JERRY L. TOMLINSON, MAYOR
CITY OF DURANT, OKLAHOMA

ATTEST:

_____

CYNTHIA PRICE
CITY CLERK

The City of Durant

Office of Community Development

Memorandum

Date:	10/19/2018
To:	Mayor and City Council
From:	Matthew Nahrstedt, Community Development Director
Re:	Consider Approval of Ordinance 1867 - A New Chapter in Durant's Code on Medical Marijuana.

Council Information / Action Requested

To approve or deny Ordinance 1867.

City Staff Information / Action Follow-up, if Council authorizes this action:

- City Clerk and Mayor to sign ordinance.
- City Clerk to file ordinance
- Community Development to determine fee schedule and certificate application.

ATTACHMENTS:

Description	Type	Upload Date
Ordinance 1867	Ordinance	10/19/2018
Cert of Compliance App, Draft	Backup Material	10/19/2018

ORDINANCE 1867

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF DURANT BY ADDING A NEW SUBCHAPTER PERTAINING TO MEDICAL MARIJUANA; PROVIDING FOR LEGISLATIVE INTENT AND PURPOSE; ADOPTING DEFINITIONS; ADOPTING REGULATIONS OF OKLAHOMA HEALTH DEPARTMENT CHAPTER 310, CHAPTER 681 PERTAINING TO MEDICAL MARIJUANA; REQUIRING CERTIFICATE OF COMPLIANCE; ESTABLISHING REGULATIONS PERTAINING TO OPERATIONS, LOCATIONS, FACILITIES AND CERTIFICATE OF COMPLIANCE HOLDER RESTRICTIONS; ESTABLISHING REGULATIONS FOR MARIJUANA CULTIVATION; PROVDING PROCEDURES FOR REVOCATION OF CERTIFICATES OF COMPLIANCE; AND DECLARING AN EMERGENCY

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

Section I: That Chapter 111 shall be added to the Durant City Code to read as follows:

TITLE XI: BUSINESS REGULATIONS

CHAPTER 111 – ALCOHOLIC BEVERAGES, MARIJUANA AND TOBACCO

MARIJUANA

111.070 ARTICLE I. – IN GENERAL

111.0701 PURPOSE.

1. The intent of this chapter is to ensure the health and safety of all Oklahomans and provide reasonable and orderly regulation of medical marijuana as authorized by the lawful passage of State Question 788. Only the powers enumerated under this chapter shall be proper. Any power not specifically enumerated is prohibited and fined per Section 10.99.

(a) The regulations are intended to apply to all medical marijuana for personal use or any medical marijuana business permitted under the State Question 788. The Code is intended to provide regulations for the effect medical marijuana cultivation and production will have on health, safety, and community resources.

(b) Use, distribution, cultivation, production, possession, and transportation of medical marijuana remains illegal under federal law and marijuana remains classified as a "controlled substance" by federal law.

(c) Nothing in this chapter is intended to promote or condone the production, distribution, or possession of marijuana.

2. The purpose of this chapter is to protect the public health, safety, and general welfare of the residents and patients of the city by prescribing the manner in which medical marijuana businesses can be conducted in the city. Further, the purpose of this chapter is to:

(a) Provide for a means of cultivation, production, and distribution of marijuana to patients who qualify to obtain, possess, and use marijuana for medical purposes under the State Question 788.

(b) Protect public health and safety through reasonable limitations on business operations as they relate to noise, air and water quality, food safety, neighborhood and patient safety, security for the business and its personnel, and other health and safety concerns.

(c) Impose fees to cover the cost to the city of permitting medical marijuana businesses in an amount sufficient for the city to recover its costs of the permitting program.

(d) Adopt a mechanism for monitoring compliance with the provisions of this chapter.

(e) Create regulations that address the particular needs of the patients and residents of the city and coordinate with laws that may be enacted by the state regarding the issue.

(f) Facilitate the implementation of State Question 788 without going beyond the authority granted by it.

(g) Issue medical marijuana business Certificates of Compliance only to individuals and entities that have demonstrated an intent and ability to comply with this chapter without monitoring by city officials.

111.0702 Oklahoma State Department of Health Regulations Title 310, Chapter 681, Medical Marijuana Control Program Adopted by Reference.

