

PART II
CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

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Sec. 1-1. How Code designated and cited.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated the "Code of Ordinances, City of McAlester, Oklahoma," and may be so cited. Such Code may also be cited as the "McAlester Code." (Code 1974, § 1-1)

Charter reference—Codification of ordinances, § 2-16.

State law reference—Ordinance codification, 11 O.S. § 14-108.

Sec. 1-2. Rules of construction and definitions.

(a) In the construction of this Code and of all ordinances, the rules and definitions set out in this section shall be observed, unless such construction would be inconsistent with the manifest intent of the city council. The rules of construction and definitions set out in this section shall not be applied to any section of this Code which shall contain any express provisions excluding such construction, or where the subject matter or context of such section may be repugnant thereto.

(b) In the interpretation and application of any provisions of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of this Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

(c) All provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true purposes, intent and meaning of the city council may be fully carried out.

Charter. The word "Charter" shall mean the Charter of the City of McAlester, as ratified at an election held on May 13, 2008, and approved by the Governor of the State of Oklahoma on July 9, 2008, and any amendments thereto, a copy of which is printed in this volume.

City. The words "the city" or "this city" shall mean the City of McAlester, in Pittsburg County, Oklahoma.

City council, council. The words "city council" or "the council" shall mean the City Council of the City of McAlester, Oklahoma.

Code. Reference to "this Code" or "the Code" shall mean the Code of Ordinances, City of McAlester, Oklahoma, as designated in section 1-1 of this chapter.

Computation of time. In computing any period of time prescribed or allowed, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday as defined by state law, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays as defined by state law, or any other day when the city offices are closed shall be excluded in the computation.

County. The term "county" shall mean Pittsburg County, Oklahoma.

Delegation of authority. Whenever a provision appears requiring the head of a department or some other city officer or employee to do some act or perform some duty, it is to be construed to authorize such department head, officer or employee to designate, delegate and authorize subordinates to perform the required act or perform the duty.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Health department. The term "health department" shall mean the county health department.

Heretofore and hereafter. Whenever the word "heretofore" appears in any ordinance, it shall be construed to mean any time previous to the day when that ordinance shall take effect; whenever the word "hereafter" appears, it shall be construed to mean the time after the ordinance shall take effect.

Highway. The term "highway" shall include any street, alley, highway, avenue or public place

or square, bridge, viaduct, tunnel, underpass, overpass or causeway in the city, dedicated or devoted to public use.

Joint authority. Words purporting to give authority to three or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons.

May. The word "may" is to be construed as being permissive.

Mayor. The word "mayor" shall mean the mayor of the city.

Month. The word "month" shall mean a calendar month.

Must. The word "must" shall be construed as being mandatory.

Nontechnical and technical words. All words and phrases shall be construed and understood according to the common and approved usage of the language. Technical words and phrases and such others as may have acquired a peculiar or appropriate meaning in law shall be construed and understood according to such peculiar or appropriate meaning.

Number. Any word importing singular number shall include the plural and any word importing the plural number shall include the singular.

Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Officers, departments, etc. Whenever any officer, department, board, commission or other agency is referred to by title alone, such reference shall be construed as if followed by the words "of the City of McAlester, Oklahoma."

Or, and. "Or" may be read "and," and "and" may be read "or," if the sense requires it.

Owner. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of such building or land.

Person. The word "person" shall extend and be applied to associations, corporations, firms, partnerships and bodies politic and corporate as well as to individuals. Whenever used with respect to any penalty, the word "person," as applied to partnerships or associations, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

Personal property. The term "personal property" shall include every species of property except real property.

Preceding; following. The words "preceding" and "following" shall mean next before and next after, respectively.

Property. The word "property" shall include personal, real and mixed property.

Public grounds; public places. The term "public grounds" or "public places" shall be construed to mean any park or open place adjacent thereto, any lake or stream, any and every public ground, public square, public park, street or sidewalk, or other public place within the city.

Real property. The term "real property" shall include land together with all things attached to the land so as to become a part thereof and all rights thereto and interest therein.

