

## Chapter 2

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## ARTICLE I. IN GENERAL

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## ARTICLE II. CITY COUNCIL\*

### DIVISION 1. GENERALLY

#### **Sec. 2-26. City manager to attend council meetings.**

The city manager shall attend all meetings of the city council, with the right to take part in the discussion but having no vote.

(Code 1974, § 2-2)

**Charter reference**—City manager generally, art. 3.

**Secs. 2-27—2-35. Reserved.**

### DIVISION 2. RULES OF ORDER AND PROCEDURE†

#### **Sec. 2-36. Suspension of rules.**

The city council may, by a vote of four of its members, temporarily suspend all or any portion of the rules outlined in this division.

(Code 1974, § 2-25)

#### **Sec. 2-37. Meetings.**

(a) *Regular meetings.* The city council shall hold regular meetings on the second and fourth Tuesdays of each month at the hour of 6:00 p.m. in the council chambers of the municipal building. Should a regular meeting date coincide with a holiday, then the council may, by a vote of four of its members, designate an alternate meeting date.

(b) *Special meetings.* The mayor or any four councilmembers may call special meetings subject to the following requirements: At least 24 hours before a special meeting, written call or notice of the meeting must be given to each

\***Charter reference**—City council, art. 2.

†**Charter reference**—Authority of council to determine its rules, § 2-11.

member of the council and the city manager personally or to some member of his family at least 15 years of age at his residence.

(Code 1974, § 2-16; Ord. No. 2169, § I, 12-23-03)

**Charter reference**—Council to hold at least two meetings per month at times prescribed by council, § 2-7.

**State law reference**—Oklahoma Open Meeting Act, 25 O.S. § 301 et seq.

#### **Sec. 2-38. Quorum.**

A majority of all of the members of the city council shall constitute a quorum.

(Code 1974, § 2-17)

**Charter reference**—Majority of members to constitute quorum, § 2-11.

#### **Sec. 2-39. Presiding officer.**

(a) The presiding officer shall preserve order and decorum within the council chambers during the conduct of all meetings.

(b) In the absence of the mayor and vice-mayor, the city manager shall call the council to order. An acting chairman shall then be elected by the members of the council who are present. Upon the arrival of the mayor or vice-mayor, the acting chairman shall relinquish the chair.

(c) As a councilmember, the presiding officer shall have all powers, rights, privileges, duties and responsibilities of a councilmember, including the right to debate and vote on questions.

(d) The presiding officer shall preserve strict order and decorum at all meetings of the council. He shall state every question coming before the council; call upon the city manager for any appropriate background information and recommendations; announce the decisions of the council on all subjects.

(Code 1974, § 2-18)

**Charter reference**—Presiding officer, § 2-2.

#### **Sec. 2-40. Parliamentary procedure.**

(a) All city council meetings shall be conducted in accordance with Robert's Rules of Order, Newly Revised.

(b) The city attorney shall serve as parliamentarian to the council. He may advise the council on procedural matters upon request from the presiding officer.  
(Code 1974, § 2-19)

**Sec. 2-41. Agenda.**

(a) *Items placed on agenda.* All reports, communications, ordinances, resolutions, contract documents or other matters to be considered by the city council shall be submitted to the city manager not later than 12:00 p.m. on the Thursday immediately preceding the regular council meeting. Upon receipt, the city manager shall immediately arrange a list of such matters according to the order of business and shall furnish each member of the council and city attorney with a copy of same prior to the council meeting.

(b) *Items of emergency nature.* Unless submitted in accordance with subsection (a) above, items proposed for council action cannot be considered unless the item is of an urgent or emergency nature and same shall be so presented only upon the approval of a majority of the city council.

(c) *Items considered at special meetings.* During the conduct of special meetings, only those items included on the notice of special meetings may be considered by the council.  
(Code 1974, § 2-20; Ord. No. 2167, § 1, 8-12-03; Ord. No. 2518, § 1, 9-23-14)

State law reference—Agendas, 25 O.S. § 311(9)—(11).

**Sec. 2-42. Order of business.**

The city council shall consider and dispose of business to come before it in the following order:

- (1) Call to order by presiding officer.
- (2) Invocation and pledge of allegiance.
- (3) Roll call.
- (4) Citizen comments on nonagenda items.
- (5) Consent agenda.
- (6) Items removed from consent agenda.
- (7) Public hearing.
- (8) Scheduled business.
- (9) New business.

- (10) City manager's report.
- (11) Remarks and inquiries by council members.
- (12) Executive session.
- (13) Adjournment.  
(Ord. No. 1873, § 1(2-21), 10-22-91; Ord. No. 2254, § II, 4-24-07; Ord. No. 2303, § II, 9-9-08)

**Sec. 2-43. Debate.**

(a) *Subject of debate.* Debate shall be limited to the question on the floor. Debate shall not be heard until a motion has been properly made and seconded with regard to either approval or rejection of an agenda item. Members shall then express their views as to appropriateness of the item being so considered.

(b) *Obtaining the floor.* Any member of the council wishing to speak shall first obtain recognition from the presiding officer. Once recognized by the chair, a member shall not be interrupted while speaking unless it is to call him to order or as herein otherwise provided.

(c) *Remarks made to chair.* Members of the council shall address all remarks to the chair.

(d) *Recorded remarks of councilmembers.* Any member may request in advance that a verbatim transcript of his remarks on any matter to come before the council be entered in the minutes.

(e) *Limitation on debate.* After motion and second having been properly entered and made, the council by a majority vote of those present may limit debate on any particular agenda item which is before the council. This limitation shall be applied to each councilmember each time the member has the floor to debate that particular agenda item.

(f) *Privilege of closing debate.* The councilmember moving the adoption or rejection of an ordinance or resolution shall have the privilege of closing the debate on the ordinance or resolution.  
(Code 1974, § 2-22)

**Sec. 2-44. Public participation.**

(a) *Addressing the council.* Any person wishing to address the city council shall first be recognized by the presiding officer. He shall approach the lectern provided for audience communications and he shall state his name and address. He shall at all times conduct himself in an orderly and decorous manner.

(b) *Remarks made to chair.* Any person speaking before the council shall address his remarks to the chair.

(c) *Public hearings.* The procedure for public hearings shall be as follows:

- (1) Prior to holding of a public hearing, the presiding officer shall:
  - a. Declare "This is a public hearing."
  - b. State the subject to be considered.
  - c. Review procedure to be followed.
- (2) Prior to public participation and immediately following declarations by the presiding officer, the city manager or his designee shall review for the council and citizens present, the item to be considered by the council and any appropriate information and/or recommendation.
- (3) Proponents of the subject proposition shall thereupon be provided opportunity to speak in favor of the matter before the council.
- (4) Opponents of the subject proposition shall thereupon be provided opportunity to speak against the matter before the council.
- (5) Upon completion of presentation by persons speaking against the proposition, those persons speaking for the proposition will be allowed to rebut only those arguments or points made by the persons who have spoken against the proposition.
- (6) Each citizen desiring to speak for or against a proposition shall be limited to five minutes for his presentation. If more than one person desires to speak at any portion of the agenda set aside for proponents or opponents, the cumulative total shall not exceed 20 minutes.

(7) Upon conclusion of the presentation of the views by the public, the presiding officer shall declare the public hearing to be closed and shall declare a motion to be in order concerning the proposition.

(8) In most instances a public hearing shall be called related to a particular proposition and citizens shall speak either in favor of or against the proposition. In special instances, public hearings may be called to provide citizens the opportunity to express opinions on several alternatives or subjects. At such hearings citizens will present their views on the subject or alternatives so stated.

(d) *Citizen comments.* Citizen comments shall be classified into three major classifications: those of nonemergency nature; those of an urgent or emergency nature and those items on the agenda. Items of an urgent or emergency nature are defined as those which can only be acted on at that particular council meeting; which, for events beyond his control, the citizen was unable to request same to be placed on the agenda, and which cannot feasibly be included on a subsequent agenda.

(1) *Agenda items.*

- a. Agenda items not included as a public hearing. Citizens desiring to express their views on a particular item, which is not included on the agenda as a public hearing, may do so after introduction of the agenda item; proper motion and second by members of the council, after council debate but before council action, provided they have been recognized by the chair.
- b. Public hearings. Described under subsection (c) above.

Each person desiring to present views under subsection (d)(1) shall limit such presentation to five minutes.

(2) *Items of urgent or emergency nature.* Citizens desiring to bring a subject of urgent or emergency nature to the council for consideration shall contact their respec-

tive ward councilmember, the mayor or city manager prior to call to order of the council meeting, which shall bring the subject to the council for consideration at the proper place for councilmember, mayor or manager reports on the agenda. In such cases the council shall consider same on the same basis as other nonagenda items and as provided for in section 2-41. Items found to be nonemergency in nature will be tabled to a subsequent meeting pending a report containing background information and a recommendation from the city manager as appropriate.

Each person desiring to present views under subsection (d)(2) shall limit such presentation to five minutes.

- (3) *Items of nonurgent and nonemergency nature.* Citizens bringing such items to the city shall follow the same procedures as councilmembers in placing items on the regular agenda as defined in section 2-41. (Code 1974, § 2-23)

#### **Sec. 2-45. Minutes.**

Minutes of prior meetings which have been written and distributed to members of the city council may be approved without reading and may be declared as approved without reading objection and/or correction unless a member requests correction and/or reading of same. (Code 1974, § 2-24)

#### **Secs. 2-46—2-65. Reserved.**

## **ARTICLE III. OFFICERS AND EMPLOYEES\***

### **DIVISION 1. GENERALLY**

#### **Sec. 2-66. Acting city manager.**

If the city manager is absent from the city or is unable to perform his duties, if the council suspends the city manager, or if there is a vacancy in the office of city manager, the city council may appoint an acting city manager to serve until the city manager returns, until his disability or suspension ceases, or until another city manager is appointed and qualifies, as the case may be. The council may suspend or remove an acting city manager at any time.

(Code 1974, § 2-4)

**Charter reference**—Acting officers generally, § 9-12.

#### **Sec. 2-67. Personnel policies.**

That certain document entitled "City of McAlester Personnel Policies" dated February 25, 2014 and "Alcohol and Drug Testing Policies" is incorporated herein to the same extent as if it were set out at length, and shall be kept on file in the office of the city clerk.

(Code 1974, § 2-5; Ord. No. 2041, § 1, 8-22-95; Ord. No. 2122, § 1, 10-24-00; Ord. No. 2151, § 1, 5-14-02; Ord. No. 2460, 3-26-13; Ord. No. 2461, 3-26-13; Ord. No. 2487, 1-14-14; Ord. No. 2490, 2-25-14; Ord. No. 2524, 12-9-14)

#### **Sec. 2-68. Conflict of interest.**

(a) *Purpose and declaration of policy.* The primary purpose of this section is to ensure that the use of public office for private gain is prohibited. Moreover, this section is intended to ensure that the business of this municipality will be conducted in such a way that no public official of the municipality, or those public officials appointed by the City of McAlester, or its mayor and city

**\*Charter reference**—Officers and employees generally, art. 9.

**Cross references**—Municipal judge, § 34-51 et seq.; fire department, § 50-26 et seq.; employment discrimination, § 58-51 et seq.; police department, § 66-26 et seq.

**State law references**—Municipal officers generally, 11 O.S. § 8-101 et seq.; political activities by municipal employees, 11 O.S. § 22-101.1.

council will gain a personal or financial advantage as a result of their position with the city and so that the public trust in municipal officials will be preserved. A further purpose of this section is to avoid the appearance of impropriety, whether or not an actual conflict of interest exists. This section applies to the mayor and council members, and to city officers, employees and members of all boards, commissions and committees of the city, and all authorities or trusts which have the City of McAlester as their beneficiary.