(a) Oklahoma State Department of Health Regulations, Title 310, Chapter 681, Medical Marijuana Control Program as it may from time to time be amended is adopted by reference and is made a part of the ordinances of the City, as if fully set forth in this Code. The provisions of these regulations shall take effect and be controlling within the city limits so that a violation of the provisions of the regulations will be a violation of this code. Nothing in this section shall grant to the city the power or jurisdiction to prosecute offenses that a city is not authorized to prosecute.

(b) Any crimes specified in the rules or other laws as felonies are specifically excluded from inclusion in this chapter.

(c) The penalty for a misdemeanor violation of the rules as adopted by this chapter shall be the maximum penalty allowed by state law but not exceeding the jurisdictional limits of the Durant Municipal Court.

111.0703 Definitions.

The following words and terms, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise:

(a) *Applicant* means the natural person in whose name a Certificate of Compliance would be issued.

(b) *Complete Application* means a document prepared in accordance with the rules and the forms and instructions provided by the City of Durant, including any supporting documentation required as well as the application fee.

(c) *Dispense* means the selling of medical marijuana or a medical marijuana product to a qualified patient or the patient's designated caregiver that is packaged in a suitable container appropriately labeled for subsequent administration to or use by a qualified patient.

(d) *Dispensary* means an entity that has been licensed by the Oklahoma State Health Department pursuant to Title 63 O.S. § 421A and permitted by the City of Durant pursuant to this chapter, which allows the entity to purchase medical marijuana from a processer Certificate of Compliance holder or grower Certificate of Compliance holder and sell medical marijuana only to qualified patients and caregivers.

(e) *Domicile* means a person's true, fixed, primary permanent home and place of habitation and the tax parcel on which it is located. It is the place where the person intends to remain and to which the person expects to return when the person leaves without intending to establish a new domicile elsewhere.

(f) *Entity* means an individual, general partnership, a limited partnership, a limited liability company, a trust, an estate, an association, a corporation or any other legal or commercial entity.

(g) *Grower or Commercial Grower* means an entity that has been licensed by the Oklahoma State Department of Health and permitted by the City of Durant, which allows the entity to grow, harvest, and package medical marijuana to a dispensary, processor or researcher.

(h) *Manufacture* means the process of converting harvested plant material into medical marijuana concentrate by physical or chemical means for use as an ingredient in a medical marijuana product.

(i) *Marijuana* means all parts of a plant of the genus cannabis, whether growing or not; the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture, or preparation of a plant of that type or of its seeds or resin. "Marijuana" does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, or any other compound, manufacture, salt derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination.

(j) *Mature Plant* means harvestable female marijuana plant that is flowering. Mature

plants are not authorized under this section prior to sixty (60) days after the enactment of Title 63 O.S. § 420A, et. seq.

(k) *Medical Marijuana* means marijuana that is grown, processed, dispensed, tested, possessed, or used for a medical purpose.

(l) *Medical Marijuana Business* means any business licensed by the Oklahoma State Health Department and permitted by the City of Durant to dispense, grow, research or process medical marijuana.

(m) *Medical Marijuana Concentrate ("concentrate")* means a substance obtained by separating cannabinoids from any part of the marijuana plant by physical or chemical means, so as to deliver a product with a cannabinoid concentration greater than the raw plant material from which it is derived, intended to be refined for use as an ingredient in a medical marijuana product and not for administration to a qualified patient.

(n) *Medical Marijuana Product* means a product that contains cannabinoids that have been extracted from plant material or the resin therefrom by physical or chemical means and is intended for administration to a qualified patient, including but not limited to oils, tinctures, edibles, pills, topical forms, gels, creams, forms medically appropriate for administration by vaporization or nebulizer, patches, tinctures, and liquids excluding live plant forms.

(o) *Medical Marijuana Waste* means unused, surplus, returned or out-of-date marijuana; recalled marijuana; unused marijuana; plant debris of the plant of the genus cannabis, including dead plants and all unused plant parts and roots; and any wastewater generated during growing and processing.

(p) *Certificate of Compliance holder* means any natural born person or entity that holds a marijuana Certificate of Compliance provided for in this chapter.

(q) *Private School* means an elementary, middle, or high school maintained by private individuals, religious organizations, or corporations, funded, at least in part, by fees or tuition, and open only to pupils selected and admitted based on religious affiliations or other particular qualifications.

