

Chapter 50

FIRE PREVENTION AND PROTECTION*

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*State law references—Authority to prevent fire hazards, 11 O.S. § 22-113; state fire prevention standards, 74 O.S. § 324.7.

ARTICLE I. IN GENERAL

Sec. 50-1. Manufacture, sale, discharge, etc., of fireworks.

The manufacture, display for sale, use or discharge of fireworks shall be unlawful within this city, except that supervised public displays of fireworks shall be permitted as provided in the fire prevention code adopted by section 50-51. This section shall not apply to the sale, storage, possession or distribution of fireworks by wholesalers or retail sellers who are duly licensed by the city.

(Code 1974, § 13-6; Ord. No. 2495, 4-22-14)

Sec. 50-2. False fire alarms.

It shall be unlawful for any person to turn in a false fire alarm, or in any manner to deceive or attempt to deceive the fire department or any officer or employee thereof with reference to any fire alarm or reported fire, or to knowingly cause the fire department or its officers or employees to make a useless run.

(Code 1974, § 13-7)

State law reference—False report, 21 O.S. § 1851.

Sec. 50-3. Open flame roofing systems.

It shall be unlawful for any person to replace, install or repair any roofing system which requires adhesion of roofing membrane by heating of an open flame unless such person receives authorization from the fire chief and complies with all provisions set forth by the fire chief.

(Code 1974, § 13-28)

Secs. 50-4—50-25. Reserved.

ARTICLE II. FIRE DEPARTMENT*

Sec. 50-26. Established; function; chief.

(a) There is hereby established a fire department, the head of which shall be the chief of the fire department appointed by the city manager for

**Charter reference*—Fire department designated as administrative department of city, § 3-3.

Cross references—Officers and employees, § 2-66 et seq.; employee benefits, § 2-206 et seq.; emergency services, ch. 42.

State law reference—Municipal fire departments, 11 O.S. 29-101 et seq.

an indefinite term, and removable by the manager. The chief of the fire department shall be an officer of the city and shall have supervision and control of the fire department.

(b) It shall be the duty of the fire department, among others, to extinguish fires; to rescue persons endangered by fire; to resuscitate and to administer first aid to persons injured in or about burning structures or elsewhere in case of an emergency when it can be done without jeopardy of the public interest; to promote fire prevention; and unless otherwise provided, to enforce all ordinances relating to fires, fire prevention and safety of persons from fire in theaters, stores and other public buildings.

(Code 1974, § 13-1)

Sec. 50-27. Establishment, supervision of bureau of fire prevention.

A bureau of fire prevention in the fire department of the city is hereby established. Such bureau shall be operated under the supervision and control of the chief of the fire department, who shall be ex officio chief of the bureau of fire prevention.

(Code 1974, § 13-2)

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

Sec. 50-28. Fire protection outside city limits—Mutual aid; fees.

(a) The city is hereby authorized and empowered to enter into contracts or agreements with individuals, firms, private corporations or associations and political subdivisions of the state for fire protection outside the corporate limits of the city and to contract to provide fire protection jointly with other organizations and municipal subdivisions of the state.

(b) Any contract entered into by the city for outside aid for fire protection may provide for payment to the city for fire apparatus and personnel at the rate of \$500.00 per hour, or fraction thereof.

(c) The city may enter into an agreement with outside fire departments for mutual aid at no cost to the outside fire departments. The city, when responding with fire apparatus and personnel

outside its city limits, may request payment from the property owner at the rate of \$500.00 per hour, or fraction thereof.

(Code 1974, § 13-3; Ord. No. 2103, § I, 9-28-99)

Sec. 50-29. Fire department answering calls outside city limits.

The fire department of the city is authorized to respond with emergency equipment and personnel outside city limits to aid other fire departments or to protect areas that are considered to be within the city's primary coverage area.

(Code 1974, § 13-4; Ord. No. 2103, § I, 9-28-99)

Sec. 50-30. Firefighters working outside city limits; compensation; pension fund.

All city firefighters, full paid or volunteer, attending and serving at fires or doing fire prevention work or rescue, resuscitation, first aid, inspection or any other official work outside the corporate limits of the city as provided in 11 O.S. §§ 29-105 through 29-108 shall be considered as serving in their regular line of duty as full paid as if they were serving within the corporate limits of the city. Full paid firefighters shall receive no additional compensation, and volunteer firefighters shall receive only such compensation as may be provided for by ordinance or resolution for such cases. All such firefighters shall be entitled to all the benefits of any pension fund, firemen's relief and pension fund in the same manner as if the fire fighting or fire prevention work or rescue, resuscitation, first aid, inspection or any other official work has been within the corporate limits of the city.

(Code 1974, § 13-5)

State law reference—Similar provisions, 11 O.S. § 29-107.

Sec. 50-31. Fire department answering calls outside corporate limits considered agent of state; liability for damages.

When the fire department is answering any fire alarms or performing fire prevention services or rescue, resuscitation, first aid, inspection or any other official work outside the corporate limits of the city it shall be considered an agent of the

state, and acting solely and alone in a governmental capacity. The city shall not be liable in damages for any act of commission, omission or negligence while answering or returning from any fire or reported fire or doing or performing any fire prevention work or rescue, resuscitation, first aid, inspection or any other official work.

(Code 1974, § 13-5)

State law reference—Similar provisions, 11 O.S. § 29-108.

Sec. 50-32. Cost recovery.

The city shall bill and collect any amounts covered by insurance for costs of fire response, hazardous material cleanup, and rescue and recovery operations, for both inside and outside city services, in addition to any other fees set forth herein or by separate ordinance.

(Ord. No. 2356, § 1, 5-25-10)

Secs. 50-33—50-50. Reserved.

ARTICLE III. FIRE PREVENTION CODE*

Sec. 50-51. Adopted.

There is hereby adopted, for the purpose of establishing rules and regulations for fire prevention, the International Building Code, 2009 edition; the International Fire Code, 2009 edition; and the NFPA - 101 Life Safety, 2012 edition, the whole thereof, save and except such portions as are hereinafter deleted, modified or amended, and the same is hereby incorporated as a part hereof as fully as if set out at length in this article. Copies of the adopted codes are on file in the office of the fire marshal.

(Ord. No. 2103, § II, 9-28-99; Ord. No. 2158, § 1, 9-10-02; Ord. No. 2281, § 1, 1-22-08; Ord. No. 2463, § 1, 5-15-13)

Charter reference—Adoption by reference, § 2-15.

State law reference—Adoption by reference, 11 O.S., § 14-107.

***Editor's note**—Ord. No. 2103, § II, adopted Sept. 28, 1999, repealed the provisions of former §§ 50-51—50-56 and replaced them with the similar provisions of §§ 50-51—50-61 as currently set out herein. Former §§ 50-51—50-56 derived from the Code of 1974, §§ 13-19—13-22, 13-24 and 13-27.

Cross reference—Buildings and building regulations, ch. 18.

Sec. 50-52. Definitions.

Whenever the word "municipality" is used in the fire protection code adopted by this article, it shall be held as the City of McAlester, Oklahoma. The term "corporate counsel" as used in such codes shall mean the city attorney.

(Ord. No. 2103, § II, 9-28-99)

Cross reference—Definitions generally, § 1-2.

Sec. 50-53. Conflicts with other provisions of chapter.

If any provision of the fire prevention code adopted by this article conflicts with any provision(s) of this chapter, the latter shall govern. (Ord. No. 2103, § II, 9-28-99)

Sec. 50-54. Enforcement.

The fire prevention codes adopted by this article shall be enforced by the fire department. The chief of the fire department shall detail such members of the fire department as inspectors, as may be required to enforce this code. The fire marshal shall be the primary enforcement official for the City of McAlester in relation to requirements of the fire prevention codes, adopted by the City of McAlester. (Ord. No. 2103, § II, 9-28-99)

Sec. 50-55. Modifications.

(a) The chief of the fire department shall have the power to modify any of the provisions of the fire prevention codes adopted by this article, upon application in writing by the owner, lessee, or his duly authorized agent. The request for modification may be requested when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured and substantial justice done.

(b) The particulars of such modifications, when granted or allowed, shall be entered upon the records of the fire department and a copy, signed by the fire chief, shall be furnished the applicant.

(c) Open burning shall be unlawful without first obtaining a permit from the chief of the fire department. A permit may be obtained to burn natural vegetation (brush, undergrowth, etc.). If a permit is granted, the burning shall be done in strict compliance with the directions given with granting of the permit. Permits may be issued for small and large burns. The permit fee for a small burn (burn pile no larger than six feet by six feet by four feet in height) shall be \$25.00. The permit fee for a large burn shall be \$50.00. (Ord. No. 2103, § II, 9-28-99; Ord. No. 2209, § 1, 9-27-05)

Sec. 50-56. Board of appeal created.

There is hereby created within and for the city, a board of appeals, with the powers and duties set forth in this division. (Ord. No. 2103, § II, 9-28-99)

Sec. 50-57. Membership

(a) The board of appeal shall be composed of five members, citizens of the city, each appointed by the mayor, with the approval of the council, for a term of three years. Two alternate members shall be appointed for overlapping terms of three years.

(b) No less than two members shall be appointed from the membership of the planning commission.

(c) The board shall elect a chairman from its membership to serve a term of two years. (Ord. No. 2103, § II, 9-28-99)

Sec. 50-58. Rules of procedure

The board of appeal shall adopt rules in accordance with the provisions of this article. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. All meetings shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question before the board. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to effect any variation in such ordinance. (Ord. No. 2103, § II, 9-28-99)

Sec. 50-59. Powers generally.

The board shall be empowered to hear and decide appeals when it is alleged there is an error in any order, requirement, decision or determination made by any administrative official in the interpretation or enforcement of the fire prevention codes. (Ord. No. 2103, § II, 9-28-99)

Sec. 50-60. Appeals.

(a) Any person aggrieved may take appeals to the board of appeal. Such appeal shall be taken, within 30 days from the date of the decision of the fire chief, to the city clerk; said notice of appeal specifying the grounds thereof and by paying a filing fee of \$50.00 at the office of the city clerk at the time the notice is filed.

(b) The appeal shall be taken on a form as provided by the fire department.

(c) The board of appeal shall fix a reasonable time for the hearing, giving public notice thereof, as well as due notice, to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person, by agent or by attorney.

(d) Notice of public hearing before the board shall be given by publication in a newspaper of general circulation in the city. (Ord. No. 2103, § II, 9-28-99)

Sec. 50-61. Violations.

(a) Any person who shall violate any of the provisions of the fire prevention code, adopted by this article, or fails to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who has built in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified on appeal or by a court of competent jurisdiction, within the time fixed therein and noncompliance respectively, be guilty of a misdemeanor punishable as prescribed in section 1-8 of this Code.

(b) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions. (Ord. No. 2103, § II, 9-28-99)

Secs. 50-62-50-75. Reserved.

ARTICLE IV LIQUEFIED PETROLEUM GAS*

Sec. 50-76. Definitions.

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

Appliance means all gas-burning appliances intended for use with liquefied petroleum gas.

Liquefied petroleum gas means any material which is composed predominantly of any of the following hydrocarbons or mixtures thereof: propane, propylene, butane (normal butane or isobutane) and butylenes, regardless of by what names any such substances may be hereafter known.

Liquefied petroleum gas equipment means all devices, piping and equipment pertinent to the use of liquefied petroleum gas, except gas-burning appliances.

(Code 1974, § 13-39)

Cross reference-Definitions generally, § 1-2.

Sec. 50-77. Transportation, storage, dispensing, etc., generally.

It shall be unlawful for any person to manufacture, fabricate, assemble, install or repair any system, container, apparatus or appliance to be used for the transportation, storage, dispensing or utilization of liquefied petroleum gas, or to transport, handle or store such gas, unless such person complies with all provisions of state law and city ordinances relating thereto, and has any license or permit which may be required by state law.

(Code 1974, § 13-40)

Sec. 50-78. Places of business manufacturing, distributing, storing, etc., prohibited.

(a) It shall be unlawful for any person to establish, erect, construct, enlarge or rebuild any plant or place of business where liquefied petroleum gas is manufactured, distributed or handled within the city.

.Cross reference-Buildings and building regulations, ch.18.

State law reference-Liquefied petroleum gas regulations, 52 O.S. § 420.1 et seq.

(b) It shall be unlawful for any person to install wholesale storage tanks or containers for liquefied petroleum gas within the city.
(Code 1974, § 13-41)

Sec. 50-79. Notice and approval of use systems.

No system for the use of liquefied petroleum gas shall be installed within the city until written notice thereof is given to the city clerk, and the plans and specifications for such system have been submitted to the city clerk and approved by the fire marshal. Every such system installed or used in the city shall have been tested and listed either by the Underwriters' Laboratories, Inc., or by a nationally recognized testing laboratory, and shall be approved by the state liquefied petroleum gas administrator.
(Code 1974, § 13-42)

Sec. 50-80. Records, inspection of installation of equipment.

Every person installing liquefied petroleum gas equipment, other than gas-burning appliances and replacing portable cylinders, shall keep a record of each installation showing the name and address of the customer at whose place the liquefied petroleum gas equipment has been installed and the date of installation. Such records shall be disclosed to the city clerk or fire marshal at any time upon request during regular business hours; provided, however, that the city clerk or fire marshal shall, at any time they deem it necessary as a precautionary measure, inspect such records. The fire marshal may, at any reasonable time, inspect the installation of liquefied petroleum gas equipment.
(Code 1974, § 13-44)

Sec. 50-81. Vehicles used for transporting—
Stopping, parking or storing.

(a) It shall be unlawful for any person to stop or park any tank truck or tank trailer used or designed for the transportation of liquefied petroleum gas or products upon any street, highway or alley in the city, except in observance of traffic control signs and signals or the directions of a police officer.

(b) Subject to the provisions of sections 50-82 and 50-84, no tank truck or tank trailer used or designed for the transportation of liquefied petroleum gas or products, whether full or empty, shall be stored or kept or be allowed to remain at any time within the city limits.
(Code 1974, § 13-45)

Sec. 50-82. Same-Use for local deliveries.

Tank trucks and tank trailers may be used for making deliveries of liquefied petroleum gas within the city limits. When such deliveries have been completed, such tank truck or tank trailer shall immediately thereafter be removed from the city limits.
(Code 1974, § 13-46)

Sec. 50-83. Same-Report of breakdown.

In the event of a breakdown or other mechanical difficulty, by reason of which a tank truck or tank trailer used or designed for the transportation of liquefied petroleum gas or products is unable to proceed, it shall be the duty of the operator thereof to report such fact immediately to the fire department.
(Code 1974, § 13-47)

Sec. 50-84. Same-Maintenance and repair.

(a) Tank trucks or tank trailers used or designed for the transportation of liquefied petroleum gas or products may be washed, greased and have the oil changed at any filling station in the city, when such service does not take over eight hours and the tank truck or tank trailer is not placed in an enclosure where an open fire exists.

(b) No mechanical repairs to any tank truck or tank trailer used or designed for the transportation of liquefied petroleum gas or products shall be made in any garage, machine shop, workshop or other place within the city unless a permit is first obtained from the fire chief for the making of such repairs. Application for such permit shall be made to the fire chief, and if, upon the making of such application, the fire chief finds that the tank truck or tank trailer to be repaired is in a safe condition, he shall issue such permit which shall be good for a period of two days. A fee of \$1.00 for such permit shall be paid to the city treasurer. It

shall be unlawful and an offense for any person to make any repairs upon any tank truck or tank trailer used for the transportation of liquefied petroleum gas unless such permit has been issued, and it shall be unlawful and an offense for the owner or operator of such tank truck or tank trailer to cause such repairs to be made without such permit.

(Code 1974, § 13-48)

Chapters 51-53

RESERVED