(b) *Definitions.* For the purposes of this article, the following definitions shall apply:

*Benefit* means anything reasonably regarded as economic gain or economic advance, including benefit to any other person in whose welfare the beneficiary is interested.

*Business entity* means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, activity or entity.

*City agency* means any authority, advisory board, body, commission, committee, department, or office of the city or to which the city is a beneficiary.

*Confidential information* means privileged statements or communications, whether expressed or implied, oral or written, between the city council members, city employees, and their attorneys; work product of the city attorney, or other attorneys representing the city, its council members, officers and employees; and city records, documents and other information not subject to public disclosure or dissemination by law.

*Conflict of interest* means a direct or indirect personal or financial interest of a public official, his or her spouse, household member, business associate, employer or employee, in the outcome of a cause, proceeding, application or any other matter pending before the officer or before the public body in which he or she holds office or is employed. "Conflict of interest" does not arise in the case of votes or decisions on matters in which the public official has a personal or financial interest in the outcome no

greater than that of other persons generally affected by the decision, such as adopting a bylaw or setting a tax rate. In addition, a conflict of interest does not arise if the personal or financial interest is permitted by law.

*Financial interest* means an expectation of receiving a financial benefit. A financial interest of a person includes any financial interest of a member of that person's immediate family. A person has a financial interest in an organization in which that person has an ownership interest, or is a director, officer or employee. A person has a financial interest in a decision if a financial interest of that person may vary with the outcome of the decision. A financial interest does not include the following:

- (1) A personal or financial interest which is not of the magnitude that would exert an influence on an average, reasonable person.
- (2) A personal or financial interest of a type which is generally possessed by the public or a large class of persons to which that official or employee belongs.
- (3) An action or influence which would have an insignificant or conjectural effect on the matter in question.

*Immediate family* means any person related to an officer or employee within the first degree of consanguinity and includes a spouse, parent, child, grandparent, grandchild, or an individual claimed by that individual or the spouse as a dependent for federal income tax purposes.

*Officer, official, employee, board, committee or commission member* are also referred to in this article as "public official" and "public officers" and include any person elected to, appointed to, or employed or retained by any public office or public body of the city, or any public trust to which the city is a beneficiary, whether paid or unpaid and whether temporary, part-time or full-time. Accordingly, the mayor, council members, employees, all board, committee and commission members are officers, employees and officials of the city, and all trustees appointed

by the city to any public trust to which the City of McAlester is the beneficiary is a public official.

*Official act or action* means any discretionary legislative, administrative or judicial act performed by any elected or appointed official, officer or employee while acting on behalf of the municipality.

*Public body* means a municipality and its departments, boards, city council, commissions, committees or other instrumentalities, and all public trusts to which the city is a beneficiary.

*Public interest* means an interest of the community as a whole, conferred generally upon all residents of the municipality.

*Public officer* means any person elected to, appointed to, or employed or retained by, any public office or public body of the city, whether paid or unpaid and whether temporary, part-time or full-time. Accordingly, the mayor, council members, employees, all board, committee and commission members are officers, employees and officials of the city.

*Public official* means any person elected to, appointed to, or employed or retained by, any public office or public body of the city, or to any public trust to which the city is a beneficiary, whether paid or unpaid and whether temporary, part-time or full-time. Accordingly, the mayor, council members, employees, all board, trustees, committee and commission members are officers, employees and officials of the city.

(c) *Disqualification.* A public official shall not participate in any official action if he or she has a conflict of interest in the matter under consideration. A conflict of interest includes a conflict of interest as defined in this section.

(d) *Disclosure.*

- (1) A public official who has reason to believe that he or she has or may have a conflict of interest shall, prior to participating in any official action on the matter, identify the matter under consideration, the nature of the potential conflict of interest and why he or she believes that he or she is able or unable to act in the matter.

- (2) The remaining members of the public body of which such public official is a member, the city council, a member or members of any board or committee appointed by the city council to investigate a possible conflict of interest, and the city manager shall have the authority to inquire of any public official about a possible conflict of interest and to suggest or recommend that the member recuse him or herself from the matter. If the member believes that he or she does not have a conflict of interest, the member shall, prior to participating in the matter, identify the matter under consideration, the nature of the potential conflict of interest and why he or she believes that he or she is able to act in the matter. All comments, including citizen comments, made during a public meeting regarding any conflict of interest discussion, will be recorded in the official minutes of the meeting.

(e) *Public contracts.*

- (1) No official, officer or employee shall enter into any contract with the city, except as permitted as follows.
- (2) Any official, officer or employee who has or may have a personal interest in any public contract shall disclose such interest prior to the first of any of the events set forth below:
  - a. The solicitation of a contract; or
  - b. The bidding of a contract; or
  - c. The negotiation of a contract; or
  - d. The approval by the governing body of a contract.
- (3) Any contract entered into in violation of this section may be voided by the city or the authority. This section does not affect the application of any state statute.

(f) *Acceptance of gifts and other things of value prohibited.* No official, officer or employee shall directly or indirectly solicit any gift, or accept any gift whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in

which it could reasonably be inferred that the gift was intended to influence, or could reasonably be expected to influence the officer or employee, in the performance of official duties, or was intended as a reward for any official action.

(g) *Disclosure of confidential information prohibited.* During the period of employment or service and for two years thereafter, no official, officer or employee, with respect to any contract, transaction, zoning decision, or other matter which is or may be the subject of an official act or action of the city shall, without appropriate authorization, disclose confidential information concerning the property, government, or affairs of the city. In addition, no officer or employee shall use such information to advance the financial or other private interest of the officer or employee or others.

(h) *Appearances by city officials on behalf of private interests prohibited.* No official, officer or employee, except when acting in an official capacity, shall appear on behalf of any private person before any city agency. This section shall not apply to any official, officer or employee who has fully informed the city agency of the officer's private interest in a matter and the official, officer or employee does not participate in any decision related thereto.

(i) *Prohibited conduct after leaving the city or authority.* No present or former official, officer or employee may represent another person for compensation before the city or any public body thereof while in office or employed for a period of two years from the date of termination of their office or employment concerning any matter with which such officer or employee was directly concerned and in which such officer or employee personally participated during the employment or service by a substantial and material exercise of administrative discretion either during their holding of office or employment or for a period of two years thereafter.

(j) *Additional prohibited activities.*

(1) No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any city position or appointive city adminis-

trative office because of race, gender, age, handicap, religion, country of origin, or political affiliation.

(2) No person shall willfully make any false statement, certificate, mark, rating, or report in regard to any test, certification, or appointment under the provisions of the City Charter, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such Charter provisions.

(3) No person who seeks appointment or promotion with respect to any city position or appointive city administrative or authoritative office shall directly or indirectly give, render, or pay any money, service, or other valuable thing to any person for or in connection with any test, appointment, proposed appointment or proposed promotion.

(4) No person shall knowingly or willfully solicit or assist in soliciting any assessment, subscription, or contribution for any political party or political purpose from any city employee during duty hours.

(5) No city employee shall, directly or indirectly, participate in political activities during on-duty hours or while in uniform during off-duty hours.

(k) *City clerk's duties and city manager procedure for informal resolution of conflict of interest or potential conflict of interest.*

(1) After receiving a disclosure of a conflict of interest or potential conflict of interest, the city clerk shall:

- a. Maintain a record of such disclosure which shall be open to the public; and
- b. Promptly forward a copy of the disclosure to the city manager; and
- c. Promptly forward a copy of the disclosure to any person named in the disclosure as having or potentially having a conflict of interest; and

d. Promptly forward a copy of the disclosure to the city council and to the city attorney.

(2) After receiving a disclosure of a conflict of interest or potential conflict of interest, the city manager may attempt to informally resolve the matter in which the conflict of interest is involved. If this is done, the city manager shall promptly inform the city council members and the city attorney of his actions in regard to the matter.

(1) *Violations.*

(1) A violation of any subsection of this section by a public official of the city shall be punished under the provisions provided for in the City Charter.

(2) In addition, the city manager shall, upon the finding of a violation of this section by an employee subordinate to the city manager, exercise his disciplinary authority in accordance with the City Charter and city policies.

(3) If the party who is the subject of a conflict of interest complaint is an unpaid citizen currently serving on a city appointed commission, committee, board, or authority, the city council shall have the authority, by a majority vote of the members present in a public meeting, to:

a. Order the member suspended or removed from the committee, board, authority or commission.

(4) An ongoing violation of any subsection of this section shall be referred to the city attorney to seek available civil remedies to halt the conflict of interest activity.

(Ord. No. 2293, § 1, 6-24-08; Ord. No. 2507, § 1, 6-24-14)

**Sec. 2-69. Board of ethics.**

(a) *Composition of the board of ethics.*

(1) The board shall consist of five unpaid private citizen members of outstanding moral and ethical credentials and who currently reside and have resided in the

City of McAlester for at least one year, to be appointed by the mayor with concurrence of a majority of the council members present during an open meeting of the city council.

(2) The board members shall serve initial terms as follows:

a. One shall be appointed for a term that expires July 1, 2009.

b. One shall be appointed for a term that expires July 1, 2010.

c. One shall be appointed for a term that expires July 1, 2011.

d. Two shall be appointed for a term that expires July 1, 2012.

(3) All terms thereafter shall be for four years. All members shall serve until their successors have been appointed. A board chairman will be nominated by the members and approved by a majority during the first meeting of the board each July.

(4) Members may serve multiple terms, however, no member may serve more than two full four-year terms on the board of ethics. The computation of total years served shall not include time that may have been served in unexpired terms.

(5) No member shall be asked to resign membership on the board of ethics or be involuntarily removed by the mayor or city council during the membership term unless the member pleads guilty or nolo contendere to or is convicted in a court of law for a misdemeanor involving moral turpitude, any felony, has violated the city code of conduct, violated provisions of the City Charter, demonstrated a conflict of interest, is derelict in his duties to the board, or has conducted himself in a manner, publicly or in private, that brings discredit to the city or the board and may compromise the creditability of the board.

(6) No member of the board may hold elective or appointed office under the city or any other government or hold any political

party office or hold membership on any other city board, commission, authority or committee.

- (7) Although not a member of the board of ethics, the city attorney will assist the board in matters requested by the board in the discharge of its responsibilities.
- (8) The board shall meet at least quarterly at the McAlester City Hall or other city provided facility that the city council may designate. Special meetings of the board of ethics may be called by the board chairman as appropriate.
- (9) The board of ethics will comply with the Oklahoma Open Meeting Act. The city clerk is directed to assist the board in ensuring that the Act is complied with. This includes, but is not limited to, assistance in preparing and posting meeting agendas and publishing the minutes of each meeting, but does not include recording the minutes of the meetings. A designated board member will record the minutes of each meeting in accordance with state law.

(b) *General responsibilities and duties of the board of ethics.*

- (1) The board shall advise and assist the mayor and city council, and such other city officials as the mayor and council shall designate, regarding matters of ethics in government, with the overall objective to promote and ensure public trust in government, including:
  - a. Compliance by all city officials, appointees and employees with all applicable ethics laws, state and federal law, conflict of interest matters, and city ordinances and regulations.
  - b. Compliance by all city officials, appointees and employees with the highest standards of ethical behavior and that even the appearance of impropriety or a conflict of interest is avoided.
  - c. Ensuring that all city officials, appointees and employees always work

to promote the public interest and never work toward or for their own self-interest or any private interest.