(r) *Processor* means an entity that has been licensed by Oklahoma State Department of Health and permitted by the City of Durant, which allows the entity to: purchase marijuana from a commercial grower; prepare, manufacture, package, sell to and deliver medical marijuana products to a dispensary Certificate of Compliance holder or other processor Certificate of Compliance holder; and may process marijuana received from a qualified patient into a medical marijuana concentrate, for a fee.

(s) *Public School* means an elementary, middle, or high school established under state law, regulated by the local state authorities in the various political subdivisions, funded and maintained by public taxation, and open and free to all children of the particular district where the school is located.

(t) *Retailer* as used in Title 63 O.S. § 421A et seq. means a dispensary.

(u) *Resident* means an individual who is an income tax payer in the State of Oklahoma and can provide proof of residency as required by 63 O.S. § 420A et seq. and OAC 310:681-1-6.

(v) *Revocation* means the City of Durant's final decision that any permit issued pursuant to this chapter is rescinded because the individual or entity does not comply with the applicable requirements in this chapter.

(w)*Seedling* means an immature marijuana plant that has no flowers.

(x) *State Question* means Oklahoma State Question No. 788 and Initiative Petition Number 412.

111.0704 Reserved.

111. 071 ARTICLE II. – COMMERCIAL MEDICAL MARIJUANA BUSINESS CERTIFICATE OF COMPLIANCE

111.0711 Certificate of Compliance required.

It shall be unlawful for any person, persons or other business entity to operate as a commercial medical marijuana dispensary, commercial medical marijuana grower, commercial medical marijuana manufacturer, commercial medical marijuana processor within the corporate limits of the City of Durant without first having obtained a Certificate of Compliance, annually renewable July 1 of every year, from the Community Development Department therefore as provided herein. The fees for the certificate required hereunder shall be established by ordinance of the City Council of the City of Durant.

111.0712 Inspection

An inspection of the proposed medical marijuana business by the Director of Community Development or the Director of Community Development's designee(s) shall be required prior to issuance of a Certificate of Compliance. Such inspection shall occur after the premises are ready for operation, but prior to the stocking of the business with any medical marijuana, and prior to the opening of the business to any patients or the public. The inspection is to verify that the business facilities are constructed and can be operated in accordance with the application submitted and the applicable requirements of the code and any other applicable law, rule, or regulation.

111.0713 Additional licenses and permits may be required.

The permit requirements set for in this chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law, including, by way of example, any applicable building permit.

111.0714 Permit does not provide any exception, defense, or immunity from other laws.

The issuance of any permit pursuant to this chapter does not create an exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marijuana.

111.0715 Separate Certificate of Compliance required for each location.

A separate Certificate of Compliance shall be required for each premise from which a commercial medical marijuana business is operated. Except as specifically provided in this chapter, no two or more different commercial medical marijuana businesses may be treated as one premise.

111.0716 Certificate nontransferable.

A Certificate of Compliance that has been issued by the Community Development Department for medical marijuana is nontransferable. A commercial medical marijuana business Certificate of Compliance is not transferable or assignable, including, without limitation, not transferable or assignable to a different premise, to a different type of business, or to a different owner or certificate holder. A commercial medical marijuana business Certificate of Compliance is valid only for the owner named thereon, the type of business disclosed on the application for the certificate, and the location for which the certificate is issued. The certificate holder of a commercial medical marijuana Certificate of Compliance are only those persons disclosed in the application or subsequently disclosed to the city in accordance with this chapter.

111.0717 Ventilation, fire, and life safety requirements.

In addition to state and local building and fire codes, the following requirements shall be enforced:

(a) Ventilation. A plan for ventilation of all medical marijuana facilities that describes the ventilation systems that will be used to prevent any odor of marijuana off the premises of the establishment must be submitted to the city. For retail and cultivation facilities, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises.

(1) The required outdoor ventilation rate required for each retail marijuana establishment or a medical marijuana cultivation facility will be as follows:

(i) For marijuana cultivation facilities, eight persons per 1,000 square feet with a ventilation rate of 60 cubic feet per minute per person;

(ii) For retail marijuana stores, the licensed premises for marijuana transporters, retail marijuana product manufacturing facilities, and retail marijuana testing facilities and medical marijuana testing facilities eight persons per 1,000 square feet with 15 cubic feet per minute per person.

(b) Fire Separation Requirements. For Medical Marijuana Dispensaries, a minimum of a two-hour fire separation will be required between all medical marijuana dispensaries and any adjacent business; unless higher performance is required by applicable law.