Shall. The word "shall" is to be construed as being mandatory.

Sidewalk. The word "sidewalk" shall mean any portion of the street between the curb, or the lateral line of the roadway, and the adjacent property line, intended for the use of pedestrians.

Signature; subscription. The term "signature" or "subscription" shall include a mark when a person cannot write.

State. The word "state" shall mean the State of Oklahoma.

Statutory references. Reference to the statutes of the State of Oklahoma means the statutes as they now are or as they may be amended to be, and a reference to the 1981 Statutes also means the comparable provision when included in future codifications or supplementations of the statutes.

Street. The term "street" shall include any highway, alley, street, avenue or public place, square, bridge, viaduct, underpass, overpass, tunnel or causeway in the city dedicated or devoted to public use.

Tenant; occupant. The words "tenant" and "occupant," applied to a building or land, shall include any person holding a written or oral lease of or who occupies the whole or a part of such building or land, either alone or with others.

Tense. Words used in the past or present tense shall include the future as well as the past and present, unless the context clearly indicates otherwise.

Written; in writing. The term "written" or "in writing" shall be construed to include any representations of words, letters or figures, whether by printing or otherwise.

Year. The word "year" shall mean a calendar year.
(Code 1974, § 1-3; Ord. No. 2484, 11-26-13)

Sec. 1-3. Catchlines of sections; history notes, footnotes, etc.; references to Code.

(a) The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(b) The history or source notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section. Cross references and state law references which appear after sections or subsections of this Code or which otherwise appear in footnote form are provided for the convenience of the user of this Code and have no legal effect.

(c) All references to chapters, articles or sections are to the chapters, articles and sections of this Code unless otherwise specified.
(Code 1974, § 1-2)

Sec. 1-4. Code and ordinances effective outside city on property owned or controlled by city.

All provisions of this Code and other ordinances of the city now in effect or adopted in the future are hereby extended to all real property belonging to, or under the control of, the city outside the corporate limits of the city, and shall be in full effect therein, insofar as they are applicable. Any word in any such provision indicating that its effect is limited to the corporate limits of the city shall be deemed to mean and include also such outlying real property belonging to, or under the control of, the city, unless the context clearly indicates otherwise.

(Code 1974, §§ 1-6, 17-2)

State law reference—Jurisdiction over city property, 11 O.S. § 22-116.

Sec. 1-5. Effect of repeal of ordinance.

(a) The repeal of an ordinance does not revive any ordinance in force before or at the time the ordinance repealed took effect.

(b) The repeal of an ordinance does not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal for an offense committed under the repealed ordinance.

Sec. 1-6. Attempted offenses.

Every person who attempts to violate an ordinance of the city, and in such attempt does any act toward the commission of such offense, but fails or is prevented or intercepted in the perpetration thereof, is guilty of an offense and shall be punished in the manner prescribed for the attempted offense itself.

(Code 1974, § 18-1)

State law reference—Attempts to commit crime, 21 O.S. § 41 et seq.

Sec. 1-7. Aiding in commission of offense.

When no punishment for counseling or aiding in the commission of a particular offense is expressly prescribed by ordinance, every person who counsels or aids another in the commission of such is guilty of an offense or misdemeanor and punishable in the same manner as the principal offender.

(Code 1974, § 18-2)

State law reference—Similar provisions, 21 O.S. § 28.

Sec. 1-8. Penalty for violations.

(a) In this section "violation of this Code" means any of the following:

- (1) Doing an act that is prohibited or made or declared unlawful, an offense or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.
- (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.
- (3) Failure to perform an act if the failure is declared a misdemeanor or an offense or unlawful by ordinance or by rule or regulation authorized by ordinance.

(b) In this section "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty unless it is provided that failure to perform the duty is to be punished as provided in this section.

(c) Except as otherwise provided, a person convicted of a violation of this Code shall be punished by a fine not exceeding \$500.00, plus costs. With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense.

(d) No penalty, including fine and costs, shall be greater than that imposed by statute for the same offense.