- (2) The board, insofar as possible under state law, shall issue binding advisory opinions, conduct investigations on its own initiative and on referral or complaint from officials or citizens, inquire of witnesses, receive documents, refer cases to the appropriate prosecution authority, impose administrative sanctions, and to hire independent counsel, subject to notification of the city council.
- (3) Throughout this section, the word "ethics" and "ethical" shall apply to all matters relating to ethics, including, but not limited to, conflicts of interest, financial disclosure, city code of conduct, prohibited activities, and standards of professional or governmental conduct.

(c) *Specific responsibilities of the board.*

- (1) *Review of financial disclosure forms.*
  - a. The city clerk shall provide to the board, a complete set of all financial disclosure forms filed by city officials, appointees and employees required by the City Charter, ordinance or state law. The city manager, working with the city attorney and city clerk, shall provide a list of all city officials, employees, and board, commission, authority, or committee members who are required by city ordinance or state law to file a financial disclosure form.
  - b. The board shall review such forms and meet at least annually to determine whether any inappropriate conflicts or other violations exist, including incomplete filings or failure to file.
  - c. The board shall advise the city council, the city attorney, and the city manager, as appropriate, of any suspected violation or conflict. In so advising, the board shall recommend for each suspected violation

either further investigation, referral to the city attorney or district attorney, or report to the appropriate law enforcement authority as applicable.

(2) *Review ethics questions or issues relating to conduct of city officials.*

- a. The board shall render advisory opinions to city officials, appointees and employees, through the city council, with respect to ethical standards in the municipal service, or the service of any public trust or authority to which the city is beneficiary pursuant to request by the council.
- b. The board shall review all complaints, written or verbal, submitted to the city administration, city council, appointee or any city official in regards to conflict of interest or code of conduct issues. The city clerk and the city manager will ensure that the board promptly receives all necessary documentation relating to the complaint. The board will promptly review the complaint in accordance with the provisions of this section and take the appropriate action.

(3) *Review of current ethics laws.* The board shall, from time to time, make such recommendations to the mayor and city council as the board deems appropriate regarding improvements or advances in the ethics laws that the board believes would strengthen confidence in government, promote the public trust, and ensure that self-interest and private interests do not dictate or influence the work of government officials and employees. The board's recommendations may concern state laws, provisions of the City Charter, city ordinances, trust indentures or other initiatives and may relate to substantive ethical or conflict of interest rules, administration or enforcement of such rules, or such other areas as the board deems appropriate to fulfill its responsibilities.

(4) *Ethics training.*

- a. The board shall advise the mayor, city council, and such other officials as the council or board deems appropriate, regarding the most effective manner of ensuring that all city officials and employees fully understand and appreciate both the specifics of the applicable ethics laws and compliance with such laws.
- b. Upon request of the mayor and city council, the board shall assist in the preparation and dissemination of training and education materials and classes, as appropriate.
- c. The board shall offer these same education and training services, on an annual basis, to all city officials, council members, appointees, employees, board and committee members, and, if requested, candidates for city council.
- d. The city council shall appropriate sufficient funds to the board of ethics to enable it to perform the duties assigned to it and to provide annual training and education.

(d) *Mandatory cooperation with the board.*

- (1) All city boards, authorities and committees shall promptly report in writing any findings of unethical activity or conflict of interest by an elected or appointed official to the board of ethics.
- (2) The city manager will ensure that all city employees cooperate to the maximum extent practicable, under state law and the City Charter, with any request of the board of ethics in pursuit of the board's responsibilities. The board shall promptly report a failure to cooperate to the city manager, city attorney or city council as appropriate.

(Ord. No. 2294, § 1, 6-24-08; Ord. No. 2506, § 1, 6-24-14)

**Sec. 2-70. Code of conduct.**

(a) *Purpose.* The purpose of this code is to establish guidelines for ethical conduct that govern all city employees, full- or part-time, elected

officials, persons serving on city boards or commissions, and volunteers in performing their duties. All the above are covered by this code and must subscribe to this code, understand its meaning, and follow it.

Ethics inquiries are considered "personnel issues" and are protected from mandatory disclosure by the Oklahoma Open Records Act.

Nothing in this code creates any right to employment with the city.

(b) *Definitions.*

*Personnel.* Any personnel of the city, full- or part-time. All elected officials, persons serving on city boards or commissions, and volunteers are included in this definition.

*Code of conduct advisor.* The person in each department, appointed by the department head, who is the liaison with the city clerk's office regarding conduct issues. Responsibilities include:

- Facilitating the complaint process;
- Answering questions regarding ethics and this code;
- Training employees on ethical guidelines.

(c) *The code.* The city's code of conduct outlines expected behaviors for personnel. The city will conduct its business fairly, impartially, in an ethical manner, and in full compliance with all applicable laws, policies and regulations. Personnel will not engage in conduct that raises questions about the city's honesty, impartiality and reputation.

The following code of conduct standards are examples, not meant to cover all possible situations:

(1) *I am ethical in all activities.*

- I put the public's interest above my own.
- I do not allow personal biases to dictate my job behavior.
- I make impartial decisions, free of bribes, unlawful gifts, and personal interests.
- I do not make work decisions based on any personal relationship.

- I admit when I am wrong and try to remedy the situation.
- I use my official title only when conducting city business.
- I avoid exceeding, or appearing to exceed, my authority.
- I do not improperly use or permit the improper use of confidential information.

(2) *I am financially responsible.*

- I manage city resources entrusted to me in a prudent and responsible manner.
- I do not misuse public funds for personal gain or for unintended purposes.
- I report any improper behavior regarding city resources as specified in this code.

(3) *I use public property properly.*

- I use city vehicles only for official city business, according to my department's guidelines.
- I do not use a city purchasing card for personal use.
- I do not show favoritism in allowing the use of public property.
- I do not grant the use of public property for political or commercial uses. (Non-profit charitable use must be approved by management at the department director or higher level.)
- I do not falsify, or inappropriately destroy, reports or records.

(4) *I follow appropriate practices regarding gifts.*

- I do not use my official position to solicit gifts, donations, discounts or services for personal gain.
- If a gift, donation, discount or service is offered to me, I do not accept it if I believe or it appears that the item offered could influence my behavior in favor of the person or organization offering it.
- An occasional nonmonetary item of nominal value is not considered a "gift," such as food at a reception generally open to employees or the public, as long as it does

not present any appearance of a conflict of interest. "Nominal value" means \$100.00 or less on any occasion or in total from one person or organization during a consecutive 12-month period.

- If I receive a gift (such as food, seasonal decorations, etc.) from vendors or city business partners, I make it available to my work group.
- I do not accept travel, meals, or refreshments from persons doing business with the city, unless the refreshments or meals are furnished as an incidental part of my appearance at a public event in an official capacity, as hospitality extended for a purpose unrelated to the city's official business, or if travel, meals and lodging are provided in connection with teaching, a speaking engagement, participation on a professional or civic panel, or conference attendance in an official capacity.
- If my work group or I give a gift to a vendor in recognition of good service, the value will be less than \$25.00.

(5) *I set an example for ethical behavior.*

- I inform my department's code of conduct advisor, or the ethics board, if I personally witness a violation of this code.
- I do not pressure others to break this code or any other rules, regulations or policies.
- I understand that if I have questions or concerns regarding this code, I will ask my supervisor or my department's code of conduct advisor.

(d) *Reserved.*

(e) *Compliance with this code.* Personnel are responsible for understanding and following this code, and are expected to perform their work with honesty and integrity in any areas not specifically addressed. A violation of this code may result in disciplinary action, up to and including termination, upon completion of due process.

(f) *Disciplinary actions.* The code of ethics will be strictly enforced, and city employees found to be in violation will be promptly disciplined, in

compliance with the city's human resources policy or the appropriate bargaining unit memorandum of understanding.

(g) *Reporting suspected non-compliance.*

- (1) *Who may report?* Any city employee, elected officials, and/or citizen of McAlester may file a complaint alleging unethical conduct.
- (2) *Duty to report.* Personnel must promptly report any suspected violations of this code. If an employee suspects a violation of applicable laws, rules or regulations by any employee, he/she will report it to any department's code of conduct advisor or directly to the ethics board.

The city encourages employees to identify themselves when reporting suspected violations because this will better enable the city to investigate. However, the city recognizes that employees may want to remain anonymous. The employee must still include enough information so that an investigation can be conducted. Information must include the names of the individual(s) involved, and the actions believed to violate this code, along with verifiable documentation.

(g) *False reports.* The city recognizes that false accusations can have serious effects on innocent individuals. False accusations occur when an individual fabricates an incident. An employee who deliberately makes false accusations will be subject to the same disciplinary actions noted in subsection (e). "No-cause" or "questionable-cause" findings do not constitute false accusations.

(h) *Declaring a possible conflict of interest.* City personnel are subject to requirements of the state and the City Code provisions regarding conflict of interest. These cover situations in which personnel and/or personnel's spouse have a "substantial interest" (as defined by the Act) in a "business" (as defined by the Act), and the personnel and/or spouse are in a position to exercise power or authority or perform a duty that affects that business.

Personnel must be sensitive to any relationship that has or may have a connection to city busi-

ness. This includes influencing others to make decisions that could have direct financial impact on themselves, a family member, personal relationship, or business entity with which the employee, a family member or person affiliated in some other way is involved.

Personnel who believe they may have a conflict of interest based on this guideline will inform their ethics advisor or the ethics board, who will review the situation and make a determination regarding the presence of a conflict. If a conflict of interest exists, the personnel will file the personnel conflict of interest statement with his/her department, the human resources department, and the city clerk, as required by statute.

(i) *Investigation procedures.* The city will investigate all reports of suspected violations of this code, including anonymous reports, to the extent possible. Personnel will cooperate in these investigations.

*Procedure for resolving ethics complaints.* The complainant must complete and submit a complaint form to city's ethics board within three months of the alleged occurrence.

The ethics board will, within a reasonable amount of time, begin a confidential investigation.

At the end of the investigation, the ethics board will notify the complainant (if known) that the matter has been addressed. If the complainant is anonymous the city manager will be notified. The ethics board will notify the accused personnel and his/her department director (if applicable) of the decision and recommendations.

Investigation and prosecution of potential criminal activity will proceed independently and be conducted by the appropriate officials.

(j) *Confidentiality and whistle-blower protection.*

(1) *Confidentiality.* No city employee will disclose the identity of anyone who reports a suspected violation or who participates in

a related investigation, unless such disclosure is required by law, regulation or legal process.

Records regarding complaints will be filed in the city clerk's office and remain confidential. All records will be kept in a locked file cabinet. Only the ethics board will have access.

(2) *Protection against retaliation.* It is a violation of this code to retaliate in any form against an individual who, in good faith, reports a violation of this code, or assists in the investigation of a reported violation. An employee who retaliates will be subject to disciplinary action, up to and including termination.

(k) *Communication of this code.* This code will be reviewed with new employees during orientation in human resources. A signed acknowledgment of the review and receipt of the code will be retained in each employee's file.

(l) *Recommendations.* The ethics board may make recommendations to amend this code with the final approval being the city council. (Ord. No. 2336, §§ 1—12, 10-27-09)

## APPENDIX A

### Warning Signs of an Ethical Problem

Below is a sample of phrases that may signal an ethical problem.

"No one will ever know."

"I can still be objective."

"I deserve it."

"They owe it to me."

"Let's keep this under our hats."

"Oh, don't be such a prude."

"They'll never miss it."

"They had it coming."

"I'm just fighting fire with fire."

"I'll return it when I'm finished."

"Don't tell me. I don't want to know."

"It's OK if I don't gain personally."

"I'm just doing what I'm told."

"Technically, it's legal."

"Everybody does it."

"It's our department's way of doing business."

"This won't affect my work."