(c) Fire Suppression Requirements. A Type 13 Automatic Sprinkler System will be required for all buildings containing medical marijuana cultivation, production and/or storage with a fire area of 5,000 square feet or greater. The sprinkler system requirement may be waived by the Fire Marshall for buildings with a fire area of less than 10,000 square feet, if the building contains only noncombustible construction.

(d) Exterior Electrical Disconnect Required. For all buildings containing medical marijuana cultivation, production, storage, or manufacturing, a NEMA Type 3 Electrical Disconnect will be required on the exterior of the building. The electrical disconnect must be labeled and in an accessible location.

111.0718 Reserved.

111.072 ARTICLE III. – GENERAL PROVISIONS

111.0721 Defense to criminal prosecutions.

Compliance with the requirements of this chapter shall not provide an exception, immunity, or defense to criminal prosecution under any applicable law, except in the Durant Municipal Court, for a violation of this chapter as specifically provided herein.

111.0722 Inspections.

Every medical marijuana dispensary, commercial grower, and processor shall allow the local inspecting authority, and any agent of the local inspecting authority, or anyone authorized, to inspect the premises of the business pursuant to the city Code, State Question 788, and any of the rules and regulations adopted pursuant thereto.

111.0723 Costs of inspection and clean-up.

In the event the city incurs unforeseen costs in the inspection, clean-up, surrender of plants, or any other requirements to remove medical marijuana of any medical marijuana business, or any person cultivating, producing, distributing, or possessing marijuana, the business and responsible person shall reimburse the city all actual costs incurred by the city for such inspection or clean- up.

111.0724 Landlord duty.

It shall be unlawful for the owner of a building to lease space or allow the use of any portion of the building by a commercial medical marijuana business unless the tenant has a valid commercial medical marijuana business Certificate of Compliance or has applied for and not been denied a commercial medical marijuana business Certificate of Compliance or unless no marijuana is located on the premises until a Certificate of Compliance has been issued by the city.

111.0725 Locations of medical marijuana businesses.

1. Fixed Location Required.

(a) Mobile Medical Marijuana Sales of all types are prohibited within the City of Durant. This includes but is not limited to trailers, recreational vehicles, and trucks.

(b) With the exception of a commercial grower, it shall be unlawful to operate a medical marijuana business outside of an enclosed, fixed building. All medical marijuana business Certificates of Compliance shall be issued for a specific fixed location within an enclosed building.

2. Permitted Use in Zoning District.

A Certificate of Compliance may be issued only if the commercial medical marijuana business obtains a Certificate of Compliance to operate in the zoning district where it is proposed to be located, with the consideration of the buffers (e.g. 1,000' buffer) mentioned in this chapter. Conditional Use Permits shall not be applicable for medical marijuana businesses. Commercial medical marijuana business Certificates of Compliance are permitted upon review in the following zoning districts:

(a) For a medical marijuana dispensary:
- Convenience Commercial District (C-1),
- Highway Commercial and Commercial Recreation District (C-2),
- General Commercial District (C-3),
- Central Business District (CBD) and
- Health Facilities District (H-1);

(b) For a medical marijuana grower:
- Highway Commercial and Commercial Recreation District (C-2)
- General Commercial District (C-3),
- General Agricultural District (A-1),
- Light Industrial District (I-1),
- Medium Industrial District (I-2) and
- Health Facilities District (H-1);

(c) For a medical marijuana manufacturer, storage, or processor:
- General Agricultural District (A-1),
- Light Industrial District (I-1) and
- Medium Industrial District (I-2) and
- Health Facilities District (H-1).

111.0726 Commercial medical marijuana businesses prohibited in certain areas.

1. No Commercial Medical Marijuana Business in Buildings with Residences (except for retail medical marijuana businesses in the Central Business District) or Residential Zoning Districts.

It shall be unlawful to operate a commercial medical marijuana business in a building

which contains a residence, or within a dwelling unit within any zoning district, or within a residential zoning district, or within a mixed-use development that includes a residence, except for retail medical marijuana businesses within the Central Business District. Retail medical marijuana businesses shall be allowed within the Central Business District.

2. No Retail Sales in Cultivation or Processing Facilities without proper licenses.

It shall be unlawful for any person to permit retail sales within a medical marijuana business that is a cultivation facility or processes medical marijuana, except as provided for in State Question 788 and Title 63 O.S. § 420A, et. seq.

