

## Chapter 54

### HEALTH AND SANITATION\*

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\***Cross references**—Animals, ch. 10; cemeteries, ch. 26; environment, ch. 46.  
**State law reference**—Oklahoma Public Health Code, 63 O.S. § 1-101 et seq.

## ARTICLE I. IN GENERAL

### Sec. 54-1. County-city cooperative health department and health officer.

(a) The county-city cooperative health department established in this county shall serve as the health department of this city and be under the administrative supervision and control of the city manager for city purposes, insofar as permitted by law.

(b) The administrative head or director of the cooperative health department shall be the health officer of the city and shall have the status of head or superintendent of the city department of health insofar as is permitted by law, due recognition being given to his larger responsibilities. All references in this Code to "health officer" shall be deemed to refer to the administrative head or director of the cooperative health department.

(c) The cooperative health department shall perform such duties and have such powers as may be prescribed by ordinance, law and the rules and regulations of the state department of health. (Code 1974, § 2-15)

**State law reference**—Cooperative health departments, 63 O.S. § 1-207.

### Sec. 54-2. Open storage of abandoned or unattended vehicles, refrigerators, building material, etc.

(a) It shall be unlawful for the owner or occupant of any residential, commercial or industrial building, structure or property to utilize the premises of such property for the open storage of any abandoned or unattended motor vehicle, icebox, refrigerator, stove, glass, building material or other similar items. It shall be the duty and responsibility of such owner or occupant to keep the premises of such property clean and to remove from the premises all such abandoned or unattended items upon notice from the code administrator.

(b) For the purpose of this section, an abandoned motor vehicle is defined as one that is in a state of disrepair and incapable of being moved under its own power. A refrigerator is defined as

any icebox, refrigerator, freezer, ice container, receptacle, locker or compartment that is abandoned or unattended.

(c) This section shall not apply to junkyard or salvage yard owners and operators duly licensed under the laws of the state and complying with all applicable city ordinances. (Code 1974, § 18-9)

### Secs. 54-3—54-25. Reserved.

## ARTICLE II. FOOD\*

### Sec. 54-26. Decayed or unwholesome food a public nuisance.

All decayed or unwholesome food offered for sale to the public within the city shall constitute a public nuisance subject to abatement under the provisions of chapter 46, article II in addition to any other procedure prescribed in this article. (Code 1974, § 14-2)

### Sec. 54-27. Sale from vehicles.

(a) It shall be unlawful to sell, or offer for sale, candy, ice cream, confection and any food or beverage for human consumption from a motor vehicle, cart or other vehicle of any kind on any public street or sidewalk in the city. The operator of a vehicle or cart from which food or beverages are sold for human consumption shall provide suitable containers for refuse at the point of sale.

(b) Prior to commencing the sale of food or beverages for human consumption from a vehicle, a written authorization shall be obtained from the health officer, reflecting that all applicable health standards pertaining to such business have been met and satisfied, including any and all permits or licenses required, state or otherwise. Upon such authorization from the health officer being presented to the city treasurer, a license shall be issued to the person named in the authorization, upon payment of an annual license fee of \$10.00. (Code 1974, § 14-1)

### Secs. 54-28—54-44. Reserved.

\*State law reference—Food, 63 O.S. § 1-1101 et seq.

**ARTICLE III. REGULATIONS FOR  
SMOKING INSIDE PUBLIC PLACES AND  
WORKPLACES**

**Sec. 54-45. Possession of tobacco product.**

(a) The possession of lighted tobacco in any form is a public nuisance and dangerous to public health, and is hereby prohibited when such possession is in any indoor place used by or open to the public, public transportation, or any indoor workplace, except where specifically allowed by law.

(b) All buildings and other properties, including indoor and outdoor areas, owned or operated by the City of McAlester, shall be entirely tobacco free to include all forms of tobacco products including vapor products.