(e) The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise.

(f) Violations of this Code that are continuous with respect to time may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent equitable relief.

(Code 1974, §§ 1-7, 1-8; Ord. No. 1872, § 1, 9-10-91; Ord. No. 2049, § 1, 4-9-96; Ord. No. 2264, § 1, 8-14-07)

State law references—Penalty for ordinance violations, 11 O.S. § 14-111; maximum fine allowable with no jury trial, 11 O.S. § 27-119.

Sec. 1-9. Severability of Code.

(a) It is the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the city council without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph or section.

(b) If any provision of this Code or the application thereof to any person, fact, situation or circumstance is held invalid, the remainder of this Code and the application of such provision to other persons, facts, situations or circumstances shall not be affected thereby.

(Code 1974, § 1-11)

Sec. 1-10. Amendments or additions to Code.

(a) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "Section _____ of the Code of Ordinances, City of McAlester, Oklahoma (or the McAlester Code) is hereby amended to read as follows:" The new provisions shall then be set out in full as desired.

(b) If a new section not heretofore existing in the Code is to be added, the following language shall be used: "The Code of Ordinances, City of McAlester, Oklahoma (or the McAlester Code) is hereby amended by adding a section, to be num-

bered _____, which section reads as follows:
 "The new section shall then be set out in full as desired.
 (Code 1974, § 1-9)

Sec. 1-11. Supplementation of Code.

(a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the city council. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the city council or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code, and shall also include all amendments to the charter during the period. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted; the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions.
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles.
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers.

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code).

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

(Code 1974, § 1-10)

Charter reference-Authority to keep Code up to date by looseleaf system, § 2-16.

Sec. 1-12. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following:

- (1) Any appropriation or budget ordinance.
- (2) Any ordinance authorizing or relating to the issuance or redemption of bonds.
- (3) Any ordinance approving or authorizing specific contracts.
- (4) Any ordinance authorizing a specific sale, lease or purchase of property.
- (5) Any ordinance levying or assessing taxes not inconsistent with this Code.
- (6) Any ordinance granting rights-of-way, franchises or easements.
- (7) Any ordinance annexing territory to or excluding territory from the city.
- (8) Any ordinance calling specific elections or providing for special elections.
- (9) Any ordinance making special assessments for local improvements.
- (10) Any ordinance creating or relating to specific sewer and paving districts or other specific improvement districts.

- (11) Any ordinance establishing the grades of specific streets and other public ways.
 - (12) Any ordinance naming or changing the names of specific streets and other public ways.
 - (13) Any ordinance creating, dedicating, vacating or closing specific streets, alleys or other public ways.
 - (14) Any ordinance relating to specific street improvements and assessments therefor.
 - (15) Any ordinance relating to the grade or alignment of specific streets.
 - (16) Any ordinance naming or renaming specific streets.
 - (17) Any ordinance granting railroads the right to use specific streets and alleys.
 - (18) Any ordinance creating or otherwise relating to limited-access facilities consisting of streets, avenues, boulevards, roads and other ways, or portions thereof.
 - (19) Any ordinance amending the zoning map or approving or disapproving a subdivision plat.
 - (20) Any ordinance rezoning property.
 - (21) Any ordinance dealing with the compensation, retirement, pensions or other benefits of city officers and employees.
 - (22) Any ordinance which is temporary although general in effect.
 - (23) Any ordinance which is special although permanent in effect.
 - (24) Any ordinance the purpose of which has been accomplished.
- (Code 1974, §§ 1-4,26-1)

Sec. 1-13. Code does not affect prior offenses, rights, etc.

(a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

(b) The adoption of this Code shall not be interpreted as authorizing or suffering any use or the continuance of any use of a structure or premises in violation of any ordinance of the city in effect on the date of adoption of this Code.
(Code 1974, § 1-5)

Sec. 1-14. Provisions deemed continuations of existing ordinances.

The provisions of this Code, insofar as they are substantially the same as ordinance provisions previously adopted by the city relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.