3. Separation from Uses.

No commercial medical marijuana Certificate of Compliance shall be issued for a location within one thousand (1,000') feet of any private or public school.

(1) Distances shall be measured from any entrance of the school to the nearest property line point of the medical marijuana business.

111.0727 Application requirements.

An application for a commercial medical marijuana Certificate of Compliance shall be made to the city on forms provided by the Community Development Department for that purpose. The applicant shall use the application to demonstrate its compliance with this chapter and any other applicable law, rule, or regulation. The review of applications will include, but not be limited to, the following information where applicable:

(1) The Oklahoma Medical Marijuana Authority Business License Number

(2) Contact information for the owner or owners of the medical marijuana business in whose name the Certificate of Compliance is proposed to be issued.

(3) An operating plan for the proposed medical marijuana business.

(4) A plan for lighting indicating the lighting outside of the medical marijuana business for security purposes and compliance with applicable city requirements.

(5) A plan for fire separation indicating a minimum of a two-hour fire separation between a medical dispensary and any adjacent business, or a fire suppression plan for all buildings containing cultivation, production, and manufacturing.

(6) A plan for disposal of any medical marijuana or medical marijuana-infused product that is not sold to a patient or primary caregiver in a manner that protects any portion thereof from being possessed or ingested by any person or animal.

(7) A plan for ventilation of the medical marijuana business that describes the ventilation systems that will be used to prevent any odor of medical marijuana off the premises of the business. For medical marijuana businesses that grow medical marijuana plants, such plan

shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises. For medical marijuana businesses that produce medical marijuana- infused products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process as well as any closed-loop and/or explosion-proof system.

(8) A description of all toxic, flammable, or other materials regulated by a federal, state, or local government that would have authority over the business if it was not a marijuana business, that will be used or kept at the medical marijuana business, the location of such materials, and how such materials will be stored.

111.0728 Fees required.

Any application for a commercial medical marijuana Certificate of Compliance shall be accompanied by a nonrefundable application fee in an amount established by the City Council of the City of Durant. Said fee includes the costs of providing the initial inspection. After the application review period, if the Community Development Department deems the application to be complete, the commercial medical marijuana Certificate of Compliance will be issued.

111.0729 Penalty.

Except as otherwise provided by state law, whenever in this Chapter an act is prohibited or is made or declared to be unlawful, an offense, or a misdemeanor, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful the violation of any provision of this code or of any ordinance, upon conviction, shall be punished by a fine not exceeding $500, plus costs, per Code Section 10.99. Each day or any portion of a day during which any violation of this code or of any ordinance shall continue shall constitute a separate offense.

111.073 ARTICLE IV. REQUIREMENTS RELATED TO THE OPERATION OF MEDICAL MARIJUANA BUSINESSES.

111.0731 Business conducted within building and prohibition of onsite use.

Any and all cultivation, production, distribution, possession, storage, display, sales, or other distribution of marijuana shall occur only within the restricted area of a commercial medical marijuana business and shall not be visible from the exterior of the business.

No marijuana shall be smoked, eaten, or otherwise consumed or ingested within the medical marijuana business.

111.0732 Display of Certificate of Compliance required.

A valid city issued commercial medical marijuana Certificate of Compliance shall be conspicuously posted in the business.

111.0733 Ventilation required.

A commercial medical marijuana business shall be ventilated so that the odor of marijuana cannot be detected by a person with a normal sense of smell at the exterior of the medical marijuana business or at any adjoining use or property.

111.0734 Security required.

A commercial medical marijuana business shall be secure so that unauthorized entrance into areas containing marijuana is prevented. A security plan shall be discussed with the inspector and/or reviewer of the Certificate of Compliance application.

111.0735 Disposal of medical marijuana and marijuana byproducts.

All medical marijuana and any product containing a usable form of marijuana to be disposed of must be made unusable and unrecognizable prior to removal from the business in compliance with the Oklahoma Department of Health rules and all applicable laws.

This provision shall not apply to licensed law enforcement, including, without limitation, the City of Durant Police Department and the City of Durant Fire Department.

111.0736 Delivery between medical marijuana businesses.

It shall be unlawful for any person to transport medical marijuana, except as specifically allowed by applicable law, unless the medical marijuana being transported meets the following requirements:

(1) All medical marijuana is transported in a locked container, shielded from public view and labeled “Medical Marijuana or Derivative.”