**Secs. 2-71—2-80. Reserved.**

DIVISION 2. NONUNIFORMED COUNCIL

**Sec. 2-81. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Classified service personnel* means all employees compensated on a year-round basis, but shall not include the following:

- (1) Part-time employees.
- (2) Temporary employees.
- (3) Unclassified service personnel.
- (4) Personnel on probation.
- (5) Uniformed employees recognized by a local bargaining agent.

*Council* means the nonuniformed council and the word shall not be construed to mean any other board or committee.

*Designee* means the administrative person designated by the city manager to coordinate the program with the nonuniformed council.

*Employee* means only the classified service personnel who are regularly employed by the city as defined under "classified service personnel" in this section, unless otherwise specifically described.

*For cause* means the judgment of the city manager in evaluating the work efficiency or in evaluating a particular issue involving any city em-

ployee when it is necessary and justified for the good of the city that the city manager dismiss or reduce in step or grade that employee because of that employee's work record and/or his misconduct.

*Grievance* means as outlined by resolution in the personnel rules and regulations while the procedure to hear a grievance shall be outlined in this division.

*Majority* means simple majority of the total councilmembers.

*Members* means the individuals selected to represent the employee division by a majority vote of the members of the employee division voting or by the alternate methods explained in this division. They shall serve for terms as defined in this division.

*Quorum* means a simple majority of the total councilmembers.

*Reduction in grade* means the demotion of any employee by decreasing his salary or his wage in the position classification pay plan by reclassifying him to a lower position in another classification and/or lower step in the classification pay plan.

*Reduction in step* means the demotion of any employee by decreasing his salary or wage within the salary or wage range for his position and classification in the position classification pay plan.

*Supervisory personnel* means all those unclassified service personnel who have been designated by the city manager to be department heads or who hold departmental or supervisory responsibility.

*Suspension* means that in the judgment of the city manager, when evaluating the work efficiency or when evaluating a particular issue involving any city employee, it is deemed necessary and justified for the good of the city that the city manager temporarily separate that employee without pay for a fixed period of time as may be more specifically outlined in the personnel rules and regulations as follows:

- 0) Suspension without pay for a period of more than ten days may only be appealed to the personnel board.

- (2) Suspension without pay for a period of ten days or less may only be appealed to the non uniformed council as a grievance as outlined herein.

The use of the term "suspension" shall be more specifically outlined by resolution in the personnel rules and regulations.

*Unclassified service personnel* means division heads, department heads and assistant department heads compensated on a year-round basis and the following:

- (1) Officer elected by the people.
- (2) City manager's secretary.
- (3) Municipal judge.
- (4) City prosecutor.
- (5) City attorney.
- (6) Uniformed employees who have the opportunity to belong to a bargaining agent recognized by the city.

(Code 1974, § 2-102; Ord. No. 2009, § 1, 11-9-93)  
Cross reference-Definitions generally, § 1-2.

Sec. 2-82. Created.

(a) A nonuniformed council (henceforth referred to as the council) shall be established for the purpose of assuring that city employees will be fairly represented on all matters which are pertinent to them concerning their employment with the city and the council shall be advisory only on these matters to the city manager.

(b) All classified employees shall be represented on the council.

(c) All permanent city employees shall be entitled to cast a vote for representation on the council except the city manager, secretary to the city manager, city treasurer, city clerk, city engineer, fire chief, police chief, public works director, assistant public works director, community services director, administrative assistant, assistant fire chief, utility superintendent, plants superintendent, parks superintendent, and cemetery sexton.

(d) The council shall hold at least two regularly scheduled monthly meetings as outlined below:

- (1) The council may hold such additional meetings as may be called by the chairman, provided, however, that each member of the council shall be entitled to at least 12 hours' written notice to be delivered to him personally or to his residence.
- (2) Special meetings may also be called by the written authority of a majority of the total councilmembers, or by the written authority of the city manager in the manner designated in subsection (d)(1) above.
- (3) The designee's responsibilities are to:
  - a. Notify all councilmembers, the city manager, and the necessary personnel of all meetings.
  - b. Publish agenda and distribute same to all councilmembers.
  - c. Take and keep official records and minutes of all council meetings.
  - d. Accomplish any other duties pertinent to the council.
- (4) The designee shall have the prerogative to appoint an authorized representative to act as the council's recording secretary.
  - a. The secretary shall accomplish any of the duties directed to him by the designee as long as these duties are not in variance with subsection (d)(3) above.
  - b. If the secretary is not a councilmember, he shall have no voice, vote or any rights in regards to this council.
  - c. If the secretary is a councilmember, he shall have all the rights of any other councilmember pursuant to this division.
  - d. The secretary shall take and keep official records and minutes of all council meetings.
- (5) If a quorum is not present the chairman may, at his discretion, continue the meeting to another date and include all hearings so scheduled, but only upon giving the

required 12 hours' written notice of such meetings as outlined in subsection (d)(1) above.

- (6) The council shall not transact any business at any regular or special meeting unless a quorum is present.
- (7) Every official action taken and every decision rendered by the council must be approved by a majority of the total council.

(e) The council shall hold its regular meetings on the second and fourth Wednesdays of each month unless the day is a holiday, and then the meeting shall be held on the next regular work day. All meetings, hearings, appeals and special meetings shall be held during normal work hours of the city; normal work hours shall be deemed to be from 8:00 a.m. to 4:30 p.m. on any regular work day.

(Code 1974, § 2-103; Ord. No. 2009, § 1, 11-9-93)

Sec. 2-83. Purpose.

The purpose for creation of a nonuniformed council is to:

- (1) Promote a high degree of understanding, cooperation, efficiency, unity and morale for city employees.
- (2) Provide a mechanism, through recommendations to the city manager, whereby all employees may contribute to the development and/or improvement of work conditions, personnel rules and regulations, benefits, compensation, and all other personnel-related matters directly affecting the employees.
- (3) Promote the public good by providing a harmonious working relationship between the city council, city administration, city employees and the general public.

(Code 1974, § 2-101)

Sec. 2-84. Composition.

The non uniformed council shall be composed of classified service personnel who shall be elected by classified employees, and as defined below.

- (1) No supervisory or unclassified personnel, or uniformed employee recognized by a local bargaining agent, shall be a councilmember.

- (2) There shall be seven representatives from the nonuniformed employees of classified service.
- (3) Councilmembers shall be elected by a vote of the employees, as follows:
- a. Each classified service employee will be allowed to vote for seven candidates from the slate of candidates.
  - b. Ties shall be broken by the candidates drawing lots before the city clerk and witnesses.
  - c. Resignations. In case of the resignation, recall or termination of a member, the council shall appoint another classified service personnel employee who is not in conflict with any of the provisions of this division to serve the duration of any vacancy except as more specifically prohibited below:
    1. All appointees to serve in any vacancy must receive the affirmative vote of at least a majority of the total councilmembers.
    2. All appointments to fill vacancies due to resignations must be made within 30 days of the resignation except as more specifically prohibited hereinafter and indicated below.
    3. Any resignation taking place 45 days before the next election shall remain vacant.
  - d. Procedure when an election is conducted without a candidate: If no person runs for a position, a write-in will be accepted.
    1. In such cases when two or more write-in candidates receive votes, that candidate which has received the most votes shall be deemed elected as the representative. All ties shall be broken by the candidates drawing lots before the city clerk and witnesses.
    2. In those cases in which the council must make a rendering in regards to a vacancy caused by no candidate running or no write-in candidate, said appointment to the empty position shall be made only when one appointee has received a majority vote of the total councilmembers.
3. In those cases when the council cannot decide on a candidate, the city manager shall be charged with the responsibility of appointing a qualified employee.
4. In all cases in which the council must make a rendering as to who is to be appointed to the position, voting shall be by ballot.
- (4) Election date:
- a. The time for the first election shall be no later than 45 days from the date this division takes effect.
  - b. The time for all subsequent elections shall be set by the city clerk at least 30 days before the election, and the election date shall be on the anniversary date of the original election, or as near thereto as feasible. When the election date falls on a weekend or a holiday, the election shall be held on the next following regular work day.
- (5) Responsibility of coordinating all elections: The city clerk shall be in charge of all elections and shall see that the proper ethical procedures are observed by all candidates and employees.
- a. To become a candidate for a position, any classified service personnel must submit his name within 15 days of the appointed election to the city clerk on a form provided by the city clerk.
  - b. The city clerk shall post on all employee bulletin boards notification of such elections and all procedures which must be followed for the election at least 30 days before the election.
- (6) Terms of office.
- a. The term of office shall be two years.

- b. During the term of membership, any member who is absent for 50 percent or more of the meetings within a three-month period, or three consecutive meetings, without good cause determined by the council, shall automatically cease to be a member and a replacement shall be appointed by the council as outlined in this section.
  - c. The council also has the authority, upon a majority vote, to cease the membership of an employee who does not share the responsibilities of the council in a proper manner.
- (7) Election procedures: Polls shall open and close on the date of the election as set forth by the city clerk.
- a. Each employee shall have an opportunity to vote during the work day within the time limit prescribed.
  - b. Employees not working that day may vote on election day at their own discretion, but within the prescribed time limit.
  - c. Employees on annual leave, or who are sick and are unable to vote on election day, may so vote by receiving from the city clerk a ballot in advance of the election.
    - 1. Such employees will have from the deadline of candidates filing (15 days before the election) to the time specified for the polls to close on the date of the election to vote by absentee ballot.
    - 2. Such ballots must be returned by the time the polls close on the day of the election.
    - 3. The absentee ballots must be sealed in an envelope and each ballot must be signed by the voting employee.
    - 4. The absentee ballots will be counted with the regular ballots after the election.
  - d. Whenever an emergency illness has arisen, causing an employee to be un-

able to obtain an absentee ballot, the city clerk shall rule on these matters to determine the most feasible way to allow such employees to vote, if possible.

- e. A record of the names of all persons voting, but not how they voted, shall be kept by the city clerk.
- (8) Vote tabulation procedure. The votes shall be tabulated within 24 hours of the election.
- a. The votes shall be counted in the first election by the city clerk, designee and two noncandidates representing the classified service personnel and selected by the designee.
  - b. In each subsequent election, the votes shall be counted by the city clerk and a majority of the existing nonuniformed council.
  - c. Election returns shall be posted on the employee bulletin boards within 24 hours of the election.
- (9) Immediately after the election has been completed as provided above, the council shall, as soon as possible, hold its first meeting for organizational purposes only.
- a. The council shall elect one of its members to serve as chairman, vice-chairman, and treasurer for two years until the next election.
  - b. The vice-chairman shall preside at all meetings in which the chairman is absent.
- (10) The city manager and the designee shall be ex officio members of the council, having a voice in any proceeding, but no vote.  
(Code 1974, § 2-104; Ord. No. 2009, § 1, 11-9-93)
- Sec. 2-85. Procedures for meetings and hearings.
- (a) *Generally.* All meetings and hearings of the council shall be conducted in an orderly and civil fashion.

(b) *Meetings.* The council shall conduct open meetings and any conflict as to the correct ethical procedure shall be resolved by reference to Robert's Rules of Order, Newly Revised.

(1) *Agenda.* An agenda shall be prepared for all special and regular meetings by the chairman and designee.

- a. Deadline for any business to appear on the agenda shall be made prior to noon, three working days before the meeting date.
- b. For an employee to bring any business before the council, he must submit a written outline to the chairman, vice-chairman or designee, prior to the deadline as outlined above, of the business on proper form.
- c. The request shall be given to the chairman as soon as possible so that it may be placed on the agenda as a business item for the appropriate action.
- d. Any business that appears on the agenda which has not been completely disposed of at the meeting shall be automatically transferred to the next regular agenda unless otherwise disposed of, and in such cases as when it is disposed of in some other manner, a report shall be made at the next regular meeting.
- e. Special meetings may be called to handle any special business and the business shall be handled in the same manner as regular business items.
- f. The agenda, after it is made up, shall be posted on all employee bulletin boards.
  1. Agenda for regular meetings shall be posted no later than 24 hours prior to the meeting, excluding Saturdays, Sundays, and holidays.
  2. Agenda for special meetings shall be posted no later than 24 hours prior to the special meeting, excluding Saturdays, Sundays, and holidays.