(c) All indoor and outdoor recreational areas owned or operated by the City of McAlester, shall be entirely tobacco free to include all forms of tobacco products including vapor products.  
(Ord. No. 2171, § 1, 2-24-04; Ord. No. 2520, § 1, 11-6-14)

**Sec. 54-46. Indoor workplace.**

As used in this article, "*indoor workplace*" means any indoor place of employment, or employment type service for or at the request of another individual, or individuals, or any public or private entity, whether part time or full time, and whether for compensation or not. Such service shall include, without limitation, any service performed by an owner, employee, independent contractor, agent, partner, proprietor, apprentice, trainee, servant, or volunteer. An indoor workplace includes work areas, employee lounges, restrooms, conference rooms, classrooms, cafeterias, hallways, any other spaces used or visited by employees, and all space between a floor and ceiling that is predominantly or totally enclosed by walls or windows. The provisions of this section shall apply to such indoor workplaces at any given time, whether or not work is being performed.

(Ord. No. 2171, § 1, 2-24-04)

**Sec. 54-47. State and county-owned buildings.**

All buildings or portions thereof, owned or operated by the state shall be designated as no-smoking; provided, however, each building may have one designated smoking room. As used in this section, "*building*" shall not include up to 25 percent of any hotel or motel rooms rented to guests if the rooms are properly ventilated so that smoke is not circulated to non-smoking rooms.

(Ord. No. 2171, § 1, 2-24-04)

**Sec. 54-48. City-owned or operated properties.**

All premises and properties including buildings, facilities, city vehicles, equipment, city parks, trails, outdoor facilities, play grounds, sports areas owned or operated by the City of McAlester are designated as tobacco-free.

(1) It is the purpose of this article that the city promotes public health by decreasing citizens' exposure to secondhand smoke and creates tobacco-free environments for employees and citizens through regulation of all city-owned or operated property, and is enacted under the police powers of the city to provide for public health, welfare and safety.

(2) "No Smoking/Tobacco/Vapor Use" signs shall be clearly and conspicuously posted by the city on city-owned or operated properties where smoking/tobacco use is prohibited.

(3) This article shall be enforced by the office of the city manager or an authorized designee. Any citizen who desires to report a violation under this article may initiate enforcement with the office of the city manager.

(4) This section authorizes enforcement by the City of McAlester, and is not intended to create any private cause of action for enforcement or violation.

(5) The City of McAlester does not sell, market or promote tobacco in any form on city-owned or operated properties.

(Ord. No. 2171, § 1, 2-24-04; Ord. No. 2447, § 1, 12-27-12; Ord. No. 2520, § 1, 11-6-14)

**Sec. 54-49. Smoking rooms.**

A smoking room, as provided for in this article, shall not be used for the conduct of public business, shall be in a location which is fully enclosed, directly exhausted to the outside, under negative air pressure so smoke cannot escape when the door is opened and no air is re-circulated to non-smoking areas of the building. No smoking exhausts shall be located within 25 feet of any entrance, exit or intake.

(Ord. No. 2171, § 1, 2-24-04)

**Sec. 54-50. Limits on smoking.**

No smoking shall be allowed within 25 feet of the entrance or exist of any building regulated by this article.

The restrictions provided in this article shall not apply to stand-alone bars, stand-alone taverns, or cigar bars, as defined in 63 O.S. § 1-1522.

The restrictions provided in this article shall not apply to the following:

- (1) A room, or rooms, where licensed charitable bingo games are being operated, but only during the hours of operation of such games;
- (2) Up to 25 percent of the guest rooms at a hotel or other lodging establishment;
- (3) Retail tobacco stores predominantly engaged in the sale of tobacco products and accessories and in which the sale of other products is merely incidental and in which no food or beverage is sold or served for consumption on the premises;
- (4) Workplaces where only the owner or operator of the workplace, or the immediate family of the owner or operator, performs any work in the workplace, and the workplace has only incidental public access. "*Incidental public access*" means that a place of business has only an occasional person, who is not an employee, present at the business to transact business or make a delivery. It does not include businesses that depend on walk-in customers for any part of their business;
- (5) Workplaces occupied exclusively by one or more smokers, if the workplace has only incidental public access;
- (6) Private offices occupied exclusively by one or more smokers;
- (7) Workplaces within private residences, except that smoking shall not be allowed inside any private residence that is used as a licensed child care facility during hours of operation;
- (8) Medical research or treatment centers, if smoking is integral to the research or treatment;
- (9) A facility operated by a post or organization of past or present members of the Armed Forces of the United States which is exempted from taxation pursuant to Section 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(19), when such facility is utilized exclusively by its members and their families, and for the conduct of post or organizational non-profit operations exempted during an event or activity which is open to the public;
- (10) Any outdoor seating area of a restaurant, provided, smoking shall not be allowed within 15 feet of any exterior public doorway or any air intake of a restaurant;
- (11) A stand-alone bar, stand-alone tavern, or cigar bar that derives more than 60 percent of its gross receipts, subject to verification by competent authority, from the sale of alcoholic beverages and low-point beer; admits no person under 21 years of age, except for members of a musical band employed or hired as provided in 37 O.S. § 537(B)(2); and is not located within, and does not share any common entryway or common indoor area with, any other enclosed indoor workplace, including a restaurant; and
- (12) Until March 1, 2006, restaurants (any eating establishment, regardless of seating capacity) may have designated smoking and non-smoking areas, or may be designated as a totally non-smoking area. Beginning March 1, 2006, restaurants shall

be totally non-smoking, or may provide non-smoking areas and designated smoking rooms. Food and beverage may be served in such designated smoking rooms, which shall be in a location that is fully enclosed, directly exhausted to the outside, under negative air pressure so smoke cannot escape when a door is opened, and no air is recirculated to non-smoking areas of the building. No exhaust from such room shall be located within 25 feet of any entrance, exit or air intake. Such room shall be subject to verification for compliance with the provisions of this subsection by the state department of health.

(Ord. No. 2171, § 1, 2-24-04)

**Sec. 54-51. Posting responsibility and fine.**

(a) The person who owns or operates a place where smoking or tobacco is prohibited by law shall be responsible for posting a sign or decal at least four inches by two inches in size at each entrance to the building, indicating that the place is smoke-free or tobacco-free.

(b) Responsibility for posting signs or decals shall be as follows:

- (1) In privately-owned facilities, the owner or lessee, if a lessee is in possession of the facilities, shall be responsible;
- (2) In corporately-owned facilities, the manager and/or supervisor of the facility involved shall be responsible; and
- (3) In publicly-owned facilities, the manager and/or supervisor of the facility shall be responsible.

(c) Ask tobacco users to refrain from using any form of tobacco products, including vapor products upon observation of anyone violating the provisions of this act.

(d) Any person who knowingly violates this act is guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than \$10.00, nor more than \$100.00.

(Ord. No. 2171, § 1, 2-24-04; Ord. No. 2520, § 1, 11-6-14)

**Sec. 54-52. 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:

- (1) *Tobacco*: Any product that contains or is derived from tobacco and is intended for human consumption excluding drugs or devices approved for cessation by the United States Food and Drug Administration. This includes e-cigarettes and vapor devices/products, with or without nicotine.
- (2) *Tobacco-free*: Means to prohibit the use of any tobacco product by anyone, anywhere, at any time.
- (3) *Vapor product*: Shall mean noncombustible products, that may or may not contain nicotine, that employ a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce a vapor in a solution or other form. "Vapor products" shall include any vapor cartridge or other container with or without nicotine or other form that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor products" do not include any products regulated by the United States Food, Drug and Cosmetic Act.

(Ord. No. 2520, § 1, 11-6-14)

**Secs. 54-53—54-75. Reserved.**

Chapters 55-57

**RESERVED**