(2) Unless otherwise specifically allowed by applicable law, medical marijuana may be transported only between medical marijuana businesses.

(3) The medical marijuana must be accompanied by the manifest in accordance with state requirements for transport of marijuana.

111.0737 Requirements for public health, labeling and advertisement.

(1) The production of any medical marijuana-infused product shall be at a medical marijuana-infused product manufacturer that meets all requirements of a retail food establishment as set forth in 63 O.S. § 1-1101 et seq., 63 O.S. § 1-1401 et seq., OAC 310:257, and OAC 310:240. The production of any product containing medical marijuana shall comply with all health and safety standards thereof. The Certificate of Compliance holder shall comply with all applicable state and local health regulations related to the production, preparation, labeling, and sale of prepared food items as if the medical marijuana-infused products were food items.

(2) All medical marijuana sold or otherwise distributed by the Certificate of

Compliance holder shall be packaged and labeled in a manner that advises the purchaser that it contains marijuana and specifies the amount of marijuana in the product, that the marijuana is intended for medical use solely by the patient to whom it is sold, and that any resale or redistribution of the medical marijuana to a third person is prohibited. In addition, the label shall comply with all applicable requirements of the State of Oklahoma and any other applicable law.

(3) The product shall be packaged in a sealed container that cannot be opened without obvious damage to the packaging.

(4) A commercial medical marijuana business may not advertise in a manner that is inconsistent with the medicinal use of medical marijuana. A medical marijuana business may not advertise in a manner that is misleading, deceptive, false, or designed to appeal to minors.

(5) Advertisement by a commercial medical marijuana business that promotes medical marijuana for recreational or any use other than for medicinal purposes shall be a violation of this code.

111.0738 Compliance with other applicable law.

Except as may be provided otherwise in this chapter, or rules adopted pursuant to this chapter or interpretations by the city, any law or regulation adopted by the state governing the cultivation, production, possession, or distribution of marijuana for medical use shall also apply to medical marijuana businesses in the city. Compliance with any applicable state law or regulation that does not permit what this chapter prohibits shall be deemed an additional requirement for issuance or denial of any permit and/or certificate under this chapter, and noncompliance with any applicable state law or regulation is unlawful and shall be grounds for revocation or suspension of any permit and/or certificate issued under this chapter. No medical marijuana business shall continue operations in violation of an additional state law or regulation, which does not permit what this chapter prohibits, applicable within the city after the effective date of the state law or regulation.

111.0739 Revocable privilege and revocation of Certificate of Compliance upon denial or revocation of state license or applicable federal prohibition.

A commercial medical marijuana business permit is a revocable privilege, and no applicant therefor or holder thereof shall be deemed to have acquired any property interest therein.

If the state prohibits the cultivation, production, possession, or other distribution of marijuana through medical marijuana businesses, or if a medical marijuana business is denied a commercial medical marijuana business permit or has such permit revoked, or if a court of competent jurisdiction determines that the federal government's prohibition of the cultivation, production, possession, or other distribution of marijuana through medical marijuana businesses supersedes state law, any Certificate of Compliance issued pursuant to this chapter shall be deemed to be immediately revoked by operation of law, with no ground for appeal or other redress on behalf

of the Certificate of Compliance holder.

111.074 ARTICLE V. MARIJUANA GROWING FACILITIES FOR PERSONAL MEDICAL USE

111.0741 Certificate of Compliance not required for state-authorized personal medical use or growing facilities for personal medical marijuana use.

No Certificate of Compliance or other City of Durant registration shall be required of any person(s) establishing a medical marijuana growing facility for state-authorized personal medical use or for the state-authorized medical use of a dependent or beneficiary.

It shall be unlawful for a person to grow marijuana for personal medical use within the corporate limits of the City of Durant, Oklahoma, without first obtaining appropriate license(s) from the state, per Title 63 O.S. § 421A and State Question 788.

111.0742 Location and security.

Any significant building improvement and/or renovation at a marijuana growing facility for personal medical use shall necessitate contact with the Community Development Department to determine appropriate need for building permit(s) and/or inspection(s), per applicable codes adopted by the City of Durant City Council. Said building permits and inspections from the Durant Community Development Department are applicable to any and all properties in the city, no matter the property/land use, when significant improvements or renovations occur.