(2) *Minutes.* It shall be the responsibility of the recording secretary to keep minutes of all regular and special meetings.

- a. Minutes shall contain all actions taken by the council.
  - b. Minutes shall also contain a brief description outlining the nature of the business with a complete statement of any information the council members wish to be made part of the record.
  - c. Minutes shall contain the description of how each council member voted on each action.
  - d. Minutes shall be posted on all bulletin boards so as to allow employees free access to ascertain business transacted.
  - e. All minutes must be transcribed within ten days of the meeting by the recording secretary.
  - f. A copy of all minutes shall be sent to all councilmembers, the designee, and the city manager; one copy shall be filed with the city clerk, after approved by the council.
  - g. Minutes shall be ratified by the action of the council at its regular meeting.
    1. If no changes to the minutes are proposed, the minutes shall stand approved.
    2. If changes are made to the minutes, the changes shall be posted on all employee bulletin boards.
- (3) *Right to appear.* Any employee who has an interest at a meeting due to business items he has initiated shall have the right to appear at the meeting in which his business item is being considered, and he shall also have the right to object to or favor any motion made on his business item.
- a. He shall have the right to produce any pertinent documents, witnesses or statements from witnesses in regard to his business item.
  - b. If any employee who has an interest at a meeting (due to business he initiated

ed) cannot attend the meeting in which his business is being considered, he may submit a written statement.

1. The statement may contain any additional information he so desires to make.
2. The statement shall be read into the record by the chairman.

(c) *Hearings.* All hearings shall be conducted in a civil and orderly fashion.

- (1) Hearings may be open or closed, as the appellant so desires.
- (2) Any conflicts as to the correct procedure shall be resolved by reference to Robert's Rules of Order, Newly Revised.
- (3) The council shall hold hearings only upon proper request when one of the following conditions have been met:
  - a. An employee has been suspended without pay for ten days or less.
  - b. An employee has been involuntarily transferred to another position within the position classification plan and not resulting in a pay loss.
  - c. An employee who has been laid off due to a staff reduction properly established by the city council, or for economic reasons, as may be determined by the city manager.
- (4) The council shall not hold hearings related to:
  - a. An employee suspended without pay for more than ten days.
  - b. An employee demoted or removed during a probationary period of six months.
  - c. Any personnel action of an unclassified employee.
  - d. The termination of any employee.
  - e. An employee involuntarily transferred to another position resulting in a pay loss.

- (5) All hearings shall be held during normal working hours to best allow employees and other persons an opportunity to participate in the hearings.

(Code 1974, § 2-105; Ord. No. 2009, § 1, 11-9-93)

Sec. 2.86. **Scope of responsibility.**

The nonuniformed council may advise the city manager on all matters relating to personnel, procedures, morale and safety, as follows:

- (1) *Personnel rules.* It may recommend the development and adoption of the personnel rules and regulations and changes to these rules and regulations.
- (2) *Salary matters.* The council may make recommendations on salary matters as outlined below:
  - a. It shall recommend periodically a position classification pay plan for all employees of the city except for supervisory personnel.
    1. The periodic report will be made at a time designated by the designee.
    2. The report shall be submitted to the city manager for his review, and then the report, along with the city manager's recommendations, will be submitted to the city council for its review and approval.
  - b. An area survey of all classified positions, benefits and other related matters shall be made by the designee at least once every two years, and the report shall be presented to the council for its recommendations. The recommendations of the council, along with the recommendations of the designee, shall be directed to the city manager for review and final recommendations, and then to the city council for its review and approval.
- (3) *Grievances.* The council may hear any grievance, or appeal of actions resulting in a loss of pay of classified service personnel except as outlined in section 2-85, and the council shall make an advisory recommendation to

the city manager on the grievance. The scope and definition of the term "grievance" shall be established in the personnel rules of the city.

- (4) *Operational procedures.* The council shall also review any other policies and procedures of operation which may be requested by either the city manager or the employees. Recommendations may be made to the city manager for changes or interpretation of policies.
- (5) *Standing committees.* The council may appoint standing committees to consist of one employee from each represented division and two councilmembers. The committees shall serve for the duration of one-year terms and shall act in the following capacities:
  - a. *Fund raising.* This committee shall plan and implement programs for the purpose of raising funds to be used by the council for planned functions as determined by the council.
  - b. *Recreation.* This committee will be responsible for planning and performing the necessary tasks to accomplish the city's annual picnic. It shall also recommend and carry out any type of activities or events for city employees which are approved by the city manager.

The council may submit recommendations on any other matter directed to it by the city manager or his designee.

(Code 1974, § 2-106; Ord. No. 2009, § 1, 11-9-93)

**Secs. 2-87—2-105. Reserved.**

**ARTICLE IV. DEPARTMENTS\***

**DIVISION 1. GENERALLY**

**Secs. 2-106—2-115. Reserved.**

\***Charter reference**—Authority of council to create offices, departments and agencies of city government, §§ 2-4(7), 3-3.

**Cross references**—Department of code administration, § 18-26 et seq.; parks and recreation department, § 86-1; sanitation department, § 106-302.

**DIVISION 2. DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT†**

**Sec. 2-116. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Department* means the department of community development created by this division.

(Code 1974, § 2-56)

**Cross reference**—Definitions generally, § 1-2.

**Sec. 2-117. Created.**

There is hereby established an executive department of the City of McAlester to be known as the department of community and economic development. The head of such department shall be the community and economic development director, who shall be appointed by the city manager for an indefinite term and removable by the manager. The community and economic development director shall be an officer of the city and shall have supervision and control of the department of community and economic development. (Code 1974, § 2-57; Ord. No. 2279, § 2, 1-8-08; Ord. No. 2481, § 2, 10-22-13)

**Sec. 2-118. Duties, functions and responsibilities.**

It shall be the duty and responsibility of the community and economic development director to oversee the functions of the department of community and economic development including building inspection, code enforcement, economic development, housing, planning and zoning. The department shall be responsible for administering and enforcing all building and neighborhood codes and other ordinances of the city; for implementing and/or assisting in implementation of the city's adopted economic development strategy; for developing and implementing the city's adopted housing strategy; and, for coordinating all

†**Editor's note**—With the inclusion of Ord. No. 2481, at the editors discretion div. 2 has been renamed as set out herein. Formerly entitled "Department of Community Development".

planning activities carried on in the city to insure conformance with the city's adopted comprehensive plan. In addition, the department shall carry out such other functions as may be prescribed by statute, City Charter or ordinance.

(Code 1974, § 2-58; Ord. No. 2279, § 2, 1-8-08; Ord. No. 2481, § 2, 10-22-13)

**Sec. 2-119. Economic development manager established.**

There is hereby established a new position of the City of McAlester to be known as the economic development manager, who shall be appointed by the community and economic development director for an indefinite term and removable by the director.

(Ord. No. 2481, § 3, 10-22-13)

**Sec. 2-120. Economic development manager; duties and responsibilities.**

It shall be the duty and responsibility of the economic development manager to oversee the essential function of the position within the organization to plan, organize, and manages business solicitation activities on behalf of the city in order to expand the economic base of Pittsburg County, through attraction and retention of business and industry. In addition, the department shall carry out such other functions as may be prescribed by statute, City Charter or ordinance.

(Ord. No. 2481, § 4, 10-22-13)

**Secs. 2-121—2-130. Reserved.**

**DIVISION 3. DEPARTMENT OF PUBLIC WORKS\***

**Sec. 2-131. Created; director.**

There is hereby established an executive department of the city to be known as the department of public works. The department of public works shall be organized into the divisions of engineering, facilities maintenance, fleet maintenance, solid waste, stormwater quality management, streets and traffic control. The head of such

\*Cross references—Special assessments, ch. 90; streets, sidewalks and other public places, ch. 94; utilities, ch. 106.

department shall be the city engineer and director, who shall be appointed by the city manager for an indefinite term and removable by the manager. The city engineer and director shall be an officer of the city and shall have supervision and control of the department of public works.

(Code 1974, § 2-10; Ord. No. 2274, § 2, 1-8-08; Ord. No. 2323, § 2, 5-12-09)

**Sec. 2-132. Duties.**

It shall be the duty of the city engineer and director to oversee the divisions within the department of public works:

- (1) Engineering division, which shall be directly responsible for the performance or approval of all engineering services, including the design and preparation of all contract drawings and specifications for all public works construction; the supervision and inspection of all such construction; the establishment of all street, alley and walk grades; and shall be further responsible for stormwater management program. The division shall carry out such other functions as may be prescribed by statute, City Charter or ordinance. The division shall perform other functions as assigned by the city engineer and director.
- (2) Facilities division, which shall be directly responsible for maintaining all buildings and grounds used by the city. The division shall carry out such other functions as may be prescribed by statute, City Charter or ordinance. The division shall perform other functions as assigned by the city engineer and director.
- (3) Fleet maintenance division, which shall be directly responsible for maintaining city equipment and vehicles. The division shall carry out such other functions as may be prescribed by statute, City Charter or ordinance. The division shall perform other functions as assigned by the city engineer and director.
- (4) Solid waste division, which shall be directly responsible for the collection and disposal of solid waste and the operation and maintenance of all facilities for such

purposes. The division shall carry out such other functions as may be prescribed by statute, City Charter or ordinance. The division shall perform other functions as assigned by the city engineer and director.

- (5) Stormwater quality management division, which shall be directly responsible for designing and implementing compliance programs protecting the city's natural resources. The division shall carry out such other functions as may be prescribed by statute, City Charter or ordinance. The division shall perform other functions as assigned by the city engineer and director.
  - (6) Streets division, which shall be directly responsible for the maintenance of all streets, highways, alleys, walks, pavements and surfaces, including maintenance of appurtenant storm sewer systems, street cleaning, street repairs. The division shall carry out such other functions as may be prescribed by statute, City Charter or ordinance. The division shall perform other functions as assigned by the city engineer and director.
  - (7) Traffic control division, which shall be directly responsible for the placement and operation of traffic signals and lighting fixtures. The division shall carry out such other functions as may be prescribed by statute, City Charter or ordinance. The division shall perform other functions as assigned by the city engineer and director.
- (Code 1974, § 2-11; Ord. No. 2274, § 2, 1-8-08; Ord. No. 2323, § 2, 5-12-09)

**Secs. 2-133—2-145. Reserved.**

#### DIVISION 4. DEPARTMENT OF UTILITIES\*

##### **Sec. 2-146. Established; divisions; appointment of utilities director.**

There is hereby established an executive department of the City of McAlester to be known as

\***Editor's note**—Prior to the re-enactment of div. 4 by Ord. No. 2277, § 2, adopted Jan. 8, 2008, Ord. No. 2275, § 2, adopted Jan. 8, 2008, repealed div. 4, § 2-146, entitled "Engineering Department—Created; appointment, term of city engineer" and derived from Code 1974, § 2-13.

**Cross references**—Special assessments, ch. 90; streets, sidewalks and other public places, ch. 94.

the department of utilities. The department of utilities shall be organized into the divisions of: Maintenance, water and wastewater. The head of such department shall be the utilities director, who shall be appointed by the city manager for an indefinite term and removable by the manager. The utilities director shall be an officer of the city and shall have supervision and control of the department of utilities.

(Ord. No. 2277, § 2, 1-8-08)

##### **Sec. 2-147. Duties of utilities director.**

It shall be the duty of the utilities director to oversee the divisions within the department of utilities:

- (1) Maintenance division, which shall be directly responsible for the operation and maintenance of all public water distribution and sewer collection lines in accordance with established policies. The division shall carry out such other functions as may be prescribed by statute, City Charter or ordinance. The division shall perform other functions as assigned by the utilities director.
- (2) Water division, which shall be directly responsible for the supervision, operation and maintenance of the water treatment facility under the control of the city. The division shall carry out such other functions as may be prescribed by statute, City Charter or ordinance. The division shall perform other functions as assigned by the utilities director.
- (3) Wastewater division, which shall be directly responsible for the operation and maintenance of the wastewater treatment facilities under the control of the city. The division shall carry out such other functions as may be prescribed by statute, City Charter or ordinance. The division shall perform other functions as assigned by the utilities director.

(Ord. No. 2277, § 2, 1-8-08)

**Secs. 2-148—2-165. Reserved.**

**ARTICLE V. BOARDS AND COMMISSIONS\***

**DIVISION 1. GENERALLY**

**Sec. 2-166. Membership, terms, credentials and qualifications of the audit and finance advisory committee.**

The audit and finance advisory committee shall consist of up to seven members. There shall be four citizen members. The mayor may appoint himself and up to two other council members to serve on the committee.

Citizen members must either be residents of the city or their place of employment must be located within the city. Elected officials of the city and employees of the city are ineligible for citizen membership.

All of the citizen members of the committee shall be financially literate and at least one citizen member shall be a financial expert. Financial literacy is the ability to understand fundamental financial information and statements. A financial expert is someone who has an understanding of generally accepted accounting principals and financial statements, experience in applying such principles, experience in preparing, auditing, analyzing or evaluating financial information, experience with internal controls and procedures for financial reporting, or an understanding of the audit committee function.

Citizen members shall serve for a term of two years, after which they shall be eligible for reappointment for an additional two-year term. Citizen members having served two consecutive terms

\***Cross references**—Aviation advisory board, § 14-1; airport zoning board of adjustment, § 14-70; mechanical appeals board, § 18-252; mechanical examining board, § 18-253; cemetery board, § 26-41 et seq.; civil defense advisory committee, § 30-58; community relations commission, § 58-36 et seq.; planning commission, § 62-26 et seq.; zoning board of adjustment, § 62-141 et seq.; subdivision review committee, § 62-382; library board, § 70-26 et seq.; park board, § 86-2; municipal golf course advisory board, § 86-26 et seq.; safety council, § 102-39.

are ineligible for reappointment for a period of one year. To provide for continuity, terms shall be staggered where practical.

(Ord. No. 2298, § 1, 8-26-08)

**Secs. 2-167—2-170. Reserved.**

**Sec. 2-171. Personnel board created.**

(a) There shall be a personnel board consisting of five members appointed by the mayor, with the consent of the city council, for overlapping six-year terms; provided, however, that for the first appointment under the provisions of this section, one member shall be appointed for a term of two years; two members shall be appointed for a term of four years; and two members shall be appointed for a term of six years. All appointments shall begin July 1 in an even-numbered year. A member may not hold any other office or position in the city government.

The council, by a vote of at least five members, after adequate opportunity for a public hearing, may remove a member for the good of the service; and the vote shall be by yeas and nays and shall be entered in the journal. The council shall fill vacancies for the unexpired terms. Members shall serve without compensation unless council provides otherwise.

(b) At the time prescribed for the beginning of the term of a newly appointed member or as soon thereafter as practicable, the board shall elect a chairperson, a vice-chairperson, and a secretary; and the secretary need not be a member of the board. The board shall determine the time and place of its regular meetings, and the chairperson or two members may call a special meeting. The chairperson shall have power to administer oaths and affirmations.

(c) The personnel board shall have power to subpoena officers and employees of the city and other persons to testify and to produce documents and other effects as evidence.

(Ord. No. 2301, § 1, 9-9-08)

**Sec. 2-172. Removal, etc.; hearing before the personnel board.**

(a) The city manager or any other authority who lays off, suspends without pay for more than ten days, demotes, or removes any officer or

employee in the classified service after a probationary period of six months, shall, at that time of imposing the discipline or with two days thereafter, deliver, or have delivered, or mail by registered, certified or similar special mail, to the officer or employee a written statement of the reason or reasons for the layoff, suspension, demotion, or removal.

(b) Such officer or employee may appeal in writing to the personnel board. The appeal must be filed with the secretary of the board, or with the city clerk for transmittal to the board, within ten days after receipt of the notice of the layoff, suspension, demotion or removal.

(c) As soon as practicable thereafter, the board shall hold a public hearing on the appeal, or give an adequate opportunity therefor, and shall report in writing its findings and recommendations, in cases of subordinates of the city manager, to the city manager, and in other cases to the respective authorities having power of removal; and the city manager or other authority having power of removal shall not be bound to adopt the recommendation of the board, but shall then make a final decision in writing regarding the appellant's layoff, suspension, demotion or removal, as the case may be; provided that, if the board finds that the layoff, suspension, demotion or removal was made for a political reason or reasons or for any other reason or reasons that the good of the service, it shall veto the layoff, suspension, demotion or removal, and the action by the city manager or other authority shall be nullified thereby. (Ord. No. 2301, § 1, 9-9-08)

**Secs. 2-173—2-175. Reserved.**

**DIVISION 2. COMMUNITY TREE BOARD**

**Sec. 2-176. Creation.**

There is hereby created and established a community tree board, for the citizens of the city, which shall consist of seven members, who shall be appointed by the mayor with the concurrence of the city council. The community tree board shall function as an autonomous, separate arm of the city park board, and shall advise and make recommendations to the council and city manager

on matters pertaining to street or park trees within the city limits. All members of the board shall serve without compensation.

(Code 1974, § 19-7)

**Charter reference**—Authority of council to appoint and remove members of advisory boards and agencies, § 2-4(5).

**Sec. 2-177. Street trees defined.**

Street trees are defined as trees, shrubs, bushes and all other woody vegetation located on land lying in public easements or public lands, including public parks.

(Code 1974, § 19-8)

**Cross reference**—Definitions generally, § 1-2.

**Sec. 2-178. Terms of office.**

Each member of the tree board, appointed by the mayor, shall serve for a period of two years. If a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term. The city community services director or his designee, and the parks superintendent and park board chairman shall serve as ex officio members of the board.

(Code 1974, § 19-9)

**Sec. 2-179. Duties, responsibilities.**

(a) It shall be the responsibility of the tree board to study, investigate, develop and/or update annually a written plan for the care, preservation, trimming, planting, replanting, removal and disposition of trees and shrubs in public lands and in public rights-of-way. Such a plan will be presented annually to the city council, and upon its acceptance and approval, shall constitute the official comprehensive tree plan for the city. The tree board shall be empowered to organize, coordinate and encourage activities on the part of individuals, organizations, businesses and other groups that could aid in the upgrading and maintenance of the tree resources of the community.

(b) It shall also be the duty of the tree board to actively participate in the development and updating of ordinances relating to the removal and disposition of hazardous conditions related to trees, dead or dying trees, and trees containing Dutch elm disease, if required outside the scope of the annual tree plan. These ordinances shall

identify development procedures to include species, types, spacing, locational restrictions and care of trees in the public domain, as well as outlining duties and liabilities of any private professional engaged in tree care and removal. (Code 1974, § 19-10)

**Sec. 2-180. Organization, rules of procedure.**

The tree board shall choose its own officers, make its own rules and regulations, and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business. (Code 1974, § 19-11)

**Sec. 2-181. Officers.**

Members of the tree board will elect annually from the membership, as a minimum, a chairman, vice-chairman, secretary and treasurer. Other officers and elections to fill such designations will be at the discretion of the board. (Code 1974, § 19-12)

**Sec. 2-182. Review by city council.**

The city council shall have the right to review the conduct, acts and decisions of the tree board. Any person may appeal from any ruling or order of the tree board to the city council, which shall make a final decision. (Code 1974, § 19-13)

**Secs. 2-183—2-185. Reserved.**

**DIVISION 3. LOCAL DEVELOPMENT ACT REVIEW COMMITTEE\***

**Sec. 2-186. Creation of review committee.**

There is hereby created a committee to be known as the "Local Development Act Review Committee" (hereinafter, the "review commit-

\*Editor's note—Ord. No. 2225, §§ 1—7, adopted Feb. 28, 2006, added provisions that were not specifically amendatory. At the editor's discretion, said provisions were included herein as §§ 2-186—2-192.

tee"), which committee is authorized to exercise, on behalf of the city, those powers and duties specified in the Local Development Act. (Ord. No. 2225, § 1, 2-28-06)

**Sec. 2-187. Membership.**

The review committee shall be composed of those persons duly appointed as set forth herein, as representatives of the following entities:

- (1) A representative of the city council for the city;
- (2) A representative of the McAlester Planning Commission;
- (3) A representative of each taxing jurisdiction in within the city in which all or a portion of any such tax incentive or tax increment district might be located, specifically:
  - a. Pittsburg County;
  - b. Pittsburg County Health Department;
  - c. Independent School District Number I080, Pittsburg County, Oklahoma McAlester Public Schools;
  - d. Independent School District Number C029, Pittsburg County, Oklahoma Frink Chambers School;
  - e. Independent School District Number C009, Pittsburg County, Oklahoma Krebs School;
  - f. Vocational-Technical School District Number 7, Pittsburg County, Oklahoma Kiamichi Technology Center and;
- (4) Three members representing the public-at-large.

In the event that provisions of the Local Development Act relating to the composition of review committees are hereafter amended to alter the composition of such committees, the provisions of this division shall be deemed amended to the extent necessary to comply with state law. (Ord. No. 2225, § 2, 2-28-06)

**Sec. 2-188. Manner and term of appointment.**

The members of the review committee shall be selected in the following manner for the period or term set forth herein:

- (1) *Governing body representative.* The mayor of the city shall nominate a current member of the city council of the city to serve, with the approval of the city council, as the representative of the governing body of the city on the review committee. Such person shall serve as a member of the review committee until he or she resigns, dies or ceases to be a member of the McAlester City Council or until such time as a new representative is nominated by the mayor and approved by the city council.
- (2) *Planning commission representative.* The mayor of the city shall nominate a current member of the McAlester Planning Commission to serve, with the approval of the city council, as the representative of the planning commission on the review committee. Such person shall serve as a member of the review committee until he or she resigns, dies or ceases to be a member of the McAlester Planning Commission, or until such time as a new representative is nominated by the mayor and approved by the city council.
- (3) *Taxing jurisdiction representatives.* The mayor of the city shall request that the governing bodies of each of the taxing jurisdictions listed in subsection 2-187(3) hereof nominate a person (who may or may not serve on the governing body of such taxing jurisdiction) to serve as that taxing jurisdiction's representative on the review committee. All persons so nominated are subject to approval by the city council. If any person so nominated is not approved by the city council, then the mayor shall notify the governing body of the nominating taxing jurisdiction of the city council's action, and shall request that the governing body of the taxing jurisdiction nominate another person to

serve as that taxing jurisdiction's representative on the review committee. Persons approved as representatives of any taxing jurisdiction shall serve for a term of one year from the date of their approval by the city council; provided, however, that, notwithstanding the expiration of such person's term of office, such representative shall continue to serve until such time as a successor has been selected and qualified. Upon the expiration of any term of office or the occurrence of any vacancy in such position, the mayor shall request that the governing body of the vacating member's taxing jurisdiction nominate a person to serve as a representative on the review committee. Such nomination shall be subject to approval by the city council as set forth above.

- (4) *Public representatives.* At the first meeting following formation of the review committee, the review committee shall select three persons to represent the public-at-large from a list of seven persons submitted by the chairman of the review committee. The persons so selected by the other members of the review committee shall serve for a term of one year from the date of their approval by the review committee; provided, however, that, notwithstanding the expiration of such person's term of office, such representative shall continue to serve until such time as a successor has been selected and qualified. Upon the expiration of the term of office or the occurrence of any vacancy, the chairman of the review committee shall submit a list of seven candidates to the review committee at which time the review committee shall select a replacement for each vacant position.

(Ord. No. 2225, § 3, 2-28-06)

**Sec. 2-189. Meetings.**

Meetings of the review committee shall be subject to the Open Meeting Act, 25 O.S. § 301 et seq., as amended, and the Open Records Act, 51 O.S. § 24A.1 et seq., as amended. Any information relating to the marketing plans, financial state-

ments, trade secrets or any other proprietary information submitted to the committee by a person or entity seeking adoption and approval of a proposed district, plan, or project may be kept confidential to the extent allowed by law. Executive sessions may be held to discuss such information if deemed necessary by the committee to the extent allowed by law.

(Ord. No. 2225, § 4, 2-28-06)

**Sec. 2-190. Officers.**

The representative of the McAlester City Council shall serve as chairman of the review committee and shall preside at all meetings and perform such other duties as may be assigned by the review committee. The committee members shall select one or more of their members to be vice-chairman who shall act in the place of the chairman during his or her absence or incapacity to act. The committee members shall also select a person to serve as secretary of the review committee, which person may or may not be a member of the review committee.

(Ord. No. 2225, § 5, 2-28-06)

**Sec. 2-191. Voting rights; quorum.**

All members of the review committee shall be entitled to fully participate in all meetings of the review committee and to cast one vote on any matter coming before the review committee for consideration; provided, however, that no representative of any taxing jurisdiction shall be entitled to cast a vote with regard to any finding or recommendation relating to a tax incentive or tax increment district unless some portion of such district is located within the boundaries of the represented taxing jurisdiction. All actions by the review committee pursuant to the provisions of this division shall be approved by the affirmative vote of a majority of the committee members entitled to vote under the provisions of this division.

(Ord. No. 2225, § 6, 2-28-06)

**Sec. 2-192. Authority.**

The review committee shall act in an advisory capacity to the city council as authorized by the Local Development Act. The review committee

shall consider and make its findings and recommendations to the city council with respect to the conditions establishing the eligibility of a proposed district and the appropriateness of the approval of the proposed plan and project. The review committee shall also recommend that the proposed district and plan be approved, denied, or approved subject to conditions set forth by the review committee. In making such a recommendation, the review committee shall consider and determine whether the proposed plan or project will have a financial impact on any taxing jurisdiction within the proposed district and shall report its findings to the city council.

(Ord. No. 2225, § 7, 2-28-06)

DIVISION 4. AMERICANS WITH DISABILITIES ADVISORY BOARD\*

**Sec. 2-193. Established.**

There is established the City of McAlester Americans with Disabilities Advisory Board. The board shall consist of seven members, who shall be residents of the community, appointed by the mayor and confirmed by the city council to serve staggered terms; provided the terms of the initial board members shall be as follows:

- (1) Three members shall be appointed for a one-year term;
- (2) Four members shall be appointed for a two-year term.

The members of the board shall be selected without regard to political affiliation and shall serve without compensation. Persons with disabilities or persons working with persons with disabilities will be encouraged to join the board to provide a balance perspective to decision making concerning these issues.

(Ord. No. 2260, § 1, 6-26-07)

**Sec. 2-194. Purpose.**

The purpose of the board shall be to act as an ombudsmen for people with disabilities; to advise

\*Editor's note—Ord. No. 2260, §§ 1—6, adopted June 26, 2007, added provisions that did not specifically amend the Code. At the editor's discretion, said provisions were included herein as §§ 2-193—2-198.

that all municipal programs and policies are ADA compliant; to advise that all municipal properties, to include, but not limited to, existing and proposed buildings, rehabilitations to buildings, and additions, are ADA compliant; to ensure that the city is adhering to the Americans with Disabilities Act; and to undertake other tasks and assignments relating to the ADA as requested by the city council or city manager.  
(Ord. No. 2260, § 2, 6-26-07)

**Sec. 2-195. Meetings.**

The board shall meet at least twice per fiscal year. Additional meetings may be scheduled based on a determination by a majority of voting members. The time, hour and place of meetings shall be determined by a consensus of the board. At any meeting, a quorum shall consist of not less than four members present.

Members are expected to attend all called meetings.  
(Ord. No. 2260, § 3, 6-26-07)

**Sec. 2-196. Staff assistance.**

Staff support and assistance to the board shall be provided by the city ADA coordinator.  
(Ord. No. 2260, § 4, 6-26-07)

**Sec. 2-197. Recommendations.**

The board shall, at least twice per fiscal year, make a formal report of its recommendations to the city council.

The board, in conjunction with the city and ADA compliance coordinator, shall formulate and develop a priority action plan to remove alleged existing barriers to equal program and facilities access under the Americans with Disabilities Act.

Members shall not speak on behalf of the board without express permission of the board.  
(Ord. No. 2260, § 5, 6-26-07)

**Sec. 2-198. Expenditure; budget.**

The expenditures of the board shall be limited to appropriations made to the budget line item for implementation and administration of the Americans with Disabilities Act.  
(Ord. No. 2260, § 6, 6-26-07)

**Secs. 2-199—2-205. Reserved.**

**ARTICLE VI. EMPLOYEE BENEFITS\***

**DIVISION 1. GENERALLY**

**Secs. 2-206—2-215. Reserved.**

**DIVISION 2. SOCIAL SECURITY†**

**Sec. 2-216. Extension of benefits.**

It is hereby declared to be the policy and purpose of the city to extend, at the earliest date, to the employees and officials thereof not excluded by law or this division, and whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old-age and survivors insurance, as authorized by the Federal Social Security Act and amendments thereto, including Public Law 734, 81st Congress. In pursuance of such policy, and for that purpose, the city shall take such action as may be required by applicable state or federal laws or regulations.  
(Code 1974, § 20-11)

**Sec. 2-217. Execution of agreements.**

The mayor is hereby authorized and directed to execute all necessary agreements and amendments thereto with the state department of public welfare, as agent or agency, to secure coverage of employees and officials as provided in section 2-216.  
(Code 1974, § 20-12)

**Sec. 2-218. Exclusions.**

There is hereby excluded from this division any authority to make any agreement with respect to:

- (1) Any position or any employee or official now covered or authorized to be covered

\***Cross references**—Department of code administration, § 18-26 et seq.; fire department, § 50-26 et seq.; police department, § 66-26 et seq.

†**State law reference**—Social Security for employees of state and its political subdivisions, 51 O.S. § 121 et seq.

by any other ordinance creating any retirement system for any employee or official of the city.

- (2) Any position or any employee or any official employed in any part-time job or position by the city.
- (3) Any position or any employee or official, compensation for which is on a fee basis, or any position, or any employee or official not authorized to be covered by applicable state or federal laws or regulations.

(Code 1974, § 20-13)

**Sec. 2-219. Withholdings from salaries or wages.**

Withholdings from salaries or wages of employees and officials for the purpose provided in section 2-216 are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by such laws or regulations.

(Code 1974, § 20-14)

**Sec. 2-220. Appropriations by city.**

There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions to the federal old-age and survivors insurance program, which shall be paid over to the state or federal agency designated by such laws and regulations.

(Code 1974, § 20-15)

**Sec. 2-221. Records, reports.**

The city shall keep such records and make such reports as may be required by applicable state or federal laws or regulations relative to federal old-age and survivors insurance.

(Code 1974, § 20-16)

**Secs. 2-222—2-230. Reserved.**

**DIVISION 3. RETIREMENT SYSTEM\***

**Sec. 2-231. Established; effective date.**

Pursuant to the authority conferred by the Charter (as amended) of the city and the laws of the state, and for the purpose of encouraging continuity and meritorious service on the part of city employees, there is hereby authorized, created, established, approved and adopted, effective as of July 1, 1995, the City of McAlester Defined Benefit Retirement Plan and Trust ("plan and trust").

(Ord. No. 2035, § 1, 6-20-95; Ord. No. 2464, 5-28-13; Ord. No. 2540, 6-9-15)

**State law reference**—Retirement system authorized, 11 O.S. § 48-101.

**Sec. 2-232. Plan administrator established.**

For the purpose of administration of the plan and trust, there is hereby established a plan administrator, which shall be the members of the city council, as now exist or as from time to time are duly elected or appointed.

(Ord. No. 2035, § 2, 6-20-95)

**Sec. 2-233. Trustees established.**

The city council, as now exists or as is from time to time duly elected or appointed, shall serve as trustees of the trust established by the plan and trust.

(Ord. No. 2035, § 3, 6-20-95)

**Sec. 2-234. City authorized to appropriate funds.**

The city is hereby authorized to incur the necessary expenses for the establishment, operation and administration of the plan and trust and to appropriate annually such amounts as are required to maintain the plan and trust.

(Ord. No. 2035, § 4, 6-20-95)

**State law reference**—Appropriations, 11 O.S. § 48-104.

**\*Editor's note**—Ord. No. 2035, §§ 1—5, adopted June 20, 1995, amended div. 3 in its entirety to read as set out herein. The prior div. 3, §§ 2-231—2-235, pertained to similar subject matter and derived from Code 1974, §§ 20-28—20-32.

**State law references**—Retirement systems generally, 11 O.S. § 48-101 et seq.; firefighters pension and retirement system, 11 O.S. § 49-100.1 et seq.; police pension and retirement system, 11 O.S. § 50-101 et seq.

**Sec. 2-235. Authority of mayor, city clerk to execute document.**

The mayor and city clerk are hereby authorized and directed to execute the plan and trust document, and to do all other acts and things necessary, advisable and proper to put the plan and trust into full force and effect, and to make such changes therein as may be necessary to qualify the same under sections 401(a) and 501(a) of the Internal Revenue Code.

(Ord. No. 2035, § 5, 6-20-95)

**Secs. 2-236—2-255. Reserved.**

**ARTICLE VII. FINANCE\***

**DIVISION 1. GENERALLY**

**Sec. 2-256. City depositories and deposits generally.**

(a) The depositories for the funds of the city shall be as designated by the treasurer. The city treasurer shall deposit daily all public funds received by him in these banks. Funds may be transferred from one depository to the other as the city council may direct by motion or resolution.

(b) The deposits of the city shall be secured by the unit collateral system provided by 62 O.S. §§ 516.1—516.10, and the provisions of such sections are hereby adopted insofar as they are applicable to the city.

(Code 1974, §§ 2-7, 2-8)

**State law reference**—Municipal deposits and investments, 11 O.S. § 17-101.

**Sec. 2-257. Capital improvement fund.**

(a) There is hereby established a capital improvement fund for the purpose of the expansion of the city's infrastructure, purchase of major equipment and the financing of major capital projects, as approved by the city council.

**\*Charter reference**—Fiscal affairs, art. 4.

**Cross references**—Cemetery care fund, § 26-61 et seq.; taxation, ch. 98.

**State law references**—Municipal finance, 11 O.S. § 17-101 et seq.; local government finance, 62 O.S. §§ 281 et seq., 504 et seq.

(b) The city treasurer is directed to deposit monies in the fund, which shall consist of a certain percentage of revenue derived from the water, sewer, garbage and landfill fees, which shall be determined by the city council from time to time, and any other monies as may be deemed appropriate.

(Code 1974, § 31-51)

**Sec. 2-258. Emergency fund.**

(a) [*Purpose.*] The purpose of the emergency fund is to insulate general-fund programs and current service levels from large and unanticipated one-time emergency-expenditure requirements, a revenue reduction due to a change in state or federal legislation, resulting from adverse litigation, or similar unforeseen action.

(b) [*Definition.*]

(1) For purposes of this section, an emergency is defined as an unplanned or unforeseen event that may, if not immediately corrected, cause death or injury to the public, or significantly disrupt essential city services, or result in damage to city property, or result in significant environmental damage.

(2) For fund identification purposes, the emergency fund, as defined in this section, is the same fund currently identified as the reserve fund and will be hereafter referred to as the emergency fund.

(c) [*Restrictions on use.*] This emergency fund will not be used because general fund expenditure growth exceeds budgeted revenue growth. Revenue shortfalls may not be offset by a transfer of funds from the emergency fund.

(d) The emergency fund is available to fund one-time emergency requirements. The council may only authorize a fund transfer from the emergency fund after the general fund's budgeted contingency, if any, is exhausted. Any proposed use of the emergency fund will be placed on the council agenda in the form of a budget amendment. Such amendment will be strictly limited to the proposed transfer amount from the emergency fund and the proposed fund and account(s) that will receive the transfer. As part of the

agenda item, the city manager shall, as a minimum, provide a written certification to the council identifying in substantial detail the nature of the emergency, the total anticipated cost of the emergency, the steps the city has taken to address the emergency and the reason(s) those steps have not eliminated the need for using a portion of the emergency fund.

(e) [Approval of transfers.] An affirmative vote of at least five of the seven council members is required for funds to be transferred from the emergency fund.

(f) [Restoration of fund.] Restoration of the emergency fund will begin the next fiscal year following their use.

(Ord. No. 2291, § 1, 6-10-08; Ord. No. 2534, § 1, 4-14-15)

**Sec. 2-259. Reserved.**

**Editor's note**—Ord. No. 2339, § 1, adopted Nov. 24, 2009, repealed § 2-259, which pertained to McAlester City Emergency Ambulance Fund and derived from Ord. No. 2331, § 1, adopted Sept. 8, 2009.

**Secs. 2-260—2-270. Reserved.**

DIVISION 2. PURCHASES\*

**Sec. 2-271. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Contractual services* means services performed for the city by persons not in the employment of the city, and may include the use of equipment or the furnishing of commodities in connection with such services under express or implied contract. Contractual services shall include travel; freight; express; parcel post; postage; telephone; telegraph; utilities; rents; printing and binding; re-

\***Charter reference**—Purchases, § 4-2.

**State law references**—Municipal purchases generally, 11 O.S. §§ 17-102, 17-114; purchases from certain municipal employees prohibited, 11 O.S. § 8-113; purchases from members of governing body prohibited, 21 O.S. § 355 et seq.; municipal purchasing procedures, 62 O.S. § 310.1 et seq.; Oklahoma Central Purchasing Act, 74 O.S. § 85.1 et seq.

pairs, alterations and maintenance of buildings, equipment, streets and bridges and other physical facilities of the city; and other services performed for the city by persons not in the employment of the city.

(Code 1974, § 2-27)

**Cross reference**—Definitions generally, § 1-2.

**Sec. 2-272. Authority to make purchases; administrative policies.**

(a) The city manager, or his/her designee, is hereby authorized to purchase supplies, equipment, materials and/or services in the amount not to exceed \$25,000.00 in a single transaction.

(b) The city manager shall develop such administrative policies as necessary for said purchases to assure efficient and economical purchasing practices.

(Ord. No. 2219, §§ 2, 3, 1-24-06)

**Editor's note**—Ord. No. 2219, § 1, adopted Jan. 24, 2006, repealed § 2-272, which pertained to authority to make purchases; administrative policies and derived from Code 1974, § 2-28; Ord. No. 2012, §§ 2, 3, adopted Jan. 25, 1994; Ord. No. 2100, §§ 1—3, adopted July 13, 1999. Sections 2 and 3 of said ordinance added provisions that were included herein as § 2-272 at the editor's discretion.

**Sec. 2-273. Purchases generally; competitive bidding, exemptions.**

The city manager, or his/her designee, may purchase the following without giving an opportunity for competitive bidding:

- (1) Supplies, materials, equipment or contractual services whose cost does not exceed \$25,000.00 in a single transaction;
  - a. Supplies, materials, equipment or contractual services which can be furnished only by a single dealer, or which has a uniform price wherever bought;
  - b. Supplies, materials, equipment or contractual services purchased from another unit of government at a price deemed below that obtainable from private vendors, including war surplus;
  - c. Supplies, materials, equipment, or contractual services when purchased

- at a price not exceeding a price set therefore by the state purchasing agency or any other state agency authorized to set prices for things purchased by the state;
- d. Supplies, materials, equipment, or contractual services whose purchase is approved by the council as necessary for the immediate preservation of the peace, health or safety;
  - e. Contractual services of a professional nature, such as engineering, architectural and medical services; and
  - f. Utility services (gas, electricity, telephone services, etc.) purchased from the public utility corporation at a price or rate determined by the state corporation commission or other government agency.
- (2) For the procurement of supplies, materials, equipment and/or services valued in excess of \$25,000.00 in a single transaction, except as provided in subsection (3) below, the following formal bids and awards are hereby adopted and authorized:
- a. The city manager, or his/her authorized representative, shall prepare an invitation for bids packet, containing, among other things:
    1. Written specifications of the supplies, materials, equipment and services to be procured;
    2. Deadline for receipt of bids;
    3. Bid opening date;
    4. Required bidder's qualifications, if any;
    5. Statement that the city council may accept or reject any or all bids without penalty; and
    6. Noncollusion affidavits.
  - b. Invitation for bids shall be publicized as follows:
    1. A brief descriptive advertising in local newspaper and notification by mail or all known qualified vendors and/or contractors;
    2. The minimum advertising period shall be two weeks with two published notices, the second publication being at least five days after the first publication, and bid opening not earlier than five days after final publication.
    3. Bid packets will be maintained by and be available from the office of the city manager, or his/her authorized representative.
  - c. Bids submitted by each contractor and/or vendor shall be detailed in the "invitation for bids".
  - d. Bid opening shall be as follows:
    1. Bids shall be opened on the day and hour and at the place identified in the "invitation for bids".
    2. Bids shall be opened and read aloud by the city manager, or his/her designated representative; and
    3. Bids shall be tabulated and reviewed for conformity to the invitation for bids.
  - e. The city council shall review the bid tabulations and recommendations from the city manager, and shall accept or reject any or all bids.
- (3) Professional service contracts valued in excess of \$25,000.00 in a single transaction are exempt from the requirements of competitive bidding, but require approval by an affirmative vote of the city council. For the purpose of this section "professional services" shall include all services that involve professional judgment or scientific knowledge, including, but not limited to, engineering, architectural, legal and medical services, and shall exclude

only those services specifically governed by section 5.13 of the McAlester City Charter.

(Ord. No. 2219, § 4, 1-24-06; Ord. No. 2316, § 1, 3-24-09; Ord. No. 2400, § 1, 9-27-11)

**Editor's note**—Ord. No. 2219, § 1, adopted Jan. 24, 2006, repealed § 2-273, which pertained to purchases generally and derived from Code 1974, § 2-29; Ord. No. 2012, § 4, adopted Jan. 25, 1994; Ord. No. 2100, §§ 1, 4, adopted July 13, 1999. Section 4 of said ordinance added provisions that were included herein as § 2-273 at the editor's discretion.

**Charter reference**—Authority of council to prescribe regulations for bidding, § 4-2.

**Sec. 2-274. Contract negotiation.**

At the conclusion of any competitive bidding required without the receipt of any bids in response to the published invitation for bids, the city manager is hereby authorized to negotiate contracts to be approved by the city council for the purchase of supplies, materials or equipment in a single transaction or contractual services to be furnished by a single provider, not to exceed the value of \$50,000.00.

(Ord. No. 2304, §§ 1, 2, 10-10-08)

**Sec. 2-275. Purchases by Office of Oklahoma Central Purchasing.**

In lieu of the competitive bidding procedures provided in sections 2-273 and 2-274 the city manager is authorized to designate the Office of Oklahoma Central Purchasing as its agent for the purchase or procurement of any item or service contracted or available to the state under the provisions of the Oklahoma Central Purchasing Act (74 O.S. § 85.1 et seq.), as now enacted or as may be hereafter amended. That purchases made under this section valued in excess of \$25,000.00 in a single transaction require approval by an affirmative vote of the city council.

(Code 1974, § 2-31; Ord. No. 2401, § 1, 9-27-11)

**Sec. 2-276. Contracts for collection services.**

The city may enter into a contract with a collection agency for the provision of collection services for one or more of the following items:

- (1) Debts and accounts receivable including, but not limited to, unpaid fees, penalties, interest, and other sums due the city, as applicable; or

- (2) Court penalties, costs, fines and fees in cases in municipal court in which the accused has failed to appear or otherwise failed to satisfy a monetary obligation ordered by the court.

If the city enters into a contract with a collection agency pursuant to this section, a collection fee in an amount not to exceed 35 percent on each item described above in subsections (1) and (2) referred by the city to the collection agency for collection may be added. If the city enters into such contract with a collection agency and authorizes the collection fee, the court shall order defendants to reimburse the fee arising pursuant to subsection (2) of this section and such court-ordered fee may be collected as provided by law for the collection of any other civil debt or criminal action.

(Ord. No. 2334, § 1, 9-22-09)

**Secs. 2-277—2-285. Reserved.**

**DIVISION 3. SALE OF SURPLUS OR OBSOLETE PROPERTY\***

**Sec. 2-286. Council action required.**

No surplus or obsolete supplies, materials or equipment of a value of more than \$600.00 may be sold until the city council has declared them surplus or obsolete.

(Code 1974, § 2-42; Ord. No. 2126, § 1, 3-13-01)

**Sec. 2-287. General procedure.**

Before the city manager sells any surplus or obsolete supplies, materials or equipment, except as otherwise provided in section 2-288, he shall advertise them for sale in a newspaper of general circulation in the city or in such other manner as he deems necessary to reach prospective buyers to give them an opportunity to make bids. All bids shall be sealed and shall be opened in public at a designated time and place, except when the sale is by auction. The city manager may repeatedly reject all bids and advertise again. He shall sell

\***Charter references**—Authority of city manager to sell surplus or obsolete property under regulations prescribed by council, § 4-2; approval of electors required for sale of property valued at more than \$50,000.00, § 4-3.

such supplies, materials or equipment to the highest responsible bidder, and if necessary, shall cast lots in case of a tie to determine to whom to sell.

(Code 1974, § 2-43)

**Sec. 2-288. When competitive bidding not required.**

The city manager may sell surplus or obsolete supplies, materials or equipment whose total value does not exceed \$300.00 in a single transaction, without giving an opportunity for competitive bidding.

(Code 1974, § 2-44)

**Charter reference**—Authority of council to make exceptions to bid requirements, § 4-2.

**Secs. 2-289—2-299. Reserved.**

**ARTICLE VIII. IDENTITY THEFT  
PREVENTION PROGRAM**

**Sec. 2-300. Identity theft prevention program.**

The administrative rules entitled "identity theft prevention program," which are attached to Ordinance No. 2320 and fully incorporated herein by reference, be, and same hereby are, completely adopted and approved.

(Ord. No. 2320, § 1, 4-28-09)

Chapters 3-5

**RESERVED**