While no Certificate of Compliance is required for marijuana growing facilities for personal medical use, the City of Durant adopts the following for said facilities:

(a) All homegrown medical marijuana plants shall be grown so that the marijuana is not accessible to a member of the general public and is only accessible to the patient or caregiver. If grown outdoors, it must be grown behind a sight-proof fence that is at least six (6) feet in height. The marijuana plants must be completely enclosed by the fence and the fence must be secured with a proper lock and key.

(b) Growing marijuana shall not be visible from the public right of way.

(c) The growing area including any lighting, plumbing or electrical components used shall comply with municipal building and fire codes. The growing area must be properly ventilated so as not to create humidity, mold or other related problems. Lighting and any use of generators and gas products (CO_2, butane, etc.) in the growing area shall be properly controlled.

(d) Growing marijuana shall not be conducted in a manner that constitutes a public nuisance. A public nuisance may be deemed to exist if growing marijuana produces light,

glare, heat, noise, odor or vibration that is detrimental to public health, safety or welfare or interferes with the reasonable enjoyment of life and property.

(e) The primary use of the residential property in which marijuana is grown for personal use shall remain at all times a residence, with legal and functioning cooking, eating, sleeping, sanitation/bathing facilities, working water and electric services, with proper ingress and egress. No room shall be used for growing marijuana where such cultivation will impair or prevent the life, safety and general welfare of the residents.

111.0743 Exemption from Certificate of Compliance does not provide any exception, defense, or immunity from other laws.

Any exemption from any Certificate of Compliance pursuant to this chapter does not create an exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marijuana.

111.0744 Reserved.

Section II: DECLARATION OF EMERGENCY. For the immediate preservation of the peace, health and safety of the City of Durant, Oklahoma, and the inhabitants thereof, it is necessary that this ordinance shall become operative and go into effect immediately upon its passage, approval and publication.

Passed and approved this 23rd day of October, 2018, in special session of the Durant City Council.

CITY OF DURANT

_____

JERRY L. TOMLINSON, MAYOR
CITY OF DURANT, OKLAHOMA

ATTEST:

_____

CYNTHIA PRICE
CITY CLERK

THE CITY OF DURANT
CERTIFICATE OF COMPLIANCE
Application

Business Information:

Business Name:	Office #	Fax #
Contact Person:	Title	Cell #

Address:	City	State	Zip

Business type	Hours of Operation
# of Employees	

Letter to be addressed to:

Name:			
Address	City:	State:	Zip:

I understand that I am responsible for ensuring that all applicable sales and use taxes are paid for all materials purchased. I also understand that I will be required to submit documentation to the Community Development Department showing proof of payment, either to the vender or directly to the Oklahoma Tax Commission. Certificate of Compliance will not be issued until such documentation has been received and verified.

Owner or Agents Signature:_____ Date:_____

Building Official :_____
Signature certifies that the above address meets all zoning and other code requirements.

Office Use Only

	Pass	Fail	Signature	Date
Zoning				
Fire				
Safety				
Health				
OK Tax				

Building Dept: 580-931-6612

Fire Marshall – 580-924-8621

DRAFT

Agenda Item: 4.

The City of Durant

Office of City Clerk

Memorandum

Date:	10/12/2018
To:	Mayor and City Council
From:	Cynthia J. Price, City Clerk
Re:	Receive Governing Board Training from Oklahoma Municipal Assurance Group (OMAG)

Council Information / Action Requested

City Staff Information / Action Follow-up, if Council authorizes this action:

Agenda Item: 5.a.

The City of Durant

Office of City Clerk

Memorandum

Date:	10/19/2018
To:	Mayor and City Council
From:	Cynthia J. Price, City Clerk
Re:	Consider Executive Session for Confidential Communication with Attorney Concerning Pending Claim Against the City of Durant - Ballard v. City of Durant, CV-17-92 (This Executive Session Authorized by Title 25, Section 307 B(4) of the Oklahoma State Statutes)

Council Information / Action Requested

City Staff Information / Action Follow-up, if Council authorizes this action:

Agenda Item: 5.b.

The City of Durant

Office of City Clerk

Memorandum

Date: 10/19/2018
To: Mayor and City Council
From: Cynthia J. Price, City Clerk
Re: Consider Action Pursuant to 5(a) Above

Council Information / Action Requested

City Staff Information / Action Follow-up, if Council authorizes this action: