CODE OF ORDINANCES

CITY OF

McALESTER, OKLAHOMA

Published in 1993 by Order of the City Council

Adopted: September 14, 1993
Effective: September 14, 1993

municode
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OFFICIALS

of the

CITY OF

McALESTER, OKLAHOMA

AT THE TIME OF THIS CODIFICATION

Tim Wynn
Mayor

Gladys Murphy
J. Stephen Shoup
Dale Covington
Jim B. Miller
Harvey J. Clagg
Terry D. Miller
City Council

Randy Green
City Manager

Wesley Brown
City Attorney

Bobbie Lanz
City Clerk

PREFACE

This Code constitutes a complete recodification of the general and permanent ordinances of the City of McAlester, Oklahoma.

Source materials used in the preparation of the Code were the 1974 Code, as supplemented through March 26, 1991, and ordinances subsequently adopted by the city. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1974 Code, as supplemented, and any subsequent ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix

to the Code, the letter immediately to the left of the colon indicates the letter of the appendix.

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Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up-to-date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up-to-date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Roger D. Merriam, Supervising Editor, and Laura Johnson, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Mr. Randy Green, City Manager, Mr. Ken Giles, Assistant City Manager, Ms. Bobbie Lanz, City Clerk, Mr. Wesley Brown, City Attorney, and Mr. Thomas H. Bartheld, City Prosecutor, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the city readily accessible to all

citizens and which will be a valuable tool in the day-to-day administration of the city's affairs.

MUNICIPAL CODE CORPORATION
Tallahassee, Florida

ADOPTING ORDINANCE

ORDINANCE NO. 2004

An Ordinance Adopting and Enacting a New Code for the City of McAlester, Oklahoma; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; Providing When Such Code and This Ordinance Shall Become Effective; and Declaring an Emergency.

Be it Ordained by the Council of the City of McAlester, Oklahoma, that:

Section 1. The Code entitled "Code of Ordinances, City of McAlester, Oklahoma," published by Municipal Code Corporation, consisting of Chapters 1 through 110, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before January 26, 1993, and not included in the Code or recognized and continued in force by reference therein are repealed.

Section 3. The repeal provided for in Section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine not exceeding $100.00, plus costs. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Section 5. Additions or amendments to the Code, when passed in the form as to indicate the intention of the city to make the same a part of the Code, shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after January 26, 1993, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 7. An emergency is hereby declared to exist for the preservation of the public peace, health and safety by reason whereof it is necessary that this Act take effect and be in full force and effect from and after its passage and approval.

Passed and the Emergency Clause Ruled on Separately this 14th day of September, 1993.

CITY OF McALESTER, OKLAHOMA
A Municipal Corporation

/s/ By Gladys M. Murphy
for: Tim Wynn, Mayor

ATTEST:

/s/ _____
Bobbie Lanz, City Clerk

Approved as to form and legality this 14th day of September, 1993.

/s/ By _____
Wesley Brown, City Attorney

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PART I

CHARTER*

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***Editor's note**—Printed herein is the revised City Charter updated through March 9, 2015, which was initially ratified by the electors at an election held on May 13, 2008, which election was called by Ord. No. 2283. The Charter was approved by the Governor on July 9, 2008, and went into effect upon such approval, in accord with § 1 of said ordinance. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

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PREAMBLE

We the people of the City of McAlester of Pittsburg County, under the Constitution and laws of the State of Oklahoma, in order to secure the benefits of local self-government and to provide for an honest and accountable Council-Manager government do hereby adopt this Charter and confer upon the City the following powers, subject to the following restrictions, and prescribed by the following procedures and governmental structure. By this action, we secure the benefits of home rule and affirm the values of representative democracy, professional management, strong political leadership, citizen participation, and regional cooperation.

ARTICLE 1. POWERS OF THE CITY

Section 1.01. Powers of the City.

The City shall have all powers possible for a city to have under the Constitution and laws of the State of Oklahoma as fully and completely as though they were specifically enumerated in this Charter.
(Revised 3-9-2015)

Section 1.02. Construction.

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power granted in this article.
(Revised 3-9-2015)

Section 1.03. Intergovernmental relations.

The City may participate by contract or otherwise with any governmental entity of the state of Oklahoma or any other state or states or the United States in the performance of any activity which one or more of such entities has the authority to undertake.
(Revised 3-9-2015)

ARTICLE 2. CITY COUNCIL

Section 2.01. General powers and duties.

(a) *Powers.* All powers of the City shall be vested in the City Council, except as otherwise provided by law or this Charter and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

(b) *Fiduciary Responsibility.* The City Council has a fiduciary responsibility to the City of McAlester. It shall carry out its trusteeship duties with the utmost degree of good faith, probity, diligence, and loyalty to the interests of the people of McAlester.

(c) *Policies, Goals and Performance Monitoring.* The City Council shall define the policies and goals of the City. To ensure that policies are followed and goals are achieved, it shall exercise its oversight responsibilities through regular, systematic and rigorous performance monitoring.
(Revised 3-9-2015)

Section 2.02. Eligibility, terms and composition.

(a) *Eligibility.* Only registered voters of the City who are at least 25 years old, who have resided in the City at least two years, shall be qualified for the office of Mayor. Only registered voters of the City who are at least 25 years old, who have resided in the City at least two years, and who have resided for a period of one year in the respective wards from which they are elected or appointed to fill a vacancy, shall be qualified for the offices of Councilmen from the wards. The Council shall not prescribe additional qualifications for the Mayor and other Councilmen.

(b) *Terms.* The term of office of elected officials shall be four years elected in accordance with Article 6.

(c) *Composition.* There shall be a City Council composed of seven members, six of which shall be elected by ward by the voters in that ward and a Mayor who shall be elected by the voters of the City at large in accordance with the provisions of § 2.03(b).

(d) *Term Limitation.* No more than 12 years may be served as Mayor, Councilman, or a combination thereof. A Mayor or Councilman elected or appointed to serve less than a full term shall not have that partial term counted in the 12 year limitation.
(Revised 3-9-2015)

Section 2.03. Mayor and Vice-Mayor.

(a) *Powers and Duties.* The Mayor shall be a voting member of the City Council and shall attend and preside at meetings of the Council, represent the City in intergovernmental relationships, appoint with the advice and consent of the Council the members of citizen advisory boards and commissions, present an annual state of the City message no later than the first regular Council meeting in February, appoint the members and officers of Council committees, assign agenda items to committees subject to the consent of Council, and perform other duties specified by the Council. The Mayor shall be recognized as head of the City government for all ceremonial purposes and by the governor for purposes of military law but shall have no administrative duties.

(b) *Election of Mayor and Selection of Vice-Mayor.* The Mayor will be elected for a term of four years beginning with the 2008 election and every four years thereafter. After every regular election of Councilmen at two year intervals the Council shall elect from among its members a Vice-Mayor who shall act as Mayor during the absence, disability, or suspension of the Mayor, or if a vacancy occurs in the office of Mayor, until another Mayor is selected by the Council for completion of the unexpired term and qualifies. If the office of Vice-Mayor becomes vacant, the Council shall select from its membership another Vice-Mayor for completion of the unexpired term.
(Revised 3-9-2015)

Section 2.04. Compensation; expenses.

The salary of the Mayor shall be $75.00 per month, and the salary of each other Councilman shall be $50.00 per month. The Mayor and Council members shall receive their actual and necessary expenses incurred in the performance of their duties of office if such expenses are approved in advance by the Council at a public meeting.
(Revised 3-9-2015)

Section 2.05. Prohibitions.

(a) *Holding Other Office.* Except where authorized by law, no Council member shall hold any other elected public office during the term for which the member was elected to the Council. No Council member shall hold any other City office or City employment during the term for which the member was elected to the Council. No former Council member shall hold any compensated appointive office or employment with the City until one year after the expiration of the term for which the member was elected to the Council.

Nothing in this section shall be construed to prohibit the Council from selecting any current or former Council member to represent the City on the governing boards of any regional or other intergovernmental agency or on other boards.

(b) *Appointments and Removals.* Neither the City Council nor any of its members shall in any manner control or demand the appointment or removal of any City administrative officer or employee whom the City Manager or any subordinate of the City Manager is empowered to appoint. However, the Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.

(c) *Interference with Administration; Freedom of Communication.* Neither the Council nor its members shall give orders to City officers or employees who are subordinate to the City Manager. However, this prohibition shall not prevent Council members from making inquiries of department heads or employees under § 2.08 for the purpose of obtaining information needed by them in the discharge of their duties, including response to constituent requests or requesting assistance that is available to any other citizen, City employees shall use their chain of command for work-related situations and problems, but they have the same rights as any other citizen to communicate with Council members and will not be punished for doing so.
(Revised 3-9-2015)

Section 2.06. Vacancies; forfeiture of office; filling of vacancies.

(a) *Vacancies.* The office of a Council member shall become vacant upon the member's death, resignation, removal from office, or forfeiture of office in any manner authorized by this Charter or the laws of the State of Oklahoma.

(b) *Forfeiture of Office.* A Council member shall forfeit that office if the Council member:

(1) Lacks at any time during the term of office for which elected any qualification for the office prescribed by this Charter or by the laws of the State of Oklahoma;

(2) Violates any express prohibition of this Charter;

(3) Has been found guilty or entered a plea of guilty or nolo contendere to a felony or any other crime involving moral turpitude under the laws of the United States or of any state, even if subsequently followed by the suspended or deferred imposition of the sentence;

(4) Commits any of those acts set forth in O.S. Title 22 § 1181, as may be amended from time to time by the state legislature; or

(5) Fails to attend more than one-half of all meetings of the Council, regular and special, held within any period of three consecutive months.

(c) *Filling of Vacancies.* The Council, by majority vote of its remaining members, shall fill vacancies in its own membership, including the office of Mayor, for the unexpired terms, provided that should the unexpired term to be so filled be one year or longer, the Council shall call a special election for the purpose of electing a suitable person to fill such vacancy for the remainder of the unexpired term, not less than the period prescribed by state law for notice of an election nor more than 30 days plus said election notice period following declaration of vacancy, all candidates to file upon applications provided for said purpose, and the candidate receiving the greater number of votes to be elected.
(Revised 3-9-2015)

Section 2.07. City Clerk.

The City Council shall appoint an officer of the City who shall have the title of City Clerk and serves at the pleasure of the Council. The City Clerk shall give notice of Council meetings to its members and the public, keep the journal of its proceedings and perform such other duties as are assigned by this Charter, the Council or by State Law.
(Revised 3-9-2015)

Section 2.08. Investigations.

The City Council may make investigations into the affairs of the City and the conduct of any City department, division or other organizational unit.
(Revised 3-9-2015)

Section 2.09. Independent audit.

The City Council shall provide for an independent annual audit of all City financial and accounting activities and may provide for more frequent audits as it deems necessary. Such audits shall be carried out in accordance with § 5.13.
(Revised 3-9-2015)

Section 2.10. Procedure.

(a) *Meetings.* The Council shall hold at least two regular meetings every month, at such times as it may prescribe by ordinance or otherwise. The Mayor or any four Councilmen may call special meetings as the Council may prescribe by ordinance or otherwise. All meetings of the Council shall comply with the Oklahoma Open Meeting Law.

(b) *Rules and Journal.* The City Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record and posted on a website or other means of publicly available electronic distribution.

(c) *Voting.* Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Four members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time. No action of the Council, except as otherwise provided in the preceding sentence and in § 2.06(c), shall be valid or binding unless adopted by the affirmative vote of four or more members of the Council.
(Revised 3-9-2015)

Section 2.11. Action requiring an ordinance.

In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the City Council shall be by ordinance which:

(1) Adopt or amend an administrative code or establish, alter, or abolish any City department, division or other organizational unit;

(2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;

(3) Levy taxes;

(4) Grant, renew or extend a franchise;

(5) Regulate the rate charged for its services by a public utility;

(6) Authorize the borrowing of money in accordance with State law;

(7) Convey or lease or authorize the conveyance or lease of any lands of the City;

(8) Regulate land use and development;

(9) Amend or repeal any ordinance previously adopted; or

(10) Adopt, with or without amendment, ordinances proposed under the initiative power.

Acts other than those referred to in the preceding sentence may be done either by ordinance, resolution or motion.
(Revised 3-9-2015)

Section 2.12. Ordinances in general.

(a) *Form.* Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject, which shall be clearly expressed in its title. The enacting clause shall be, "Be it ordained by the Council of the City of McAlester, Oklahoma . . . " All ordinances proposed by the voters under their power of initiative, "Be it ordained by the People of the City of McAlester, Oklahoma . . . " Any ordinance which repeals or amends an existing ordinance or part of the City Code shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matters to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matters by underscoring or by italics.

(b) *Procedure.* All proposed ordinances shall appear on the published agenda for regular or special meetings of the Council. Upon introduction of any ordinance, the City Clerk shall distribute a copy to each Council member and to the City Manager, shall file a reasonable number of copies in the office of the City Clerk and such other public places as the Council may designate, and shall post the ordinance together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing shall follow the posting by at least seven days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time; all persons interested shall have an opportunity to be heard. After the hearing, the Council may adopt the ordinance with or without amendment or reject it. A majority vote of all Councilmen shall be required for adoption of an ordinance. As soon as practicable after adoption, the Clerk shall have the ordinance and a notice of its adoption published and available at a reasonable price as set by the Council and posted on a website or distributed through other publicly available electronic means.

(c) *Effective Date.* Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of 30 days after adoption or at any later date specified therein. A franchise for a public utility shall not go into effect until the ordinance granting it has been published in full in a newspaper of general circulation within the City and has been approved at an election by a vote of the qualified electors voting on the question.

(d) *Publish Defined.* As used in this section, the term "publish" means to print in the contemporary means of information sharing, which includes but is not limited to, one or more newspapers of general circulation in the City, and on a website or other means of publicly available electronic distribution: (1) the ordinance in full or by number, title, and a brief summary thereof; and

(2) the places where copies of it have been filed and the times when they are available for public inspection and purchase at a reasonable price set by the Council.
(Revised 3-9-2015)

Section 2.13. Emergency ordinances.

To meet a public emergency affecting life, health, property or the public peace, the City Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided by State Law. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. The question of the emergency must be voted on separately and approved by the affirmative vote of at least five (5) members of the City Council. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five (5) members shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. An emergency ordinance may be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.
(Revised 3-9-2015)

Section 2.14. Codes of technical regulations.

The City Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

(1) The requirements of § 2.12(b) for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance; and

(2) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to § 2.15.

Copies of any adopted code of technical regulations shall be made available by the City Clerk for distribution or for purchase at a reasonable price as set by the Council.
(Revised 3-9-2015)

Section 2.15. Authentication and recording; codification; and printing of ordinances and resolutions.

(a) *Authentication and Recording.* The City Clerk shall authenticate by signing and shall record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the City Council.

(b) *Codification.* At least every ten years, the City Council shall provide for the preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Oklahoma, and such codes of technical regulations and other rules and regulations as the Council may specify. This compilation shall be known and cited officially as the McAlester City Code. Copies of the Code shall be furnished to City officers and shall be made available for purchase by the public at a reasonable price fixed by the Council. The Code shall be placed in libraries, public offices, and on a website or other means of publicly available electronic distribution for free public reference.

(c) *Printing of Ordinances and Resolutions.* The City Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and Charter amendments shall be distributed or sold to the public at rea-

sonable prices as fixed by the Council. The Charter, all Charter amendments, and each ordinance and resolution having the force and effect of law shall be available on a website or other means of publicly available electronic distribution. Following publication of the first McAlester City Code and at all times thereafter, the ordinances, resolutions and Charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the Constitution and other laws of the State of Oklahoma, or the codes of technical regulations and other rules and regulations included in the Code.
(Revised 3-9-2015)

ARTICLE 3. CITY MANAGER

Section 3.01. Appointment, qualifications, compensation and periodic evaluations.

The City Council, by a majority vote of its total membership, shall appoint a City Manager for an indefinite term and fix the Manager's compensation. The City Manager shall be appointed solely on the basis of education and experience in the accepted competencies and practices of local government management. Minimum qualifications are: 1) a Master's Degree with a concentration in public administration or a related discipline, and two years of experience in an appointed managerial or administrative position in a local government; or 2) a Bachelor's Degree and five years of such experience. The Manager need not be a resident of the City or state at the time of appointment, but shall reside within the City while in office. The City Council shall thoroughly review the performance of the City Manager at least once every year and deliver a report of this evaluation to the City Manager. A copy of the City Manager's evaluations shall be kept in the personnel records.
(Revised 3-9-2015)

Section 3.02. Removal.

If the City Manager declines to resign at the request of the City Council, the City Council may suspend the Manager by a resolution approved by the majority of the total membership of the City Council. Such resolution shall set forth the reasons for suspension and proposed removal. A copy of such resolution shall be served immediately upon the City Manager. The Manager shall have fifteen (15) days in which to reply thereto in writing, and upon request, shall be afforded a public hearing, which shall occur not earlier than ten (10) days, or later than fifteen (15) days after such hearing is requested. After the public hearing, if one is requested, and after full consideration, the City Council, by a majority vote of its total membership, may adopt a final resolution of removal. The City Manager shall continue to receive full salary until the effective date of a final resolution of removal. The position of City Manager shall be excluded from the general provisions of § 4.02(a), as set forth in this Charter.
(Revised 3-9-2015)

Section 3.03. Acting City Manager.

To perform his duties during his temporary absence or disability, the City Manager, by letter filed with the City Clerk, shall appoint a qualified administrative officer of the City to be Acting City Manager. If the Council suspends the City Manager, if the City Manager's disability or absence is likely to be for more than thirty (30) days, or if there is a vacancy in the office of City Manager, the Council shall appoint an Acting City Manager within thirty (30) days to serve until his disability, absence or suspension ceases, or until it appoints another City Manager, as the case may be. The City Council shall exert the same authority over the Acting City Manager as it has over the City Manager including the right to evaluate and adjust the salary of the position and the Council may remove an Acting City Manager without cause by vote of a majority of all its members. Hiring or removal of any department head by the Acting City Manager shall require the concurrence of a majority of the City Council.
(Revised 3-9-2015)

Section 3.04. Powers and duties.

The City Manager shall be chief administrative officer and head of the administrative branch of the City government. He shall execute the laws and ordinances and administer the government of the City, and shall be responsible therefore to the Council. He shall:

(1) Appoint, and when necessary for the good of the service, suspend or remove all City employees and appoint administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter, or personnel rules adopted pursuant to this Charter. The City Manager may authorize any administrative officer, subject to the City Manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency;

(2) Direct and supervise the administration of all departments, divisions, and other organizational units of the City, except as otherwise provided by this Charter or by law;

(3) Attend all City Council meetings unless specifically excused by the presiding Council member. The City Manager shall have the right to take part in discussion, but shall not vote;

(4) See that all laws, provisions of this Charter and acts of the City Council, subject to enforcement by the City Manager or by officers subject to the City Manager's direction and supervision, are faithfully executed;

(5) Prepare and submit the annual budget and capital program to the City Council, and implement the final budget approved by the City Council to achieve the goals of the City;

(6) Submit to the City Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year;

(7) Make such other reports as the City Council may require concerning operations;

(8) Keep the City Council fully advised as to the financial condition and future needs of the City;

(9) Make recommendations to the City Council concerning the affairs of the City and facilitate the work of the City Council in developing policy;

(10) Annually assist the Council to develop long-term goals for the City and strategies to implement these goals;

(11) Promote partnerships among Council, staff and citizens in developing public policy and building a sense of community; and

(12) Perform such other duties as are specified in this Charter or may be required by the City Council and are consistent with this Charter, state or federal law.

(Revised 3-9-2015)

Section 3.05. Holding more than one office.

The City Manager may hold more than one office in City government through appointment by the Council, but he may not receive compensation for service in such other offices.
(Revised 3-9-2015)

Section 3.06. Purchases, competitive bidding and sales.

(a) *Purchases.* The City Manager, subject to any regulations which the Council may prescribe, shall contract for the purchase, or issue purchase authorizations for, all supplies, materials and equipment for the offices, departments and agencies of the City government. Every such contract or purchase exceeding an amount to be established by ordinance, shall require the prior approval of the Council. The City Manager may also transfer to or between offices, departments and divisions, or sell surplus or obsolete supplies, materials and equipment, subject to such regulations as the Council may prescribe.

(b) *Competitive Bidding.* Before the purchase of, or contract for, any supplies, materials or equipment, or the sale of any surplus or obsolete supplies, materials or equipment, ample opportunity for competitive bidding, under such regulations and with such exceptions, as the Council

may prescribe, shall be given; but the Council shall not except an individual contract, purchase or sale from the requirement of competitive bidding. A violation of this provision shall be cause for removal of any City employee who knowingly authorized any violation of the City's competitive bidding rules.

(c) *Sale of Property Valued at More Than $50,000.00.* The sale of any City property, real or personal, including public utilities, or of any interest therein, except real property held by the City for Economic Development, the value of which is more than $50,000.00, may be made only: (1) by authority of an affirmative vote of a majority of the qualified electors of the City who vote on the question of approving or authorizing the sale at an election; or (2) by authority of a special non-emergency ordinance. Such ordinance shall be published in full in a newspaper of general circulation in the City within ten days after its passage, and shall include a section reading substantially as follows: "Section ___. This ordinance shall be referred to a vote of the electors of the City if a legal and sufficient referendum petition is properly filed within 30 days after its passage; otherwise it shall go into effect thirty (30) days after its passage." The sale of an entire public utility may be authorized only as provided in (1) hereinabove.

(d) *Sale of Economic Development Property.* The sale of City property held for Economic Development such as Taylor Industrial Park, King Property, and other real property owned or acquired in the future for Economic Development by the City shall be subject to approval by an affirmative vote of five (5) Councilmen.
(Revised 3-9-2015)

ARTICLE 4. DEPARTMENTS, DIVISIONS AND OTHER ORGANIZATIONAL UNITS

Section 4.01. General provisions.

(a) *Creation of Departments and other Organizational Units.* The City Council may establish City departments, divisions, and other organizational units in addition to those created by this Charter and may prescribe the functions of all departments, divisions, and other organizational units. No function assigned by this Charter to a particular department, division, or other organizational unit may be discontinued or, unless this Charter specifically so provides, assigned to any other.

(b) *Direction by City Manager.* All departments, divisions, and other organizational units under the direction and supervision of the City Manager shall be administered by an officer appointed by and subject to the direction and supervision of the Manager. The City Manager may appoint one person as the head of two or more departments, divisions, and other organizational units.
(Revised 3-9-2015)

Section 4.02. Personnel system.

(a) *Merit Principle.* All appointments and promotions of City officers and employees shall be made solely on the basis of merit and fitness demonstrated by a valid and reliable examination when applicable, education, experience, or other evidence of competence. Removals, demotions, suspensions and layoffs shall be made solely for the good of the service.

(b) *Merit System.* Consistent with all applicable federal and state laws, the City Council shall within twelve (12) months after the effective date of this Charter provide by ordinance for the establishment, regulation, and maintenance of a merit system governing personnel policies necessary to effective administration of the employees of the City's departments, divisions, and other organizational units, including but not limited to, classification and pay plans, examinations, force reduction, removals, working conditions, provisional and exempt appointments, in-service training, grievances and relationships with employee organizations.

(c) *Bonds of City Officers and Employees.* The City Manager, the Chief Financial Officer, and such other officers and employees as the Council may designate, before entering upon their duties, shall provide bonds for the faithful performance of their respective duties, payable to the City, in such form and in such amounts as the Council may prescribe, with a surety company authorized to operate within the state. The City shall pay the

premiums on such bonds. The bonds of the City Manager and the Chief Financial Officer shall be in an amount of at least one percent (1%) of the total current annually budgeted expenditures for the City, but no less than two hundred thousand dollars ($200,000.00).

(d) *Personnel Matters.* The Council, consistent with this Charter, by ordinance or personnel rules, may regulate personnel matters and provide for proper personnel administration.

(e) *Oath or Affirmation of Office.* Every officer of the City, before entering upon the duties of his office, shall take and subscribe to the oath or affirmation of office prescribed by the State Constitution. The oath or affirmation shall be filed in the City Clerk's office. All officers authorized by federal or state law, the Mayor, the City Manager, the Municipal Judge or Judges, and such other officers as the council may authorize, may administer oaths and affirmations in any matter pertaining to the affairs and government of the City.

(f) *Layoff, Suspend, Demote or Remove Officers and Employees.* Except as may be otherwise provided by this Charter, the power to layoff, suspend, demote and remove accompanies the power to elect or appoint; and the Council, the City Manager, or other electing or appointing authority may at any time layoff, suspend, demote or remove any officer or employee to whom the Council, the City Manager, or the other electing or appointing authority respectively may elect or appoint a successor.

(g) *Acting Officers and Employees.* Except as may be otherwise provided by this Charter, the electing or appointing authority who may elect or appoint the successor of an officer or employee, may elect or appoint a person to act during the temporary absence, disability, or suspension of such officer or employee, or, in case of a vacancy, until a successor is elected or appointed and qualifies, unless the Council provides by general ordinance that a particular superior or subordinate of such officer or employee shall act. The Council may provide by general ordinance for a deputy to act in such cases.

(h) *Officers to Continue.* Except as may be otherwise provided by this Charter, every officer who is elected or appointed for a term ending at a definite time, shall continue to serve thereafter until his successor is elected or appointed and qualifies unless his services are sooner terminated by resignation, removal, disqualification, death, abolition of the office, or other legal manner.
(Revised 3-9-2015)

Section 4.03. City Attorney.

(a) *Appointment.* The City Attorney shall be appointed or removed only by a majority vote of the City Council, not including vacant positions within the City Council. The City Attorney shall be an attorney licensed to practice law in the State of Oklahoma.

(b) *Role.* The City Attorney shall serve as chief legal advisor to the City Council, the City Manager and all City departments, divisions, and other organizational units, shall normally represent the City in all legal proceedings and shall perform any other duties prescribed by state law, by this Charter or by ordinance; provided, however, that in all proceedings under Section 3.02 of this Charter, the City Attorney shall represent only the City Council and not the City Manager, nor shall the City Attorney represent any entity with which the City contracts, any City employee or City Council member charged with or under investigation for a crime.
(Revised 3-9-2015)

Section 4.04. Chief Financial Officer.

(a) *Appointment and Qualifications.* The Chief Financial Officer (CFO) shall be appointed for an indefinite term by the City Manager. The CFO shall be appointed solely on the basis of education and experience in the accepted competencies and practices of accounting and financial management. Minimum qualifications are: 1) a Bachelor's Degree in accounting or finance; and 2) progressively responsible experience in accounting and financial management. The CFO shall have the demonstrated ability to communicate effectively via oral or written reports. Experience in local government or not-for-profit accounting and finan-

cial management is preferred. Certified Public Accountant or Certified Government Finance Officer is preferred.

(b) *Role.* The Chief Financial Officer is responsible for all accounting and financial management functions except for those otherwise provided for in this Charter. Subject to and in accordance with this Charter, applicable law, and such ordinances and other policies as the Council may adopt, the Chief Financial Officer or personnel under his supervision and control shall:

(1) Be responsible for investment of City money. Collect or receive revenue and other money for the City and shall be responsible for its custody, safekeeping, deposit, disbursement, and investment in accordance with the City's investment policy and applicable state and federal law.

(2) Insure that the City has an accurate and comprehensive financial accounting, management, and reporting system to meet the requirements of this Charter and state law.

(3) Provide all financial information and reports requested by the City Council and the City Manager.

(4) Establish and maintain a system of internal control to ensure the effectiveness and efficiency of operations, the reliability of financial reporting, and compliance with all applicable laws and regulations. The internal control system shall be designed to provide reasonable assurance regarding prevention or prompt detection of unauthorized acquisition, use, or disposition of assets.

(5) Provide open and timely communication, both written and oral, to the Council, City Manager, City Attorney, other City employees, City Boards and Committees, and to the general public on matters of accounting, auditing, budgeting, financial management and internal control.

(6) Perform such other duties as are specified in this Charter, prescribed by ordinance or applicable law, or may be required by the City Council or City Manager.

(Revised 3-9-2015)

Section 4.05. Land use, development and environmental planning.

Consistent with all applicable federal and state laws with respect to land use, development and environmental planning, the City Council shall:

(1) Designate an agency or agencies to carry out the planning function and such decision-making responsibilities as may be specified by ordinance;

(2) Adopt a comprehensive plan that is to be reviewed annually and determine to what extent zoning and other land use control ordinances must be consistent with the plan;

(3) Determine to what extent the comprehensive plan and zoning and other land use ordinances must be consistent with regional plan(s); and

(4) Adopt development regulations, to be specified by ordinance, to implement the plan.

The designated agency, the City Manager, and the Mayor and Council shall seek to act in cooperation with other jurisdictions and organizations in their region to promote integrated approaches to regional issues.
(Revised 3-9-2015)

ARTICLE 5. FINANCIAL MANAGEMENT

Section 5.01. Fiscal year.

The fiscal year of the City shall begin on the first day of July and end on the last day of June.
(Revised 3-9-2015)

Section 5.02. Submission of budget and budget message.

Each year the City Manager shall submit to the City Council and the Audit and Finance Advisory Committee a budget for the ensuing fiscal year and an accompanying message. These submissions will be due forty-five (45) days prior to the last day of the fiscal year.
(Revised 3-9-2015)

Section 5.03. Budget message.

The City Manager's message shall explain the budget both in fiscal terms and in terms of the work programs, linking those programs to organizational goals and community priorities. It should outline the proposed financial policies of the City for the ensuing fiscal year and the impact of those policies on future years. It should describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position, including factors affecting the ability to raise resources through debt issues, and include such other material as the City Manager or City Council deem desirable.
(Revised 3-9-2015)

Section 5.04. Budget.

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the City Manager deems desirable or the City Council may require for effective management and an understanding of the relationship between the budget and the City's strategic goals, consistent with state law. The City Manager shall also provide a list of all current City positions by department and division, their current annual pay, any additional pay such as longevity or incentive pay, the value of all benefits, and any proposed changes to positions, assignments or pay. The budget shall begin with a clear general summary of its contents, shall show in detail all estimated income, indicating the proposed property tax levy if any, and all proposed expenditures, including debt service for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. Current year "actual" figures shall be authentic figures through the date they are available and estimated figures for the remaining portion of the fiscal year. It shall indicate in separate sections:

(1) The proposed goals and expenditures for current operations during the ensuing fiscal year, detailed for each fund by department and division or by other organization unit, activity, or objectives, or other means as state law permits, method of financing such expenditures, and methods to measure outcomes and performance related to the goals. An Emergency Fund will be included in the budget and every reasonable attempt shall be made to maintain this fund at a minimum of ten percent (10%) of the total operating budget including capital improvements. A separate account shall be maintained for the Emergency Fund and the City Council shall define by ordinance under what circumstances withdrawals may be made from the Emergency Fund account;

(2) Proposed longer-term goals and capital expenditures during the ensuing fiscal year, detailed for each fund by department and division or by other organization unit when practicable, the proposed method of financing each such capital expenditure, and methods to measure outcomes and performance related to the goals; and

(3) The proposed goals, anticipated income and expense for the ensuing year for each utility or other enterprise fund or internal service fund operated by the City, and methods to measure outcomes and performance related to the goals. For any fund, the total of proposed expenditures shall not exceed the total of estimated income plus carried forward fund balance exclusive of reserves.

Nothing in this section shall be construed to prevent the use of "purpose-based" budgeting or any other budget format acceptable to the State of Oklahoma.
(Revised 3-9-2015)

Section 5.05. City Council action on budget.

(a) *Notice and Hearing.* Within one (1) week of receiving the proposed budget from the City Manager, the City Council shall publish in one or more

newspapers of general circulation in the City the general summary of the budget and a notice stating:

(1) The times and places where copies of the message and the entire detailed budget are available for inspection by the public and purchase at a reasonable price set by the Council; and

(2) The time and place, not less than two weeks after such publication, for a public hearing(s) on the budget.

The entire budget shall also be available on a website or other means of publicly available electronic distribution.

(b) *Amendment before Adoption.* After the public hearing(s), the City Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income plus carried forward fund balance.

(c) *Adoption.* The City Council shall adopt the budget no later than seven (7) days before the end of the current fiscal year or any other applicable deadline of State Law. If it fails to adopt the budget by this date, the budget for the amounts appropriated for operations in the current fiscal year will be deemed adopted.

(d) *Publish defined.* As used in this article, the term "publish" means to print in the contemporary means of information sharing, which includes but is not limited to, one or more newspapers of general circulation in the City and in a website or other means of publicly available electronic distribution.

(Revised 3-9-2015)

Section 5.06. Appropriation and revenue ordinances.

To implement the adopted budget, the City Council shall adopt, prior to the beginning of the fiscal year:

(1) An appropriation ordinance making appropriations by department, division, or other organizational unit, activities or objectives;

(2) Ordinances required to authorize new revenues or to amend the rates or other features of existing taxes or other revenue sources.

(Revised 3-9-2015)

Section 5.07. Midyear budget review and amendments after adoption.

(a) *Midyear Budget Review.* The City Manager shall submit a midyear review of the budget to the Council on or before the last day of January. This shall include the evaluation and modification, if necessary, of revenues and expenses.

(b) *Supplemental Appropriations.* If during or before the fiscal year the City Manager certifies in writing that there are available for appropriation revenues in excess of those estimated in the budget or unappropriated fund balances, the City Council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

(c) *Reduction of Appropriations.* If at any time during the fiscal year it appears probable to the City Manager that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the Manager shall report to the City Council without delay, indicating the estimated amount of the shortfall, any remedial action taken by the Manager and recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or reduce any shortfall and for that purpose it may by ordinance reduce or eliminate one or more appropriations.

(d) *Transfer of Appropriations.* The City Council may by resolution give the City Manager authority during the fiscal year to transfer part or all of the unencumbered appropriation balance from one department, to the appropriation for other departments or to a new appropriation.

(e) *Limitation; Effective Date.* No appropriation for debt service may be reduced or transferred, except to the extent that the debt is refinanced and less debt service is required, and no appropriation may be reduced below any amount required by law to be appropriated or by more

than the amount of the unencumbered balance thereof. The supplemental appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.
(Revised 3-9-2015)

Section 5.08. Lapse of appropriations.

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until expended, revised or repealed; the purpose of any such appropriation shall be deemed abandoned if three (3) years pass without any disbursement from or encumbrance of the appropriation.
(Revised 3-9-2015)

Section 5.09. Administration and fiduciary oversight of the budget.

The City Council shall provide by ordinance the procedures for administration and fiduciary oversight of the budget.
(Revised 3-9-2015)

Section 5.10. Overspending of appropriations.

No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the City Manager or his designee first certifies that there is sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal. A violation of this provision shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation. Such officer may also be liable to the City for any amount so paid. Except where prohibited by law, however, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, but only if such action is made or approved by a majority of the City Council.
(Revised 3-9-2015)

Section 5.11. Capital program.

(a) *Submission to City Council.* The City Manager shall prepare and submit to the City Council and the Audit and Finance Advisory Committee a five-year or longer capital program no later than the fifteenth (15th) day of March.

(b) *Contents.* The capital program shall include:

(1) A clear general summary of its contents;

(2) Identification of the long-term goals of the community;

(3) A list of all capital improvements and other capital expenditures which are proposed to be undertaken during the five (5) fiscal years or longer next ensuing, with appropriate supporting information as to the necessity for each, regardless of whether funding is available for any such capital expenditure or improvement;

(4) Cost estimates and recommended time schedules for each improvement or other capital expenditure;

(5) Method of financing upon which each capital expenditure is to be reliant;

(6) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired;

(7) Methods to measure outcomes and performance of the capital plan related to the long-term goals of the community.

The above shall be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

(c) *Debt Limitations.* Any resolution or ordinance adopted by the Council permitting or approving the creation of any indebtedness or obligation by a municipal beneficiary trust in excess

of $1,000,000.00 must be approved by a majority of the qualified electors of the City of McAlester; provided that for purposes of this provision, the terms "indebtedness or obligation" shall include the aggregate rental required to be paid for the entire term of a lease. Any indebtedness issued by any public trust having its principal purpose, and which is primarily engaged in, the ownership and operation of a hospital or related institution shall not be subject to this Section, if the indebtedness does not exceed five percent (5%) of the greater of: (1) The then existing total indebtedness of such trust; or (2) The value of all assets of such trust."

(d) *Public Improvements.* Public improvements may be made by the City government itself or by contract. The Council shall award all contracts for such improvements; provided that the Council may authorize the City Manager to award such contracts not exceeding an amount to be determined by the Council and subject to such regulations as the Council may prescribe. The City will follow State Law on bidding.
(Revised 3-9-2015)

Section 5.12. City Council action on capital program.

(a) *Notice and Hearing.* Within one (1) week of receiving the capital budget from the City Manager, the City Council shall publish in one or more newspapers of general circulation in the City and on a website or other publicly available means of electronic distribution, the general summary of the capital program and a notice stating:

(1) The times and places where copies of the entire detailed capital program are available for inspection by the public and purchase at a reasonable price set by the Council; and

(2) The time and place, not less than two (2) weeks after such publication, for a public hearing(s) on the capital program.

Public discussion and suggestions on the capital program will be actively solicited until the fifteenth (15th) day of April.

(b) *Adoption.* The City Council by resolution shall adopt the capital program with or without amendment after the public hearing(s) on or before the last day of April of the current fiscal year. If the City Council fails to adopt the capital program by such date, the current capital program will continue in effect.
(Revised 3-9-2015)

Section 5.13. Independent audit.

"Independent Audit. The City Council shall provide for an independent annual audit of all City accounts and may provide for more frequent audits as it deems necessary. The City Council may direct the character or type of audits to be performed consistent with this Charter and state law. An independent certified public accountant or firm of such accountants shall make such audits. Such audits should be performed in accordance with Generally Accepted Auditing Standards (GAAS) and Generally Accepted Governmental Auditing Standards (GAGAS). This audit should be completed within five and one-half months (5½) after the end of the fiscal year.

The Council shall, using competitive bidding, designate such accountant or firm for a period not to exceed three years, but the annual audit agreement or designation for any particular fiscal year shall be made no later than thirty (30) days after the beginning of such fiscal year."
(Revised 3-9-2015)

Section 5.14. Audit and Finance Advisory Committee.

(a) *Appointment and Compensation.* The Committee shall consist of at least five (5) members with a majority being citizen members. The Mayor may appoint himself and other Council members to serve on the Committee. The Mayor shall appoint and the Council shall approve citizen members. The chairperson of the Committee, who must be a citizen member, shall be determined by a majority vote of the citizen members. Elected officials and employees of the City of McAlester are ineligible for citizen membership. All members shall serve without compensation.

(b) *Terms, Credentials and Qualifications.* The terms, credentials and qualifications of the Committee members shall be set by ordinance.

(c) *Role and Responsibilities.* The Committee shall advise and assist the City Council in fulfilling its corporate governance and oversight responsibilities relating to the integrity of the City's financial statements and other financial reporting, the adequacy and effectiveness of the systems of internal control, and the independence and performance of the external audit function. The detailed responsibilities of the Committee shall be listed in the Audit and Finance Advisory Committee Mission Statement. These Mission Statement responsibilities may be changed from time to time by a super majority vote (simple majority plus one (1)) of the Committee and the approval of the City Council.

(d) *Meetings.* The Audit and Finance Advisory Committee shall establish its own rules.

(e) *Removal.* A member of the Audit and Finance Advisory Committee shall be removed from the Committee if the member:

(1) Lacks at any time any qualification for Committee membership prescribed by City ordinance; or

(2) Fails to attend more than one-half of all meetings of the Audit and Finance Advisory Committee, regular and special, held within any period of twelve (12) consecutive months.

(Revised 3-9-2015)

Section 5.15. Public records.

Copies of the budget, capital program, independent audits, and appropriation and revenue ordinances shall be public records and copies will be available to the public at a reasonable price set by the Council. These documents will also be available on a website or through other means of electronic distribution available to the public.
(Revised 3-9-2015)

ARTICLE 6. ELECTIONS

Section 6.01. City elections.

(a) *Conduct of City Elections.* The provisions of the State Constitution and general election laws of the State of Oklahoma shall govern such elections in this City insofar as they are applicable and are not superseded by this Charter or by ordinance. Candidates shall run for office without party designation. For the conduct of City elections, for the prevention of fraud in such elections, and for the recount of ballots in cases of doubt or fraud, the City Council shall adopt ordinances consistent with law and this Charter. Such ordinances and regulations pertaining to elections shall be publicized in the manner of City ordinances generally. If there are no candidates and no questions to be voted upon at a primary or general election, the election shall not be held.

(b) *Registered Voter Defined.* All citizens legally registered under the Constitution and laws of the State of Oklahoma to vote in the City shall be registered voters of the City within the meaning of this Charter.

(c) *Council Members: Method of Electing.* At the general election in 2006, all Council members and the Mayor were elected. Following that election, the Council members from odd-numbered wards and the Mayor shall serve for terms of two years, and Council members from even-numbered wards shall serve for terms of four years. Commencing at the next general election and at all subsequent elections, the Mayor and other Council members shall serve for terms of four years.

(d) *Mayor and Council Member Terms and Failure to Qualify.* The Mayor and other Councilmen shall serve for the terms indicated in § 6.01(c) and until their respective successors are elected and qualify. Their terms shall begin at the first regular Council meeting after their election is certified. If a Mayor-elect or other Councilman-elect fails to qualify within one month after the beginning of his term, his office shall become vacant and the vacancy shall be filled as other vacancies in the Council are filled.
(Revised 3-9-2015)

Section 6.02. General elections.

The general City election shall be held on the first Tuesday of April of even-numbered years and every two years thereafter to elect the Mayor and other Councilmen to succeed those whose terms are expiring. An elector may vote for only one candidate for an office to be filled. The candidates

for each office receiving the greater number of votes shall be elected. In case of failure to elect because of a tie, the election shall be determined from among those tying, fairly by lot, by the county election board in a public meeting. (Revised 3-9-2015)

Section 6.03. Primary elections.

(a) *Primary Elections: Filing.* Any person qualified for the office for which he is filing may have his name placed on the ballot for the primary election as a candidate for Mayor or Councilman by filing no earlier than 8:00 a.m. on the last Monday in January and no later than 5:00 p.m. on the next succeeding Wednesday, with the secretary of the county election board, his sworn statement and his candidacy, specifying the office for which he is a candidate.

(b) *Primary Elections: Time and Voting.* A primary election shall be held on the first Tuesday of March of even-numbered years and every two (2) years thereafter to nominate candidates for Mayor and other Councilmen to succeed those whose terms are expiring. If only one person is a candidate for an office to be filled, he shall be not only nominated, but also elected ipso facto, and his name shall not appear on the primary or general election ballot. Every registered voter of the City shall be entitled to vote for one candidate for Mayor, and every registered voter of a vacated ward shall be entitled to vote for one candidate for Councilman from his ward.

(c) *Primary Elections: Who Nominated or Elected.* In a primary election, the two candidates for each office to be filled receiving the greatest number of votes for that office, shall be nominated. If one of the candidates for an office receives a majority of all votes cast for all candidates for that office, he alone shall be not only nominated, but also elected ipso facto; and his name shall not appear on the ballot for the general election. In case of failure to nominate because of a tie, the nominee or nominees shall be determined from among those tying, fairly by lot, by the county election board in a public meeting. If one of the two candidates for an office nominated in a primary election dies or withdraws before the general election, the remaining candidate shall be elected ipso facto; and his name need not appear on the ballot for the general election. (Revised 3-9-2015)

Section 6.04. Council wards; adjustment of ward boundaries.

(a) *Number of Wards.* There shall be six City Council wards.

(b) *Ward Commission; Composition; Appointment; Terms; Vacancies; Compensation.*

(1) There shall be a Ward Commission consisting of seven (7) members. Each City Council person shall appoint one (1) member to the Commission. These six (6) members shall, with the affirmative vote of at least four (4), choose the seventh (7th) member who shall be chairman.

(2) No member of the Commission shall be an elected official or be employed by the City.

(3) The City Council shall appoint the Commission no later than one year and five months before the first (1st) general election of the City Council after each federal decennial census, or no later than one year and five months before the first (1st) general election in a non-census year selected by the City Council upon a three-fourths (3/4) majority vote. The Commission's term shall end upon adoption of a ward plan, as set forth in § 6.04(c).

(4) In the event of a vacancy on the Commission by death, resignation or otherwise, the City Council shall appoint a new member to serve the balance of the term remaining.

(5) No member of the Ward Commission shall be removed from office by the City Council except for cause and upon notice and hearing.

(6) The members of the Commission shall serve without compensation.

(7) The Commission may require agencies of City government to provide technical assistance. The Commission shall have a budget as provided by the City Council.

(c) *Powers and Duties of the Commission; Hearings, Submissions, and Approval of Plan.*

(1) Following each decennial census, or otherwise as provided in section 6.04(b)(3) above, the Commission shall consult the City Council and shall prepare a plan for dividing the City into wards for the election of Council members. In preparing the plan, the Commission shall be guided by the criteria set forth in § 6.04(d). The report on the plan shall include a map and description of the wards recommended.

(2) The Commission shall hold one or more public hearings not less than one month before it submits the plan to the City Council. The Commission shall make its plan available to the public for inspection and comment not less than one month before its public hearing. At that time the plan shall be available for purchase by the public at a reasonable price set by the Council. The plan shall also be posted on a website or available to the public by other electronic means.

(3) The Commission shall submit its plan to the City Council not less than one year before the first general election of the City Council after each decennial census.

(4) The plan shall be deemed adopted by the City Council unless disapproved within three (3) weeks by the vote of the majority of all members of the City Council. If the City Council fails to adopt the plan, it shall return the plan to the Commission with its objections and with the objections of individual members of the Council.

(5) Upon rejection of its plan, the Commission shall prepare a revised plan and shall submit such revised plan to the City Council no later than nine months before the first general election of the City Council after the decennial census. Such revised plan shall be deemed adopted by the City Council unless disapproved within two weeks by the vote of two-thirds of all of the members of the City Council and unless, by a vote of two-thirds of all of its members, the City Council votes to file a petition in the District Court, Pittsburg County, for a determination that the plan fails to meet the requirements of this Charter. The City Council shall file its petition no later than ten days after its disapproval of the plan. Upon a final determination upon appeal, if any, that the plan meets the requirements of this Charter, the plan shall be deemed adopted by the City Council and the Commission shall deliver the plan to the City Clerk. If the District Court finds the plan does not comply with the requirements of this Charter, the plan shall be revised by the Commission to satisfy the court's objections within ten (10) days. The plan delivered to the City Clerk shall include a map and description of the wards.

(6) If in any year population figures are not available at least one year and five months before the first general election following the decennial census, the City Council may, by ordinance, shorten the time periods provided for Ward Commission action in paragraphs (2), (3), (4) and (5) of this subsection.

(d) *Ward Plan; Criteria.* In preparation of its plan for dividing the City into wards for the election of Council members, the Commission shall apply the following criteria which, to the extent practicable, shall be applied and given priority in the order in which they are herein set forth:

(1) Wards shall be equal in population except where deviations from equality result from the application of the provisions hereinafter set forth, but no such deviation may exceed five percent (5%) of the average population of a City Council ward, calculated by dividing the total city population according to the most recent census by six (6). The calculations and population totals required herein shall exclude state, federal and private prison inmate populations, and any person serving a period of detention or confinement in any correctional facility in the City.

(2) Wards shall consist of contiguous territory unless such is physically impossible given City boundaries.

(3) Consistent with the foregoing provisions, the aggregate length of all district boundaries shall be as short as possible.

(4) Ward boundaries will be set in alleyways or closed alleyways whenever possible with the aim of placing houses across the street from each other in the same ward.

(e) *Effect of Enactment.* The new City Council wards and boundaries as of the date of enactment shall supersede previous Council wards and boundaries for all purposes of the next regular City election, including nominations. The new wards and boundaries shall supersede previous wards and boundaries for all other purposes as of the date on which all Council members elected at that regular City election take office.
(Revised 3-9-2015)

Section 6.05. Initiative, citizen referendum and recall.

(a) *General Authority for Initiative, Citizen Referendum and Recall.*

(1) *Initiative.* The registered voters of the City shall have power to propose ordinances to the Council and, if the Council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a City election, but such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of City officers or employees.

(2) *Citizen Referendum.* The registered voters of the City shall have power to require reconsideration by the Council of any adopted ordinance and, if the Council fails to repeal an ordinance so reconsidered, to approve or reject it at a City election, but such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes.

(3) *Recall.* The registered voters of the City shall have power to recall elected officials of the City, but no recall petition shall be filed against any official within six months after the official takes office, nor, in case of a member subjected to a recall election and not removed, until at least six months after the election.

(b) *Commencement of Proceeding; Petitioners' Committee; Affidavit.* Any five (5) registered voters may commence initiative, citizen referendum, or recall proceedings by filing with the City Clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance, citing the ordinance sought to be reconsidered, or stating the name and title of the officer sought to be recalled accompanied by a statement, not to exceed two hundred (200) words, of the reasons for the recall. The reason or reasons for recall shall be in conformity with or more stringent than the reasons as set out in O.S. Title 51 § 93 (1981), namely: (1) Any willful failure or neglect to diligently and faithfully perform any duty enjoined upon such officer by the laws of this state; (2) Intoxication or incapacitation in any public place within the state produced by alcohol or an illegal substance voluntarily taken; and (3) Committing any act constituting a violation of any penal statute involving moral turpitude. Such an act has been committed, in the sense of this section, when the official involved has been convicted thereof by a court of record. Grounds for recall should relate to and affect the administration of the official's office, and be of a substantial nature directly affecting the rights and interests of the public. Promptly after receipt of a recall petition, the Clerk shall serve, personally or by certified mail, a copy of the affidavit on the elected officer sought to be recalled. Within ten (10) days of service of the affidavit, the elected officer sought to be recalled may file a statement with the City Clerk, not to exceed two hundred (200) words, in response. Promptly after the affidavit of the petitioners' committee is filed, and the response, if any, of the elected official sought to be recalled is filed, the Clerk shall issue the appropriate petition blanks to the petitioners' committee.

(c) *Petitions.*

(1) *Number of Signatures.* Initiative and citizen referendum petitions must be signed by registered voters of the City equal in number to at least twenty-five percent (25%) of the total number of votes cast at the preceding general City election. Recall petitions must be signed by registered voters of the City equal in number to at least twenty-five percent (25%) of the total number of votes cast for governor in the City or ward at the last general state election at which a governor was elected.

(2) *Form and Content.* All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Initiative and citizen referendum petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered. Recall petitions shall contain the name and title of the official sought to be recalled, the statement of grounds for the recall, and the response of the official sought to be recalled, if any. If no response was filed, the petition shall so state.

(3) *Affidavit of Circulator.* Petitions may be circulated only by registered qualified electors of the City or ward concerned. The person who circulates each copy of the petition shall sign an affidavit on each page of the copy stating:

A) The number of signatures thereon;

B) That he personally circulated the paper;

C) That each signer signed the petition in his presence;

D) That he believes them to be genuine signatures of the persons whose names they purport to be;

E) That he believes each signer to be a registered qualified elector of the City or ward concerned; and

F) That each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be considered or the reason for recall and response, if any.

(4) *Time for Filing Referendum and Recall Petitions.* Referendum petitions must be filed within thirty (30) days after adoption by the Council of the ordinance sought to be reconsidered. Recall petitions must be filed within thirty (30) days of the filing of the petitioners' affidavit initiating the recall procedure.

(d) *Procedure after Filing.*

(1) *Certificate of Clerk; Amendment.* Within thirty (30) days after the petition is filed, the City Clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the Clerk within five (5) business days after receiving the copy of the insufficiency certificate and files a supplementary petition upon additional papers within ten (10) business days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of § 6.05(c), and within ten (10) business days after it is filed the Clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request Council review under paragraph (2) of this subsection within the time required, the Clerk shall promptly present his or her certificate to the Coun-

cil and the certificate shall then be a final determination as to the sufficiency of the petition.

(2) *Court Review; New Petition.* A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

(e) *Referendum Petitions; Suspension of Effect of Ordinance.* When a referendum petition is filed with the City Clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

(1) There is a final determination of insufficiency of the petition; or

(2) The petitioners' committee withdraws the petition; or

(3) The Council repeals the ordinance; or

(4) The election in which the voters fail to reject the ordinance is certified.

(f) *Action on Petitions.*

(1) *Action by Council.* When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance in the manner provided in Article 2, or reconsider the referred ordinance by voting its repeal. If the Council fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within thirty (30) days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the City. The Council shall promptly order a recall election to be held not less than forty (40) days, nor more than fifty (50) days of the date the recall petition was finally determined sufficient.

(2) *Submission to Voters of Proposed or Referred Ordinances.* The vote of the City on a proposed or referred ordinance shall be held not less than thirty (30) days and not later than one (1) year from the date of the final Council vote thereon. If no regular City election is to be held within the period prescribed in this subsection, the Council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the Council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

(3) *Withdrawal of Petitions.* An initiative, referendum, or recall petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the day scheduled for a vote of the City by filing with the City Clerk a request for withdrawal signed by at least two-thirds (⅔) of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

(g) *Results of Election.*

(1) *Initiative.* If a majority of the registered voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

(2) *Referendum.* If a majority of the registered voters voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

(3) *Recall.* The recall election shall be an election to fill the office held by the incumbent sought to be recalled. There shall be no primary. Any qualified person, including the incumbent, may file as a candidate for the office. The candidate receiving the greatest number of votes in the

recall election shall be elected. If a candidate other than the incumbent is elected, the incumbent shall be recalled from office effective as of the time when the result of the election is certified. The successful candidate must qualify within one (1) month thereafter; and if he fails to do so, the office shall be vacant, and the vacancy shall be filled in accordance with § 2.06(c). A candidate thus elected and qualifying shall serve for the unexpired term. If the incumbent is a candidate and receives the greatest number of votes, he shall continue in office without interruption. A person who has been recalled from an office, or who has resigned from such office while recall proceedings were pending against him, may not hold any office or position of employment in the City government within three (3) years after his recall or resignation.

(4) *General Election Provisions.* The provisions of this Charter relating to City elections shall also govern initiative, referendum and recall elections insofar as they are applicable and are not superseded by the provisions of this Article.

(Revised 3-9-2015)

ARTICLE 7. GENERAL PROVISIONS

Section 7.01. Conflicts of interest, board of ethics and code of conduct.

(a) *Conflicts of Interest.* The use of public office for private gain is prohibited. The City Council shall implement this prohibition by ordinance, the terms of which shall include, but not be limited to: acting in an official capacity on matters in which the official has a private financial interest clearly separate from that of the general public; the acceptance of gifts and other things of value; acting in a private capacity on matters dealt with as a public official; the unethical or illegal use of confidential information; and appearances by City officials before other City agencies on behalf of private interests. This ordinance shall include a statement of purpose and shall provide for reasonable public disclosure of finances by City officials with major decision-making authority over monetary expenditures and contractual and regulatory matters and, insofar as permissible under state law, shall provide for fines and imprisonment for violations.

(b) *Board of Ethics.* The City Council shall, by ordinance, establish an independent Board of Ethics to administer and enforce the conflict of interest and financial disclosure ordinances. No member of the Board may hold elective or appointed office under the City or any other government or hold any political party office. Insofar as possible under state law, the City Council shall authorize the Board to issue binding advisory opinions, conduct investigations on its own initiative and on referral or complaint from officials or citizens, subpoena witnesses and documents, refer cases for prosecution, impose administrative fines, and to hire independent counsel, subject to notification to the City Council. 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 of City officials and employees, including candidates for public office, regarding the Code of Ethics. All City boards and committees shall promptly report in writing any findings of unethical activity by an elected or appointed official to the Board of Ethics.

(c) *Code of Conduct.*

(1) The City Council shall create and approve a written Code of Conduct for the City of McAlester. This Code shall describe, in general terms, ethical and unethical behavior and shall give examples of specific acts or failures to act that shall be considered violations of this policy, while not precluding non-specified items. This Code shall be reviewed at least annually, amended as necessary, and re-approved by the Council.

(2) All City Council members, City officers, and employees shall be supplied with a copy of the Code of Conduct upon taking office or being employed by the City and at least annually thereafter. After each receipt of the Code, they shall certify in writing that they have read and under-

stand the Code, have adhered to the Code, and are not aware of any violation of the Code by any Council member or City employee. Any exceptions shall be noted in writing. These certifications will be maintained in the City's administrative and personnel files.

(3) City officers and employees who violate any provision of the Code of Conduct shall be subject to disciplinary action up to and including dismissal. Persons who violate the Code may also be subject to prosecution under State or Federal Law.

(d) *Nepotism.* Neither the City Manager, the Council, nor any other authority of the City government, may appoint or elect any person related to the Mayor or any other Councilman, to the City Manager, or to himself, or, in the case of a plural authority, to one of its members, by affinity or consanguinity within the third degree, to any office or position of profit in the City government; but this shall not prohibit an officer or employee already in the service of the City from continuing and being promoted therein.
(Revised 3-9-2015)

Section 7.02. Prohibitions.

(a) *Activities Prohibited.*

(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 administrative office because of race, gender, age, sexual orientation, disability, 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 this Charter or the rules and regulations made there under, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.

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

(b) *Penalties.* Any person convicted of a violation of this section shall be ineligible for a period of five (5) years following such conviction to hold any City office or position and, if an officer or employee of the City, shall immediately forfeit his or her office or position. The City Council shall establish by ordinance such further penalties as it may deem appropriate.
(Revised 3-9-2015)

Section 7.03. Political activity, coercion of City officers and employees.

(a) *Political Activities.* Municipal employees may attend and express their views at City Council meetings, or any other public meetings of municipal employees. Any municipal employee may actively participate in partisan and nonpartisan political activities, provided, the political activity in which the employee participates shall be exercised only during off-duty hours and while not in uniform. Any federal statutes restricting the political activities of certain municipal employees shall supersede the provisions of this section as to such employees.

(b) *Coercion.* It shall be unlawful for the City Council, officers, supervisors, or any employee of the City to directly or indirectly coerce or attempt to coerce any municipal employee to participate or refrain from participation in municipal political activities or public meetings.
(Revised 3-9-2015)

ARTICLE 8. CHANGES TO THE CHARTER

Section 8.01. Proposal of Charter changes.

A proposition to change this Charter may be either in the form of a proposed amendment to a part or parts of the Charter or of a proposed new Charter.

Changes to this Charter may be framed and proposed:

(a) In the manner provided by the laws and Constitution of the State of Oklahoma; or

(b) By ordinance of the Council containing the full text of the proposed amendment or new Charter and effective upon adoption; or

(c) By the voters of the City.

The Council may create a Charter Commission by ordinance to propose amendments to the Charter or propose a new Charter. The Charter Commission shall submit its proposals to the Council. If after Council and public review and editing of the proposals, a majority of the Council approves the proposed changes, the proposed Charter amendments or new Charter shall be submitted to a vote of the people.

Proposal of an amendment by the voters of the City shall be by petition containing the full text of the proposed amendment and shall be governed by the same procedures and requirements prescribed in Article 6 for initiative petitions until such time as a final determination as to the sufficiency of the petition is made, except that there shall be no limitation as to subject matter and that the petition must be signed by registered voters of the City equal in number to at least twenty-five percent (25%) of the total number of votes cast at the preceding general election. The petitioners' committee may withdraw the petition at any time before the fifteenth (15th) day immediately preceding the day scheduled for the City vote on the amendment.
(Revised 3-9-2015)

Section 8.02. Election.

The election authorities shall submit the proposed amendment or new Charter to the voters of the City at an election, which shall be announced by a notice containing the complete text of the proposed Charter amendment or the new Charter in one or more newspapers of general circulation in the City as provided by the laws of the State of Oklahoma. Copies of the proposed amendment or new Charter shall be available at a reasonable price set by the Council and the amendment or new Charter shall be posted on a website or available through other publicly accessible electronic means. The election on the proposed Charter amendment or new Charter shall be conducted according to the laws and Constitution of the State of Oklahoma.
(Revised 3-9-2015)

Section 8.03. Adoption of amendment or new Charter.

If a majority of those voting upon a proposed Charter amendment or new Charter vote in favor of it, the amendment or new Charter shall become effective at the time fixed in the amendment or new Charter or, if no time is therein fixed, thirty (30) days after its adoption by the voters and approval by the governor as provided by the State Constitution.
(Revised 3-9-2015)

ARTICLE 9. TRANSITION AND SEVERABILITY

Section 9.01. When Charter goes into effect.

This Charter shall go into effect immediately upon its ratification by a vote of a majority of the qualified electors of the City voting upon the question at an election and its approval by the governor as provided by the State Constitution; and this Charter shall supersede the heretofore existing Charter as of that time and become the organic law of the City of McAlester.
(Revised 3-9-2015)

Section 9.02. Officers and employees to continue.

When this new Charter goes into effect, the Mayor and other Councilmen under the previous Charter shall remain in office and be respectively Mayor and Councilmen of their respective wards, as the case may be, and shall continue in office until their respective terms expire. All other City officers and employees under the previous Charter including members of boards and commissions shall continue in their respective offices and positions of employment under this Charter until their respective terms expire or until their services are terminated in accordance with the pro-

visions of this Charter and ordinances relating to the creation, change and abolition of offices and removal of officers and employees, as the case may be.
(Revised 3-9-2015)

Section 9.03. Ordinances continued.

All ordinances, insofar as they are not inconsistent with this Charter, shall continue in effect until they are repealed or until they expire by their own limitations.
(Revised 3-9-2015)

Section 9.04. Pending actions and proceedings.

The adoption of this Charter shall not abate or otherwise affect any action or proceeding, civil or criminal, pending when it takes effect, brought by or against the municipality or any office, department, division, agency or officer thereof.
(Revised 3-9-2015)

Section 9.05. Severability.

(a) If a court of competent jurisdiction holds any section or part of this Charter invalid, such holding shall not affect the remainder of this Charter nor the context in which such section or part so held invalid may appear, except to the extent that an entire section or part may be inseparably connected in meaning and effect with that section or part.

(b) If a court of competent jurisdiction holds a part of this Charter invalid, or if a change in the State Constitution or Law renders a part of this Charter invalid or inapplicable, the Council, by ordinance, may take such appropriate action as will enable the City government to function properly.
(Revised 3-9-2015)

CHARTER COMPARATIVE TABLE

This table shows the location of amendments to the basic Charter.

Ordinance Number	Adoption Date	Election Date		Section this Charter
1342		4- 4-72		1-1—11-4
1473		2-10-76		2-10
1570	2-13-79	4- 3-79		6-2
1755	1-28-86	3-18-86		2-7
1758	1-28-86	3-18-86		7-2(B)
1759	1-28-86	3-18-86		7-2(C)
1760	1-28-86	3-18-86		9-8
1761	1-28-86	3-18-86		6-1(E)
1836	10-11-88	11-29-88		6-2
1837	10-11-88	11-29-88		6-3
1838	10-11-88	11-29-88		6-5
1839	10-11-88	11-29-88		6-8
1840	10-11-88	11-29-88		9-14
1841	10-11-88	11-29-88		6-1(B)
	8-15-91(Amend.)		Added	2-18
	5-11-93(Amend.)			2-2(B)
				2-8
				3-1(A)
			Added	6-1(G)
	6- 9-98(Amend.)			2-1(A), 3-1(A), 6-1(B), 6-2, 6-3, 6-5
			Dltd	8-1—8-7
			Rnbd	9-1—9-15
			as	8-1—8-15
2196	6-28-05	9-13-05		6-3
				6-5
2198	8- 9-05	10-11-05		2-4(1)
				3-1, 3-2
			Added	5-1
			Rnbd	5-1
			as	5-2
				6-1(A)
2283	7- 9-08	5-13-08		1.01—9.05
Revised	3- 9-15			1.01—9.05

PART II

CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

Sec. l-l.	How Code designated and cited.
Sec. 1.2.	Rules of construction and definitions.
Sec. 1-3.	Catch lines of sections; history notes, footnotes, etc.; references to Code.
Sec. 1-4.	Code and ordinances effective outside city on property owned or controlled by city.
Sec. 1-5.	Effect of repeal of ordinance.
Sec. 1.6.	Attempted offenses.
Sec. 1.7.	Aiding in commission of offense.
Sec. 1.8.	Penalty for violations.
Sec. 1-9.	Severability of Code.
Sec. 1-10.	Amendments or additions to Code.
Sec. 1.ll.	Supplementation of Code.
Sec. 1-12.	Certain ordinances not affected by Code.
Sec. 1-13.	Code does not affect prior offenses, rights, etc.
Sec. 1-14.	Provisions deemed continuations of existing ordinances.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

All provisions of this Code and other ordinances of the city now in effect or adopted in the future are hereby extended to all real property belonging to, or under the control of, the city outside the corporate limits of the city, and shall be in full effect therein, insofar as they are applicable. Any word in any such provision indicating that its effect is limited to the corporate limits of the city shall be deemed to mean and include also such outlying real property belonging to, or under the control of, the city, unless the context clearly indicates otherwise.
(Code 1974, §§ 1-6, 17-2)

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

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

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

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

Sec. 1-6. Attempted offenses.

Every person who attempts to violate an ordinance of the city, and in such attempt does any act toward the commission of such offense, but fails or is prevented or intercepted in the perpetration thereof, is guilty of an offense and shall be punished in the manner prescribed for the attempted offense itself.
(Code 1974, § 18-1)

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

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

When no punishment for counseling or aiding in the commission of a particular offense is expressly prescribed by ordinance, every person who counsels or aids another in the commission of such is guilty of an offense or misdemeanor and punishable in the same manner as the principal offender.
(Code 1974, § 18-2)

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

Sec. 1-8. Penalty for violations.

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

(1) Doing an act that is prohibited or made or declared unlawful, an offense or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.

(2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.

(3) Failure to perform an act if the failure is declared a misdemeanor or an offense or unlawful by ordinance or by rule or regulation authorized by ordinance.

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

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

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

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

(f) Violations of this Code that are continuous with respect to time may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent equitable relief.
(Code 1974, §§ 1-7, 1-8; Ord. No. 1872, § 1, 9-10-91; Ord. No. 2049, § 1, 4-9-96; Ord. No. 2264, § 1, 8-14-07)

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

Sec. 1-9. Severability of Code.

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

(b) If any provision of this Code or the application thereof to any person, fact, situation or circumstance is held invalid, the remainder of this Code and the application of such provision to other persons, facts, situations or circumstances shall not be affected thereby.
(Code 1974, § 1-11)

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

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

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

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

Sec. 1-11. Supplementation of Code.

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

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

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

(1) Organize the ordinance material into appropriate subdivisions.

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles.

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers.

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

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

(Code 1974, § 1-10)

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

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

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

(1) Any appropriation or budget ordinance.

(2) Any ordinance authorizing or relating to the issuance or redemption of bonds.

(3) Any ordinance approving or authorizing specific contracts.

(4) Any ordinance authorizing a specific sale, lease or purchase of property.

(5) Any ordinance levying or assessing taxes not inconsistent with this Code.

(6) Any ordinance granting rights-of-way, franchises or easements.

(7) Any ordinance annexing territory to or excluding territory from the city.

(8) Any ordinance calling specific elections or providing for special elections.

(9) Any ordinance making special assessments for local improvements.

(10) Any ordinance creating or relating to specific sewer and paving districts or other specific improvement districts.

(11) Any ordinance establishing the grades of specific streets and other public ways.

(12) Any ordinance naming or changing the names of specific streets and other public ways.

(13) Any ordinance creating, dedicating, vacating or closing specific streets, alleys or other public ways.

(14) Any ordinance relating to specific street improvements and assessments therefor.

(15) Any ordinance relating to the grade or alignment of specific streets.

(16) Any ordinance naming or renaming specific streets.

(17) Any ordinance granting railroads the right to use specific streets and alleys.

(18) Any ordinance creating or otherwise relating to limited-access facilities consisting of streets, avenues, boulevards, roads and other ways, or portions thereof.

(19) Any ordinance amending the zoning map or approving or disapproving a subdivision plat.

(20) Any ordinance rezoning property.

(21) Any ordinance dealing with the compensation, retirement, pensions or other benefits of city officers and employees.

(22) Any ordinance which is temporary although general in effect.

(23) Any ordinance which is special although permanent in effect.

(24) Any ordinance the purpose of which has been accomplished.

(Code 1974, §§ 1-4,26-1)

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

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

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

(Code 1974, § 1-5)

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

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

Chapter 2

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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 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.

*Charter reference—City council, art. 2.

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

(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 administrative 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.

(l) *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. (Nonprofit 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 acknowledgement 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 superin- tendent, 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)(l) 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 unable 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 initiat-

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 responsibilites.

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 responsiblities.

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 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

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

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 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.

*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.

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 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

*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.

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 committee"), 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)

*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.

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.

(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

*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.

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; repairs, 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

*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.

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

Chapter 6

ALCOHOLIC BEVERAGES AND NONINTOXICATING BEVERAGES*

Article I. In General

Sec. 6-1. Public drinking and intoxication.
Sec. 6-2. Permitting intoxicated persons in restaurants, places of recreation, etc.
Sees. 6-3-6-25. Reserved.

Article II. Alcoholic Beverages

Division 1. Generally

Sec. 6-26. Definitions.
Sec. 6-27. Unlawful manufacture, sale, possession, etc., generally.
Sec. 6-28. Package stores, wholesalers, etc., must comply with zoning ordinance.
Sec. 6-29. Advertising of sale.
Sec. 6-30. Sale or delivery to minors.
Sec. 6-31. Employment of minors.
Sec. 6-32. Misrepresentation of age by minors.
Sec. 6-33. Sale, delivery to intoxicated, insane or mentally deficient person.
Sec. 6-34. Permitting or allowing gatherings where minors are consuming alcoholic beverages.
Sees. 6-35-6-45. Reserved.

Division 2. Package Stores

Sec. 6-46. Permitted sales.
Sec. 6-47. Sales on credit.
Sec. 6-48. Offering prizes, gifts, other inducements.
Sec. 6-49. Location shall comply with state law.
Sec. 6-50. Premises must be separated from premises where other business conducted.
Sec. 6-51. Signs.
Sec. 6-52. Operation prohibited on certain days, during certain hours.
Sec. 6-53. Sale or delivery to package stores prohibited on certain days.
Sec. 6-54. Beverages shall not be consumed nor containers opened in store.
Sec. 6-55. Minors not permitted.
Sees. 6-56-6-65. Reserved.

Division 3. Occupation Tax

Sec. 6-66. Levied; amount.
Sec. 6-67. Separate tax for each place of business.
Sec. 6-68. Where and when payable; penalty for late payment.
Sec. 6-69. Issuance and posting of receipt.
Sec. 6-70. Records.
Sec. 6-71. Failure to pay.
Sec. 6-72. Collection by civil suit.
Sees. 6-73-6-85. Reserved.

·Cross reference-Businesses, ch. 22.
State law reference-Intoxicating liquors, 37 O.S.

Article III. Nonintoxicating Beverages

Sec. 6-86. Definitions.
Sec. 6-87. Retail dealer's license.
Sec. 6-88. Conduct of sales premises generally.
Sec. 6-89. Obstruction of windows in sales premises; illumination of sales premises.
Sec. 6-90. Sales prohibited during certain hours.
Sec. 6-91. Sale, barter or gift to person under 21 years of age.
Sec. 6-92. Employment of person under 18 years of age in place where sold or dispensed.
Sec. 6-93. Person under 21 years of age prohibited from consuming nonintoxicating beverage and from entering or remaining in bar area.
Sec. 6-94. Sale to intoxicated persons; permitting intoxicated persons on sales premises.

ARTICLE I. IN GENERAL

Sec. 6-1. Public drinking and intoxication.

(a) It is unlawful for any person who is drunk or in a state of intoxication to appear or be upon or in any street, alley, place of business or other public place in the city. It is unlawful for any person to drink any intoxicating or non-intoxicating beverage as defined by 37 O.S. § 163.1 upon any street, alley, parking lot, public facility, public recreation area, public park or other public way or place, or in any place of business in which the consumption of such beverages is not authorized by law. The City of McAlester, however, will permit the sale and consumption of intoxicating and non-intoxicating beverages inside the facility only of the McAlester Regional Exposition Building.

(b) The City of McAlester does not sell or market alcohol in any form on city-owned or operated properties.
(Code 1974, § 3-22; Ord. No. 1868 § 1(18-31), 8-13-91; Ord. No. 2129, § 1, 4-10-01; Ord. No. 2485, § 1, 12-19-13)

Cross references—Offenses against public peace and order, § 82-161 et seq.; offenses against public morals, § 82-191 et seq.; parks and recreation, ch. 86; streets, sidewalks and other public places, ch. 94.

State law references—Public drinking and intoxication, 37 O.S. § 8; public drinking of alcoholic beverages and intoxication, 37 O.S. § 537(A)(8).

Sec. 6-2. Permitting intoxicated persons in restaurants, places of recreation, etc.

No person operating a cafe, restaurant, club or any place of recreation within this city, and no employee engaged in connection with the operation of such a cafe, restaurant, club or place of recreation, shall permit any person to be drunk or intoxicated in such place of business.
(Code 1974, § 3-23)

State law reference—Similar provisions, 37 O.S., § 537(H).

Secs. 6-3—6-25. Reserved.

ARTICLE II. ALCOHOLIC BEVERAGES*

DIVISION 1. GENERALLY

Sec. 6-26. 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:

Generally. All words, phrases and terms used in this article and not defined in this section shall be interpreted and construed in conformity with the definitions of the same set forth in the Oklahoma Alcoholic Beverage Control Act (37 O.S. § 502 et seq.), with the same force and effect as if set forth in full herein, and such definitions are made a part hereof by reference.

Alcoholic beverage means beverages controlled by the state alcoholic beverage control board.

Package store means a retail alcoholic beverage store.

State licensee means any person, partnership, firm, corporation or association who holds a license issued by authority of the Oklahoma Alcoholic Beverage Control Act (37 O.S. § 502 et seq.), and any agent, servant or employee of such licensee while in the performance of any act or duty in connection with the licensed business or on the licensed premises.
(Code 1974, § 3-1)

Cross reference—Definitions generally, § 1-2.

Sec. 6-27. Unlawful manufacture, sale, possession, etc., generally.

(a) It shall be unlawful for any person to manufacture, barter, sell, give away or otherwise furnish to another any alcoholic beverage, except as permitted by law.

*Cross references—Businesses, ch. 22; transportation ofalcoholic beverages in open containers, § 102-16.

State law references—Oklahoma Alcoholic Beverage Control Act, 37 O.S. § 502 et seq.; local regulation of alcoholic beverages, 37 O.S. § 503.

(b) It shall be unlawful for any person to have in his possession or under his control any alcoholic beverage, or to transport or in any manner convey from place to place within the city any such beverage, except as permitted by law.

(c) It shall be unlawful for any person to keep or maintain, or aid or abet in keeping or maintaining, a place where alcoholic beverages are manufactured, sold, bartered, given away or otherwise furnished in violation of the ordinances of the city or the laws of the state.

(d) All places where alcoholic beverages are manufactured, sold, bartered or given away in violation of state law or the ordinances of the city are hereby declared to be public nuisances subject to abatement under the provisions of chapter 46, article II of this Code.
(Code 1974, § 3-2)

State law reference—Similar provisions, 37 O.S. §§ 505, 537(A)(5), 537(B)(1).

Sec. 6-28. Package stores, wholesalers, etc., must comply with zoning ordinance.

No package store, wholesale alcoholic beverage store, warehouse, brewery, distillery, winery or any other place however described, used or maintained for the manufacture, production, bottling or sale of alcoholic beverages of any kind shall be located, maintained or operated by any person at any place within the boundaries of the city, except at a location at which such an establishment is permitted by the zoning ordinance of the city.
(Code 1974, § 3-8)

State law reference—Zoning regulation of alcoholic beverages authorized, 37 O.S. § 518.2.

Sec. 6-29. Advertising of sale.

No person shall advertise, or cause to be advertised, in any manner, other than as authorized by law, the sale of alcoholic beverages within the limits of this city.
(Code 1974, § 3-12)

State law reference—Similar provisions, 37 O.S. § 516.

Sec. 6-30. Sale or delivery to minors.

No person shall knowingly sell, deliver or furnish alcoholic beverages, at any place within the city, to any person who is under 21 years of age.
(Code 1974, § 3-19)

State law reference—Similar provisions, 37 O.S. § 537(A)(1).

Sec. 6-31. Employment of minors.

(a) No person under the age of 21 years shall be employed in the selling, manufacture, distribution or other handling of alcoholic beverages at any place within this city, and no person shall employ or assist or aid in causing the employment of any person under the age of 21 years at any place within this city in the selling, manufacture, distribution or other handling of alcoholic beverages.

(b) Notwithstanding the provisions of subsection (a) of this section a mixed beverage, caterer, special event or bottle club licensee may employ servers who are 18 years of age or older, except in designated bar or lounge areas, and subsection (a) does not prevent persons 18 years or older from being so employed.
(Code 1974, § 3-17)

State law reference—Similar provisions, 37 O.S. § 537(B)(2).

Sec. 6-32. Misrepresentation of age by minors.

Any person under 21 years of age who shall misrepresent his age in writing or by presenting false documentation of age for the purpose of inducing any person to sell or serve him alcoholic beverages or issue him a bottle club membership card, or who enters or attempts to enter a package store or a separate or enclosed bar area as designated by the ABLE Commission, shall be guilty of a misdemeanor.
(Code 1974, § 3-20)

State law reference—Similar provisions, 37 O.S. § 538(E).

Sec. 6-33. Sale, delivery to intoxicated, insane or mentally deficient person.

No person, at any place within this city, shall sell, deliver or knowingly furnish any alcoholic

beverage to an intoxicated person or to any person who has been adjudged insane or mentally deficient.

(Code 1974, § 3-21)

State law reference-Similar provisions, 37 O.S. § 537(A)(2).

Sec. 6-34. Permitting or allowing gatherings where minors are consuming alcoholic beverages.

(a) *Definitions.* For purposes of section 6-34, the following definitions shall apply:

"Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

"Alcoholic beverage" includes alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed , or combined with other substances. This term includes intoxicating beverages and low point beer as defined herein.

"Gathering" is a party, gathering, or event, where a group of three or more persons have assembled or are assembling for a social occasion or social activity.

"Intoxicating beverage" includes beverages containing more than three and two-tenths percent alcohol by weight.

"Legal guardian" means (1) a person who, by court order, is the guardian of the person of a minor; or (2) a public or private agency with whom a minor has been placed by the court.

"Low point beer" means and includes beverages containing more than one-half of one percent alcohol by volume, and not more than three and two-tenths percent alcohol by weight, including but not limited to beer or cereal malt beverages obtained by the alcoholic fermentation of an infusion of barley or other grain, malt or similar products.

"Minor" means any person under 21 years of age.

"Parent" means a person who is a natural parent, adoptive parent, foster parent, or stepparent of another person.

"Premises" means any residence or other private property, place, or premises, including any commercial or business premises.

"Response costs" are the costs associated with responses by law enforcement, fire, and other emergency response providers to a gathering, including but not limited to: (1) salaries and benefits of law enforcement, code enforcement, fire, or other emergency response personnel for the amount of time spent responding to, remaining at, or otherwise dealing with a gathering, and the administrative costs attributable to such responsets); (2) the cost of any medical treatment for any law enforcement, code enforcement, fire, or other emergency response personnel injured responding to, remaining at, or leaving the scene of a gathering; (3) the cost of repairing any city equipment or property damaged, and the cost of the use of any such equipment, in responding to, remaining at, or leaving the scene of a gathering; and (4) any other allowable costs related to the enforcement of this section.

(b) *Consumption of alcohol by minor in public place, place open to public, or place not open to public.* Except as permitted by state law, it is unlawful for any minor to:

(1) Consume at any public place or any place open to the public alcoholic beverage; or

(2) Consume at any place not open to the public any alcoholic beverage, unless in connection with the consumption of the alcoholic beverage that minor is being supervised by his or her parent or legal guardian.

(c) *Hosting, permitting, or allowing a party, gathering, or event where minors consuming alcoholic beverages prohibited.*

(1) a. It is the duty of any person having control of any premises, who knowingly hosts, permits, or allows a gathering at said premises to take all reasonable steps to prevent the consumption of alcoholic beverages by

any minor at the gathering. Reasonable steps are controlling access to alcoholic beverages at the gathering; controlling the quantity of alcoholic beverages present at the gathering; verifying the age of persons attending the gathering by inspecting drivers' licenses or other government-issued identification cards to ensure that minors do not consume alcoholic beverages while at the gathering; and supervising the activities of minors at the gathering.

b. It is unlawful for any person having control of any premises to knowingly host, permit, or allow a gathering to take place at said premises where at least one minor consumes an alcoholic beverage, whenever the person having control of the premises either knows a minor has consumed an alcoholic beverage or reasonably should have known that a minor consumed an alcoholic beverage had the person taken all reasonable steps to prevent the consumption of an alcoholic beverage by a minor as set forth in subsection (I)a. of this section.

(2) This section shall not apply to conduct involving the use of alcoholic beverages that occurs exclusively between a minor and his or her parent or legal guardian.

(3) Nothing in this section should be interpreted to prohibit any family activity held in the confines of the family home from providing the use of alcohol to immediate family members within the supervision of parents and guardians. However, if a minor leaves such a family gathering intoxicated and is found in public then said providers of alcohol will be held responsible in the same manner as a non-family gathering.

(4) Nothing in this section should be interpreted to prohibit any religious practice which includes the use of alcohol. However, if a minor leaves such a religious gathering intoxicated and is found to be in public then said providers of alcohol will be held responsible in the same manner as a non-religious gathering.

(5) This section shall not apply to any premises licensed by the State of Oklahoma to dispense alcoholic beverages.

(6) Penalty. Any person who shall violate the provisions of this section shall be deemed guilty of an offense against the city and upon conviction thereof shall be punished for violation with a fine of $500.00.

(7) Reservation of legal options violations of this section may be prosecuted by the City of McAlester criminally and/or civilly, provided by the Municipal Code. The city may seek administrative fees and response costs associated with enforcement of this section through all remedies or procedures provided by statute, ordinance, or law. This section shall not limit the authority of peace officers or private citizens to make arrests for any criminal offense arising out of conduct regulated by this section, nor shall they limit the city's ability to initiate and prosecute any criminal offense arising out of the same circumstances necessitating the application of this section.

(8) Local authority. This section shall not apply where prohibited or preempted by state or federal law.

(Ord. No. 2256, § 1,6-12-07)

Secs. 6-35-6-45. Reserved.

DIVISION 2. PACKAGE STORES

Sec. 6-46. Permitted sales.

No person shall sell or deliver alcoholic beverages at a package store other than:

(1) In retail containers;

(2) At ordinary room temperature;

(3) In the original package; and

(4) For consumption off the premises.

(Code 1974, § 3-10)

State law reference-Similar provisions, 37 O.S. § 534.

Sec. 6-47. Sales on credit.

(a) No package store licensee shall sell any alcoholic beverage on credit; provided that acceptance by a retail liquor store of a cash or debit card, or a nationally recognized credit card, in lieu of actual cash payment does not constitute the extension of credit.

(b) As used in this section:

(1) Cash or debit card means any instrument or device whether known as a debit card or by any other name, issued with or without fee by an issuer for the use of the cardholder in depositing, obtaining or transferring funds from a consumer banking electronic facility.

(2) Nationally recognized credit card means any instrument or device, whether known as a credit card, credit plate, charge plate or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit which is accepted by over 100 merchants.

(Code 1974, § 3-6)

State law reference-Similar provisions, 37 O.S. § 537(C)(5).

Sec. 6-48. Offering prizes, gifts, other inducements.

No package store licensee shall offer or furnish any prize, premium, gift or similar inducement to a consumer in connection with the sale of alcoholic beverages, except that goods or merchandise included by the manufacturer in packaging with alcoholic beverages shall not be included in this prohibition, but no wholesaler or package store shall sell any alcoholic beverage prepackaged with other goods or merchandise at a price which is greater than the price at which the alcoholic beverage alone is sold.

(Code 1974, § 3-7)

State law reference-Similar provisions, 37 O.S. § 537(C)(6).

Sec. 6-49. Location shall comply with state law.

No person shall own, operate, maintain or be interested in any package store which is located at a place within this city which is forbidden as a location for such store by the laws of the state.

(Code 1974, § 3-9)

Sec. 6-50. Premises must be separated from premises where other business conducted.

(a) No person shall maintain or operate, or assist in any manner in the maintenance or operation of a package store on premises which are not separated from adjoining premises, in which any other goods, wares or merchandise are sold or services are rendered, by nontransparent walls, broken only, if at all, by a passageway to which the public is not admitted.

(b) No person shall take any alcoholic beverage through any passageway described in subsection (a) for the purpose of selling or reselling such beverage, or for the purpose of delivery thereof in connection with a sale of such beverage.

(Code 1974, § 3-11)

State law reference-Similar provisions, 37 O.S. § 534.

Sec. 6-51. Signs.

No person owning, operating or maintaining a package store shall cause or permit such store to be designated by more than one sign, which shall contain only the words "Retail Alcoholic Liquor Store," or any combination of such words or any of them, and which shall contain no letter or figure more than four inches in height or more than three inches in width, and in which the lines of words,

if more than one, shall not be more than one inch apart.
(Code 1974, § 3-13)
State law reference-Similar provisions, 37 O.S. § 516.

Sec. 6-52. Operation prohibited on certain days, during certain hours.

No person shall open for business or keep open for business, or sell or deliver alcoholic beverages to any person at a package store in this city on any Sunday, New Year's Day, Memorial Day, the Fourth of July, Labor Day, Veterans Day, Thanksgiving Day or Christmas Day, or while the polls are open, on the day of any general, primary, runoff primary or special election, whether national, state, county or city, or on any other day except between the hours of 10:00 a.m. and 9:00 p.m.
(Code 1974, § 3-14)
State law reference-Similar provisions, 37 O.S. § 537(C)(3).

Sec. 6-53. Sale or delivery to package stores prohibited on certain days.

No wholesale dealer in alcoholic bevera,ges, and no officer, agent or employee of such a dealer, shall sell or deliver to any package store in this city any amount of spirits or wines on Saturday or Sunday of any week, on New Year's Day, Memorial Day, the Fourth of July, Labor Day, Veterans Day, Thanksgiving Day or Christmas Day.
(Code 1974, § 3-15)
State law reference-Similar provisions, 37 O.S. § 537(D).

Sec. 6-54. Beverages shall not be consumed nor containers opened in store.

(a) No person owning, employed in or in any manner assisting in the maintenance and operation of a package store shall suffer or permit any alcoholic beverage to be consumed, or any retail container of such beverage to be opened, on the premises of such store.

(b) No person shall drink or consume in any manner alcoholic beverages on the premises of a package store, nor shall any person open or break the seal of any original package or retail container containing alcoholic beverages on the premises of any such store.
(Code 1974, § 3-16)
State law reference-Similar provisions, 37 0.8. §§ 537(A)(3), 537(C)(2).

Sec. 6-55. Minors not permitted.

(a) No owner or proprietor of a package store in this city, and no person employed therein, shall permit any person under 21 years of age to enter into, to remain within or to loiter about the premises of such store.

(b) No person under the age of 21 years shall enter into, remain within or loiter about the premises of any package store within the city.
(Code 1974, § 3-18)
State law reference-Similar provisions, 37 O.S. § 531(C)(7).

Secs. 6-56-6-65. Reserved.

DIVISION 3. OCCUPATION TAX

Sec. 6-66. Levied; amount.

(a) There is hereby levied an annual tax upon the following occupations in the sums respectively set opposite the name of each occupation:

(1)	Brewer.	$1,250.00
(2)	Distiller.	3,125.00
(3)	Winemaker.	626.00
(4)	Oklahoma winemaker.	75.00
(5)	Rectifier.	3,125.00
(6)	VVholesaler	3,500.00
(7)	Class B wholesaler	625.00
(8)	Package store.	600.00
(9)	Mixed beverage:	
	a. Initial.	1,000.00
	b. Renewal.	900.00
(10)	Caterer:	
	a. Initial.	1,000.00
	b. Renewal.	900.00
(11)	Employee, each.	15.00

(12)	Carrier, each	23.00
(13)	Private carrier.	23.00
(14)	Special events per day.	50.00
(15)	Industrial	23.00
(16)	Nonresident seller	750.00

The occupational tax for those service organizations which are exempt under section 501(c)(19) of the Internal Revenue Code for mixed beverages or bottle club licenses shall be $500.00 per year.

(b) The above occupational taxes for brewer and a class B wholesaler shall be reduced by 75 percent if the licensee is also the holder of a state license to manufacture or wholesale, as the case may be, any nonintoxicating malt beverages as provided in 37 O.S., as amended.

(c) If any of the occupational taxes levied in this section shall exceed the amount permitted by any applicable state law, they shall be and are hereby reduced to the extent necessary to conform to such applicable state law.
(Code 1974, § 3-35)

§§ State law reference-Authority to levy above tax, 37 O.S. 518, 554.1.

Sec. 6-67. Separate tax for each place of business.

Any state licensee carrying on an occupation taxed by this division in more than one location in the corporate limits of this city shall be subject to the tax for each such location.
(Code 1974, § 3-36)

Sec. 6-68. Where and when payable; penalty for late payment.

(a) Any state licensee originally entering upon any occupation taxed by this division shall pay the tax at the office of the finance director on or before the date upon which he enters into such occupation. The tax is annual and such licensee shall pay the tax on or before the date of issuance.

(b) If the occupation tax due from any person under the provisions of this division remains due and unpaid for a period of 30 days, there shall be imposed upon the licensee a penalty of $50.00, in addition to such tax.
(Code 1974, § 3-37)

Sec. 6-69. Issuance and posting of receipt.

Upon payment of the tax levied by this division, the city treasurer shall issue a receipt therefor to the state licensee. The state licensee shall post his tax receipt in a conspicuous place in the premises wherein he carries on his occupation.
(Code 1974, § 3-38)

Sec. 6-70. Records.

The city treasurer shall record the name of each person paying the tax levied by this division and the address where he engages in his occupation. Such record shall be duly filed and kept in the permanent files of the city for at least five years. Thereafter, upon resolution by the city council, it may be destroyed.
(Code 1974, § 3-39)

Sec. 6-71. Failure to pay.

Any person who engages in any occupation taxed by this division without paying the occupation tax imposed therefor is guilty of an offense against the city. Each day that such person shall engage in the occupation without payment of the tax shall constitute a separate offense.
(Code 1974, § 3-40)

Sec. 6-72. Collection by civil suit.

All sums due from any person by reason of occupation taxes imposed by this division and all penalties accruing from such person by reason of failure to pay such tax shall be recoverable at the suit of the city, brought against such person in any court of competent jurisdiction. In any such suit, in addition to the tax and penalties, the plaintiff shall recover interest, at the rate of ten percent per annum, upon all sums due by way of the tax and penalty from the date of accrual thereof, and all costs of collection, judicial or otherwise, including reasonable attorney's fee (which shall be paid to the attorney representing the plaintiff in said suit) all to be determined by the court. Prosecution for an offense against the city arising out of the failure to pay a tax levied by this divi-

sion, regardless of the outcome thereof or of its continued pendency, shall not constitute a defense or a bar in any manner to the collection of the tax and penalties, if any are due, as provided for in this section.
(Code 1974, § 3-41)

Secs. 6-73-6-85. Reserved.

ARTICLE III. NONINTOXICATING BEVERAGES*

Sec. 6-86. 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:

Nonintoxicating beverages means all beverages containing more than one-half of one percent of alcohol by volume, and not more than 3.2 percent of alcohol by weight.
(Code 1974, § 3-53)

Cross reference-Definitions generally, § 1-2.
State law reference-Similar provisions, 37 O.S. § 163.2.

Sec. 6-87. Retail dealer's license.

(a) It shall be unlawful for any person to sell nonintoxicating beverages at retail within the city without fIrst obtaining a license from the city treasurer.

(b) Upon fIling a written application with the city treasurer, the treasurer shall issue a nonintoxicating beverage retail dealer's license upon the payment of $20.00 for an annual license for selling such beverages for consumption on or off the premises and $10.00 for an annual license for selling such beverages in the original packages and not for consumption on the premises. Such license shall expire on the April 30 next after the same is issued.

(c) Upon the conviction of any dealer licensed under the provisions of this section for the possession or sale of any intoxicating liquors, wines or beers or for violating any provision of section 6-89, the city council may cancel the dealer's license and revoke the same.
(Code 1974, § 3-54)

State law reference-Authority of city to impose above license fee, 37 O.S. § 163.10.

Sec. 6-88. Conduct of sales premises generally.

It shall be unlawful for the owner, manager or operator of a place where nonintoxicating beverages are sold to permit therein gambling, betting, operation of a lottery, sale, furnishing or drinking of intoxicating liquor, disorderly conduct, loud or disturbing language, noise or music, profane language, or any other violation of the laws of the state or of the ordinances of the city. It shall be unlawful for the owner, manager or operator of such a place to permit therein fIghting, boxing, wrestling or other contests of physical strength.
(Code 1974, § 3-55)

Sec. 6-89. Obstruction of windows in sales premises; illumination of sales premises.

No retail dealer licensed under this article shall sell nonintoxicating beverages for consumption on the premises, unless all street or ground floor windows and openings are kept free from blinds, screens, partitions, counters, showcases and other obstructions in the area of such windows and openings between 48 inches and 72 inches above the level of the sidewalk, and no obstruction of such windows or openings shall be permitted which will obstruct the view through such windows and openings from the street to the rear of the building in which such business is carried on, except that one skeleton-type neon sign in each such window or opening may be permitted. There shall be maintained at all times during business hours in all portions of such building frequented by patrons, customers and the public at least three footcandIes of light of illumination.
(Code 1974, § 3-56)

Sec. 6-90. Sales prohibited during certain hours.

It shall be unlawful for the owner, manager or operator of a place licensed to sell nonintoxicating beverages to sell such beverages for consumption

*State law reference-Nonintoxicating beverages. 37 O.S. § 163.1 et seq.

on the premises between the hours of 2:00 a.m. and 7:00 a.m. Such sales are unlawful between 2:00 a.m. and 12:00 noon on Sunday.
(Code 1974, § 3-57)

State law reference-Similar provisions, 37 O.S. § 215.

Sec. 6-91. Sale, barter or gift to person under 21 years of age.

(a) It shall be unlawful for any person to sell, barter or give to any person under 21 years of age any nonintoxicating beverage.

(b) It shall be unlawful for any person who holds a license to sell and dispense nonintoxicating beverages for consumption on the premises, or any agent, servant or employee of the license holder to permit any person under 21 years of age to be admitted to or remain in a separate or enclosed bar area of the licensed premises unless the person's parent or legal guardian is present, which has as its main purpose the selling or serving of nonintoxicating beverages for consumption on the premises. The provisions of this section shall not prohibit persons under 21 years of age from being admitted to an area which has as its main purpose some objective other than the sale or serving of nonintoxicating beverages, in which sales or serving of the beverages are incidental to the main purpose, as long as persons under 21 years of age are not sold or served such beverages; however, the incidental service of food in the bar area shall not exempt a licensee, agent, servant or employee from the provisions of this section.

(c) It shall be unlawful for any person who holds a license to sell and dispense nonintoxicating beverages for consumption on the premises, or any agent, servant or employee of the license holder to permit any person under 21 years of age to consume any nonintoxicating beverage on the licensed premises.
(Code 1974, § 3-58)

State law reference-Similar provisions, 37 O.S. § 241.

Sec. 6-92. Employment of person under 18 years of age in place where sold or dispensed.

(a) It shall be unlawful for any person under 18 years of age to be employed or permitted to work, in any capacity whatsoever, in a place where beverages containing more than one-half of one percent of alcohol measured by volume and not more than 3.2 percent of alcohol measured by weight are sold or dispensed for consumption on the premises.

(b) It shall be unlawful for any person under the age of majority to be employed or permitted to work, in any capacity whatsoever, in the separate or enclosed bar area of a place where the main purpose of the area is the sale or consumption of beverages containing more than one-half of one percent of alcohol measured by volume and not more than 3.2 percent of alcohol measured by weight. The provisions of this subsection shall not apply to any area which has as its main purpose some objective other than the sale or serving of nonintoxicating beverages, in which sales or serving of said beverages are incidental to the main purpose; however, the incidental service of food in the bar area shall not exempt a holder of a license to sell nonintoxicating beverages for consumption on the premises from the provisions of this subsection.

(c) A parent as regards the employment of his own child or children is excepted from the provisions of this section, provided that such employment shall in no capacity whatsoever be related to the selling or dispensing of such beverages.

(d) The provisions of subsection (a) of this section shall not apply to any business or establishment where sales of such beverages do not exceed 25 percent of the gross sales of the business or establishment.
(Code 1974, § 3-59)

State law reference-Similar provisions, 37 O.S. § 243.

Sec. 6-93. Person under 21 years of age prohibited from consuming nonintoxicating beverage and from entering or remaining in bar area.

(a) No person under 21 years of age shall consume alcoholic or nonintoxicating beverages. It shall be unlawful for any person under 21 years of age to consume or attempt to consume alcoholic or nonintoxicating beverages except under supervision of law enforcement officers, excluding primary residence with parents' or legal guardian's consent.

(b) If the premises of a holder of a license to sell nonintoxicating beverages contains a separate or enclosed bar area which has as its main purpose the sale or serving of nonintoxicating beverages for consumption on the premises, no person under 21 years of age shall enter, attempt to enter, or remain in the area. The provisions of this subsection shall not prohibit persons under 21 years of age from entering or remaining in an area which has as its main purpose some objective other than the sale or serving of nonintoxicating beverages, in which sales or serving of such beverages are incidental to the main purpose, if the persons under 21 years of age are not sold or served or do not consume nonintoxicating beverages anywhere on the premises; however, the incidental service of food in the bar area shall not exempt persons under 21 years of age from the provisions of this subsection.
(Code 1974, § 3-60; Ord. No. 2067, § 1, 5-27-97; Ord. No. 2131, § 1, 5-7-01)

State law reference-Similar provisions, 37 O.S. § 246.

Sec. 6-94. Sale to intoxicated persons; permitting intoxicated persons on sales premises.

It shall be unlawful for the owner, manager or operator of a place where nonintoxicating beverages are sold to sell or otherwise furnish such beverage to an intoxicated person or to permit an intoxicated person to remain or loiter therein.
(Code 1974, § 3-61)

Chapters 7-9

RESERVED

Chapter 10

ANIMALS*

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Article II. Administration and Enforcement

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***Editor's note**—Ord. No. 2287, § 1, adopted April 22, 2008, amended ch. 10 in its entirety and enacted similar provisions as set out herein. The former ch. 10 derived from Code 1954, §§ 5-1, 5-3—5-13, and 5-15—5-28; Ord. No. 1992, § 1, adopted Sept. 8, 1992; Ord. No. 2191, § 1, adopted April 12, 2005; and Ord. No. 2248, § 1, adopted Nov. 14, 2006.

Cross references—Nuisances, § 46-26 et seq.; health and sanitation, ch. 54.

State law references—Animals generally, 4 O.S.; authority to regulate animals, 1 O.S. § 22-115; injuries to animals, 21 O.S. § 1680 et seq.

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Sec. 10-72. Identification of dogs and cats.
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Sec. 10-75. Adequate shelter and space for animals; time restriction on tethering dogs.
Sec. 10-76 Dogs and cats riding in motor vehicles.
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Article IV. Rabies Control

Sec. 10-101. Rabies vaccination.
Sec. 10-102. Proclamation of rabies.

ARTICLE I. IN GENERAL

Sec. 10-1. Definitions.

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

Altered or *sterilized* means the surgical removal of the reproductive organs of an animal or the use of nonsurgical methods and technologies approved by the United States Food and Drug Administration or the United States Department of Agriculture to permanently render the animal unable to reproduce.

Animal means every nonhuman species of animal, both domestic and wild.

Animal at large means not securely confined by a fence or other means on the premises under the control of or occupied by the owner, and not under the control ofthe owner or the agent of the owner who is capable of maintaining positive control over the animal by the use of a leash or otherwise, whether on the owner's premises or not.

Animal control officer means any person designated by the city who is qualified and trained to perform such duties as required by this chapter and/or state law.

Animal shelter means any facility operated by a humane society, county or municipal agency or its authorized agents, for the purpose of impounding animals under the authority of this chapter or state law for care, confinement, return to owner, adoption or euthanasia.

Auction means any place or facility where animals are regularly bought, sold, or traded, except for those facilities otherwise defined in this chapter. This definition does not apply to individual sales of animals by owners.

Bite means puncturing or tearing ofthe skin by an animal's teeth.

Cat means any live or dead felis catus.

Circus means a commercial variety show featuring animal acts for public entertainment.

Commercial animal establishment means any pet shop, grooming shop, guard dog or obedience training center, animal auction, riding school or stable, zoological park, circus, performing animal exhibition, or boarding or breeding kennel.

Currently vaccinated means vaccinated and satisfying the following criteria:

(1) The animal must have been at least three months of age at the time of vaccination;

(2) At least 30 days have elapsed since the initial vaccination;

(3) Vaccination is valid in accordance with the Oklahoma Department of Health guidelines and the licensed veterinarian that administered the vaccination.

Dog means any live or dead canis familiaris.

Domestic animal means tame, domesticated, of or pertaining to the family or household.

Exposure means any possible exposure to rabies through a break in the integrity of the skin caused by a bite or scratch, or through saliva or central nervous system tissue contact with a fresh open wound or mucous membrane.

Fowl means a bird of any kind; domestic cock or hen (gallus gallus).

Grooming shop means a commercial establishment where animals are bathed, clipped, plucked or otherwise groomed.

Guard dog means any professionally trained dog that will detect and warn its handler that an intruder is present in or near an area that is being secured.

Kennel or *cattery* means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs or cats; and/or a facility for keeping more than four animals of the same species.

Large animals means horses, mules, donkeys, cattle, goats, sheep or any other animal of similar size or stature.

Licensed veterinarian means a veterinarian licensed to practice veterinary medicine in the state.

Livestock means domestic animals used or raised on a farm, especially those kept for a profit; specifically, horses, ponies, mules, donkeys, cattle, goats, rabbits, sheep and swine, regardless of age, sex or breed.

Observation period means the ten days following a bite incident during which the biting animal's health status must be monitored. The ten-day observation period will begin on the day of the bite incident (day one).

Owner means any person, partnership, or corporation owning, keeping, or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more, or if it returns to a residence or business on three separate days.

Performing animal exhibition means any spectacle, display, act, or event, other than circuses, in which performing animals are used. This shall include animal amusement vendors such as, but not limited to, pony-go-round rides, commercial horseback pictures, etc.

Pet or *companion animal* means any animal kept for pleasure rather than utility; an animal of a species that has been bred and raised to live in or about the habitation of humans and is dependent on people for food and shelter.

Pet shop means any person, partnership, or corporation, whether operated separately or in connection with another business enterprise (except for a licensed kennel), that buys, sells, or boards any species of animal.

Possible exposure to rabies means the receipt of a bite or scratch from any warm-blooded animal, animal to human or animal to animal, is reason to suspect exposure to rabies.

Potentially vicious animal means any animal [that], when unprovoked, acts as if it intends to bite a human, dog, or cat or animal or livestock whether on public or private property or chases or approaches a human upon a public way in a threatening fashion as ifto inflict injury or serious harm or demonstrates aggressive behavior which requires a human to take defensive or evasive action to avoid physical contact with the animal.

Provocation means any purposeful act that causes an animal to bite, scratch, or attack in protection of self, owner, or owner's premises. Entrance, in any manner, into an area where an animal is properly under restraint in compliance with city ordinances would be considered provocation, irrespective of the reason for such entrance.

Public nuisance means any animal or animals that unreasonably annoy humans, endanger the life or health of other animals or persons, or substantially interfere with the rights of citizens, other than their owners, to enjoyment of life or property. The term "publicnuisance animal" means and includes, but is not limited to, any animal that:

(1) Is repeatedly at large or stray;

(2) Damages the property of anyone other than its owner;

(3) Molests or intimidates pedestrians or passersby;

(4) Trespasses on school grounds;

(5) Chases vehicles;

(6) Excessively makes disturbing noises, ineluding, but not limited to, continued and repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;

(7) Causes fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;

(8) Causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;

(9) Is offensive or dangerous to the public health, safety, or welfare by virtue of the number and/or types of animals maintained; or

(10) Attacks other domestic animals.

Quarantine means strict confinement for the purpose of preventing the spread of disease, under restraint by closed cage, isolation, kennel, rabies chamber, paddock, or in any other manner approved by the local health authority on the private premises of the owner or at a facility approved by the state department of health.

Quarantine period means that portion of the observation period during which a biting animal is physically confined for observation.

Rabies means an acute viral disease of man and animal affecting the central nervous system and usually transmitted by an animal bite.

Releasing agency means a public or private animal pound, shelter, or humane organization. The term does not include an individual who occasionally renders humane assistance or shelter in the individual's home to a dog or cat.

Restraint means that an animal is secured by a leash or lead and under the control of a responsible person and obedient to that person's commands. At all other times, a dog or other such animal shall be confined to the realty or premises of the owner of such dog or other animal by a substantial fence of sufficient strength and height to prevent such dog or other animal from escaping therefrom; or inside a house on such premises; or secured on such premises by a leash consisting of a material of sufficient strength to prevent such dog or other animal from escaping from such premises. It shall be unlawful for the leash to be arranged in a manner that allows the dog or other animal to get on or across or within eight feet of any street, park, or other public land or within eight feet of any sidewalk, public way, place or building when such leash is stretched to its full length. Any animal so arranged shall be considered dangerous to the public in general and declared a nuisance and shall be impounded. Dogs need not be on a leash if the dog is under the constant visual and verbal control of the owner and on the owner's private property. Although cats shall be exempt from the leash requirement while on the premises of the owner, any cat straying on the property of anyone except its owner shall be deemed a public nuisance animal and will be subject to impoundment.

Riding school or *stable* means any place that has available for hire, boarding, and/or riding instruction any horse, pony, donkey, mule, or burro; or any place that regularly buys, sells, or trains the above animals, including a racetrack, trotting track, or rodeo.

School zone means a reduced-speed zone designated on a street by a local authority to facilitate safe crossing of the street by children going to or leaving a public or private elementary or secondary school during the time the reduced speed limit applies.

Scratch means a scrape left by the claws or nails of an animal and of sufficient severity to break the skin and draw blood.

Sick animal means any animal that appears to be suffering from an infectious, contagious, or communicable disease; or that is showing evidence of a physical injury, physical disorder, or traumatic injury; or that has an elevated temperature.

Small animals means rabbits, hares, guinea pigs, dogs, cats, chinchillas, chickens, turkeys, guineas, geese, ducks, hamsters, pigeons (except homing pigeons) or any other animal of similar size or stature.

Stray means animal running free or at large, with no physical or verbal restraint.

Unowned animal means any animal for which an owner has not been identified.

Vaccinated means properly injected with a rabies vaccine licensed for use in the subject species by the United States Department of Agriculture and administered by or under the direct supervision of a licensed veterinarian.

Veterinary hospital means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and treatment of diseases and injuries of animals.

Vicious animal means any animal that attacks, bites, or injures human beings or domesticated animals without adequate provocation, or which, because of temperament, conditioning, or training, has a known propensity to attack, bite, or injure human beings or domesticated animals; or

an individual animal that is believed to have a dangerous disposition and is likely to be harmful to humans or other animals.

Wild animal means any animal except the common domestic species (including, but not limited to, dogs, cats, horses, cattle, swine, sheep, and goats), regardless of the state or duration of captivity.

Wild state means living in its original, natural condition; not domesticated.

Wildlife means any animal that occurs naturally in the wild state.
(Ord. No. 2287, § 1, 4-22-08)

Sec. 10-2. Permit to keep animals other than dogs or cats.

(a) It shall be unlawful for any person to keep, own, maintain, use or have in his possession any animal within the corporate limits of the city unless he has a permit to do so issued in accord with this section.

(b) Application for a permit under this section shall be filed with the city treasurer on forms provided for that purpose. There shall be two classifications of such permits as follows:

(1) A permit for the keeping of small animals, other than dogs and cats, the fee for which shall be $2.00 per year. All such permits shall expire one year from date of purchase. The requirement of this section does not apply to pet shops as defined.

(2) A permit for the keeping of large animals, the fee for which shall be $10.00 per year per large animal. All such permits shall expire one year from the date of purchase.

(c) An application filed under this section shall be referred to the health officer, who shall inspect the premises where the animals are to be kept. The permit shall not be issued unless the application is approved by the health officer. The health officer shall approve such application only after determining that the applicant for such permit complies with the requirements for the keeping of animals, as set forth in this chapter. The health officer shall designate in the permit the number and kind of animals that may be kept on the premises.

(d) The failure of any keeper of any animal to comply with the provisions of this chapter or the sanitation standards and requirements established by the health officer shall be cause for the health officer to refuse to grant a permit for the keeping of such animal, or if the permit shall have been previously granted to such keeper, shall be cause for the revocation of the same.

(e) It shall be unlawful to keep skunks or any other animal that does not respond to rabies vaccine as a pet or part of a commercial enterprise. It shall be unlawful to maintain a fighting animal or train animals for fighting. It shall be unlawful to maintain a vicious animal.
(Ord. No. 2287, § 1, 4-22-08)

Sec. 10-3. Keeping swine prohibited; exception.

(a) No permit shall be issued for the keeping of swine, and it shall be unlawful for any person to keep swine within the city limits; except for the purposes and at the following locations:

- Exhibition of a temporary duration at stock shows, fairs and circuses;
- For educational programs at McAlester Public High School with properly constructed facilities that have obtained a permit for up to a maximum of two swine pursuant to the guidelines set forth in section 10-2 of this article that shall terminate when the educational program is completed.

(b) Any place used for the keeping of swine, except for the purposes and at the locations exempted in subsection (a) above shall constitute a public nuisance subject to abatement under the provisions of chapter 46 of the Code of Ordinances.
(Ord. No. 2287, § 1, 4-22-08; Ord. No. 2516, § 1, 9-23-14)

Sec. 10-4. Animal nuisance generally.

(a) No owner shall fail to exercise proper care and control of his animals to prevent them from becoming a public nuisance as defined in section 10-1.

(b) Any person owning or having in his possession or under his control any animal constituting a nuisance shall be summoned before the municipal court of the city to show cause why such animal should not be confined, disposed of or removed or the nuisance otherwise abated and, upon proof that the animal constitutes a public nuisance, the animal in question shall, by order of the municipal court the city, either be confined, removed from the city, or the nuisance activity otherwise abated as such court shall order. It shall be unlawful and shall constitute contempt of court for any person to harbor or conceal any

animal which has been ordered disposed of or removed by the municipal court, or to fail to confine or restrain an animal when such an order has been entered by the court.

(c) Any person who owns any dog, cat or other animal that has been adjudged a nuisance pursuant to this section by the municipal court and who appeals that decision to the district court shall be responsible for the fees connected with the impounding of the animal by the city. If on appeal the district court determines that the dog, cat or other animal is not a nuisance, no such fees for the impounding of the animal shall be imposed.
(Ord. No. 2287, § 1,4-22-08)

Sec. 10-5. Nuisance-Noise.

(a) It shall be unlawful for any person to keep a dog without exercising proper care and control of such dog to prevent it from disturbing the peace of others by barking in a loud, continuous or untimely manner. Any person, whether as owner, tenant, occupant, lessee or otherwise, in charge or control of the property where such dog is kept, or the owner of such dog, shall be responsible for exercising control of such dog under this section.

(b) It shall be the duty of any animal control officer or police officer, who may find any dog disturbing the peace of others by barking in a loud, continuous or untimely manner, to advise the owner of such dog, or the person in charge or control of the property where such dog is kept, to exercise proper control and care of such dog to prevent it from barking in such manner. If such owner or person refuses to cooperate with the police officer or animal control officer, or is unable to prevent such dog from barking in such manner, or if the animal control officer or police officer is unable to locate any person on the property where such dog is kept, it shall be the duty of the animal control officer or police officer to take such dog into possession. The impoundment provisions of this chapter shall be applicable to and followed by the animal control officer, or police officer upon taking any dog into possession under this section.

(c) It shall be unlawful for any person to keep or permit on his or her premises or in any public place any animal or fowl that creates a public nuisance or that makes objectionable noise and thus disturbs public peace and rest.

(d) The animal control officer or police officer may issue a summons to any person he finds in violation of this section.
(Ord. No. 2287, § 1,4-22-08)

Sec. 10-6. Abandoning or dumping domestic animals in public place or on property of another.

It shall be unlawful for any person to abandon, dump or otherwise dispose of a dog, cat or other domesticated animal on public property, including a public highway, right-of-way, property adjacent to such highway or right-of-way, or on private property without the written consent of the owner thereof or his agent. When a violation of this section has been observed by any person, and the animal illegally abandoned, dumped or disposed of has been ejected or removed from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person abandoning, ejecting or disposing of the animal. Such presumption shall be rebuttable by competent evidence. If found guilty of the offense described in this section, punishment shall be imposed by a fine of not less than $250.00 and not more than $500.00.
(Ord. No. 2287, § 1, 4-22-08)

Sec. 10-7. Using animals as prize or inducement.

No person shall give away any live vertebrate animal as a prize for or as an inducement to enter any contest, a game or other competition or as an inducement to enter a place of amusement or offer such vertebrate as an incentive to enter into any business agreement, whereby the offer was for the purpose of attracting trade.
(Ord. No. 2287, § 1,4-22-08)

Sec. 10-8. Disposition of dead animals generally.

The owner of any animal which has died from disease or other cause shall forthwith cremate or bury or dispose of the remains of such animal in a manner authorized by law.
(Ord, No. 2287, § 1,4-22-08)

Sec. 10-9. Leaving disabled animal on street or sidewalk generally.

(a) No person having custody of any maimed, diseased, disabled or infirm animal, [shall] abandon or leave it to lie or be in or on any street, road, alley or sidewalk.

(b) If found guilty of the offense described in this section, punishment shall be imposed by a fine of not less than $250.00 and not more than $500.00.
(Ord. No. 2287, § 1, 4-22-08)

Sec. 10-10. Care of animals generally.

(a) No owner shall fail to provide for each animal under his care with each of the following:

(1) Adequate feed;

(2) Adequate water;

(3) Adequate shelter that is properly cleaned;

(4) Adequate space in the primary enclosure for the particular type of animal depending upon its age, size, species and weight;

(5) Adequate exercise;

(6) Adequate care, treatment, and transportation; and

(7) Veterinary care when needed or to prevent suffering or disease transmission. Provisions of this section shall also apply to every animal shelter, pound, dealer, pet shop, exhibitor, kennel, groomer, and boarding establishment.

(b) If found guilty of the offense described in this section, punishment shall be imposed by a fine of not less than $250.00 and not more than $500.00.
(Ord. No. 2287, § 1,4-22-08)

Sec. 10-11. Striking with a motor vehicle.

Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner or to the police department. If the owner cannot be ascertained and located, such operator shall at once report the accident to the police department.
(Ord. No. 2287, § 1,4-22-08)

Sec. 10-12. Exposure to poisons.

(a) No person shall expose any known poisonous substance, whether mixed with food or not, so that the poisonous substance shall be liable to be eaten by any animal. However, it shall not be unlawful for a person to expose, on that person's own property or property under that person's control, an anticoagulant-type rat poison commonly known as "red squill" and other rat poisons approved by the health officer.

(b) If found guilty of the offense described in this section, punishment shall be imposed by a fine of not less than $250.00 and not more than $500.00.
(Ord. No. 2287, § 1, 4-22-08)

Sec. 10-13. Collection, storage disposal of litter and droppings.

When required by the health officer, every keeper of animals shall cause the litter and droppings therefrom to be collected daily in a container or receptacle of such a type that, when closed, it is rat-proof and fly-tight, and after each such collection, the container or receptacle shall be kept closed. At least twice each week, each keeper shall cause all litter and droppings so collected to be disposed of in a way so as not to permit the presence of fly larvae.
(Ord. No. 2287, § 1,4-22-08)

Sec. 10-14. Storage of feed.

Every keeper of animals shall cause all grain feed provided thereto to be stored and kept in a rat-proof, fly-tight building, box, container or receptacle.
(Ord. No. 2287, § 1, 4-22-08)

Sec. 10-15. Keeping of wild animals, poisonous or dangerous reptiles prohibited; exception.

No wild animal or poisonous or dangerous reptile shall be kept within the city limits; pro-

vided, however, that the same may be kept for exhibition purposes by circuses, zoos and education institutions, in accordance with such regulations as shall be established by the city council by resolution.
(Ord, No. 2287, § 1, 4-22-08)

Sec. 10-16. Enclosures for keeping-Required; size, location.

Every keeper of animals shall confine the same in an enclosure sufficient to prevent them from running at large and of sufficient size to be conducive to good sanitation practices for the number of animals kept therein. For large animals, such enclosure shall be at least 10,000 square feet in area for each large animal kept therein and shall not be located nearer than 100 feet to any dwelling, excluding dwelling of the owner.
(Ord. No. 2287, § 1,4-22-08)

Sec. 10-17. Performing animal exhibitions.

(a) No person may sponsor, promote, train an animal to participate in, contribute to the involvement of an animal in, or attend as a spectator any activity or event in which any animal engages in unnatural behavior or is wrestled, fought, mentally or physically harassed, or displayed in such a way that the animal is abused or stressed mentally or physically, or is induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a manner that will cause or is likely to cause physical injury or suffering. This prohibition applies to events and activities taking place in either public or private facilities or property, and applies regardless of the purpose of the event, whether for free or for a fee to entrants or spectators.

(b) All equipment used on a performing animal shall fit properly and be in good working condition.
(Ord. No. 2287, § 1,4-22-08)

Sec. 10-18. Requirements for keeping a potentially vicious animal.

(a) *Confinement.* All potentially vicious animals shall be securely confined in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided in subsection (b) below. Such pen, kennel, or structure must have secure sides and a secure top attached to the sides. All structures used to confine potentially vicious animals must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen must be embedded in the ground no less than two feet. All structures erected to house potentially vicious animals must comply with all zoning and building regulations of the city. All such structures must be adequately lighted, ventilated, and kept in a clean and sanitary condition.

(b) *Leash and muzzle.* No personal shall permit a potentially vicious animal to go outside its kennel or pen unless such animal is securely leashed with a leash no longer than four feet in length. No person shall permit a potentially vicious animal to be kept on a chain, rope or other type of leash outside its kennel or pen, unless a person is in physical control of the leash. Such animals may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all animals on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such animal from biting persons, dogs or cats.

(c) *Sight-proof fencing.* In addition to other requirements provided herein, the yard where a potentially vicious animal is kept shall be enclosed with a six-foot-high sight-proof fence. Said fence shall be maintained in a strong and sturdy condition at all times so that said potentially vicious animal cannot escape from the property. Said fence shall be maintained free of holes and shall not contain any gap between the fence and the ground large enough for a human limb or other animal to go through. Said fence shall also be maintained to prevent another animal from entering the property where the potentially vicious animal is kept. Electric fences, if installed, shall be installed in accordance with applicable building and safety codes. Electric fences shall not be installed on the top of the fence or be installed in such a way as to be likely to shock humans on the opposite side of the fence.

(d) *Signs.* All owners, keepers or harborers of potentially vicious animals must, within 30 days of notification, display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Potentially Vicious Animal." In addition, a similar sign is required to be posted on the kennel or pen of such animal.

(e) *Insurance.* A landowner or property owner that leases, rents, or otherwise allows an owner of a potentially vicious animal to keep or harbor said animal on the landowner's premises and all owners, keepers or harborers of potentially vicious animals must, within 30 days of notification, provide proof to the chief of police of public-liability insurance in a single incident amount of $100,000.00 for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance or such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten days' written notice is first given to the city by the owner, keeper or harborers.

(f) *Identification photographs.* All owners, keepers or harborers of potentially vicious animals must, within 30 days of notification, provide to the chief of police two color photographs of the potentially vicious animal clearly showing the color and approximate size of the animal. Said photographs shall be no smaller than three inches by five inches in size.

(g) *Electronic identification tag.* All owners, keepers or harborers of potentially vicious animals must, within 30 days of notification, have an electronic identification chip installed on the animal. The chip shall be installed by a veterinarian licensed in the state and shall be readable with the use of an industry-standard universal reader.

(h) *Reporting requirements.* All owners, keepers or harborers of potentially vicious animals must within 30 days of the incident, report the following information in writing to the chief of police as required hereinafter:

(1) The removal from the city or death of a potentially vicious animal;

(2) The birth of offspring of a potentially vicious animal;

(3) The new address of a potentially vicious animal owner should the owner move within the corporate city limits.

(i) *Sale or transfer of ownership prohibited.* No person shall sell, barter or in any other way dispose of a potentially vicious animal within the city to any person within the city unless the recipient personally resides permanently in the same household and on the same premises as the owner of such animal; provided that the registered owner of a potentially vicious animal may sell or otherwise dispose of a potentially vicious animal or the offspring of such animal to persons who do not reside within the city.

(j) *Breeding of potentially vicious animals.* It shall be unlawful to breed any potentially vicious animal within the city.

(k) *Animals born of registered dogs.* All offspring born of potentially vicious animals registered with the city must be removed from the city within six weeks of the birth of such animal.

(l) *Sterilized.* All owners, keepers, or harborers of potentially vicious animals must, within 30 days of notification, have the potentially vicious animal sterilized. Sterilization shall be performed by a veterinarian licensed in the state.

(m) *Annual registration.* All potentially vicious animals shall be registered by the owner with the city within 30 days of notification by the chief of police that the animal has been declared potentially vicious. A potentially vicious animal shall not be registered by the chief of police if the requirements of this chapter are not complied with at the time of application. The annual registration fee shall initially be established at $100.00. said registration fee shall thereafter be established by resolution of the city council.

(n) *Failure to comply.* It shall be unlawful for the owner, keeper or harborer of a potentially vicious animal in the city to fail to comply with the requirements and conditions set forth in this article [section]. Any potentially vicious animal found to be the subject of a violation of this article [section] shall be subject to immediate seizure and impoundment. All expenses associated with the impounding including shelter, food, handling and veterinary care shall be borne by the owner of

such animal during the period of impoundment. Failure to comply with all the requirements and conditions set forth in this article [section] within 15 days of impoundment will result in the destruction of this animal.
(Ord. No. 2287, § 1, 4-22-08)

Sec. 10-19. Traps.

No person, except a person licensed by the state, shall place or set out steel-jaw leg and/or neck traps with the intent of trapping any animal within the city limits.
(Ord. No. 2287, § 1, 4-22-08)

Sec. 10-20. Running at large.

(a) The owner or keeper of any animal shall keep such animal under restraint at all times and shall not permit such animal to be at large.

(b) It shall be unlawful for the owner of any animal to permit the animal to go upon any public street, sidewalk or right-of-way, unless it is kept secured by a leash or lead or other means of restraint not harmful or injurious to the dog and under the control of a responsible person capable of physically restraining the animal.

(c) Unless otherwise provided in this section, any person found who does not restrain his animal, in accordance with this section, whether such person be the owner or custodian of such animal shall be issued a summons for violation of this section by a city animal control officer or police officer.

(d) This section shall not apply to any person who has a dog on his private property and has control of the dog by direct supervision through visual observation and verbal command or uses a dog under his direct supervision while lawfully hunting, while engaged in a supervised formal obedience training class or show, or during formally sanctioned field trials.

(e) Any dog or other animal trained for enforcement purposes and used by the police department or other legitimate law enforcement agencies shall not be considered to be running at large if the animal is under the visual and verbal control of its handler, trainer or police officer with or without specific restraints.

(f) If found guilty of the offense described in this section, punishment shall be imposed by a fine as follows:

(1) For the first offense in a 12-month period, a fine of not less than $50.00 [and not] more than $100.00.

(2) For the second offense in a 12-month period, a fine of not less than $100.00 and not more than $250.00.

(3) For the third and subsequent offense in a 12-month period, a fine of not less than $250.00 and not more than $500.00.

(Ord. No. 2287, § 1, 4-22-08)

Sec. 10-21. Dog park, setting hours of operations and establishing rules.

(a) *Hours of operation:*

(1) Summer (April 1st through September 30th) 7:00 a.m. to 9:00 p.m.

(2) Winter (October 1st through March 31st) 8:00 a.m. to 7:00 p.m.

(b) *Rules:*

(1) Only dogs are allowed in dog park and should not be left unattended.

(2) Owners are responsible for their dogs; clean up after your dog. Fill any holes dug by your dog.

(3) Owners are legally responsible for the action of their dogs and any injuries caused by them. Aggressive dogs should not be brought into the park. Dogs displaying aggression towards people or other dogs must leave the park immediately. Please insure you have a leash on your person to remove your dog if necessary.

(4) No dog over 30 pounds is allowed in the small dog area. Owners of small dogs that use the large dog area do so at their own risk. No puppies under four months of age are allowed in any area of the dog park.

(5) No children under eight years of age allowed in the park. Children aged eight to 15 must be under the supervision of an adult.

(6) No more than two dogs per adult. Children over the age of 16 are considered adults for this purpose.

(7) All dogs must be spayed or neutered

(8) All dogs must be vaccinated against rabies and display a rabies tag on their collar. All dogs living in the city limits of McAlester must display a city license on their collar. Core vaccinations or titers (blood test for immunity) for other canine diseases are also required. Any dog that appears ill will not be allowed in the park. Be prepared to provide proof of immunity upon request.

(9) No food, glass bottles or metal cans allowed in the park. Plastic water bottles or containers are allowed. Please use toys responsibly. Toys can become a cause of fighting among dogs.

(10) Please remove chain, prong (pinch) or electric "shock" collars at the park.

(11) No bare feet. Dogs can transmit parasites to humans through feces contact with bare feet.

(Ord. No. 2475, §§ 1, 2, 8-13-13; Ord. No. 2508, § 1, 7-8-14)

Secs. 10-22—10-30. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 10-31. Enforcement.

This chapter shall be enforced by the animal control officer(s) and all police officers or any person designated for such purpose by the chief of police. The animal control officer shall have full authority to carry out the provisions of this chapter including gathering up and impounding or quarantining any livestock, fowl, cats, dogs, or other domestic and nondomestic animals found running at large (stray) within the city limits. In addition to the authority provided by the general law, and in enforcing this chapter, officers may pursue animals onto city-owned or vacant or privately owned property.

(Ord. No. 2287, § 1, 4-22-08)

Sec. 10-31.1. Authority to contract animal control services.

The city council shall be authorized to contract all services related to animal control, including, but not limited to, administration, enforcement, licensing, impoundment, records keeping, redemption, adoption and disposition of animals with any entity, agency or animal shelter it deems suitable upon such terms and provisions as it may consider appropriate.

(Ord. No. 2297, § 2, 8-12-08)

Sec. 10-32. Reserved.

Editor's note—Ord. No. 2296, § 1, adopted Aug. 12, 2008, repealed § 10-32, which pertained to personal responsibility and derived from Ord. No. 2287, § 1, adopted April 22, 2008.

Sec. 10-33. Interfering with enforcement.

No person shall interfere with, hinder or molest any agent of the city in the performance of any duty of such agent under this chapter, or seek to release any animal in the custody of the city or its agents, except as authorized in this chapter.

(Ord. No. 2287, § 1, 4-22-08)

Editor's note—Due to a scrivener's error, Ord. No. 2287, § 1, adopted Aug. 12, 2008, inadvertently included two sections numbered 10-32. At the editor's discretion and with the city's approval, the second § 10-32 and subsequent sections in this article have been renumbered to maintain the correct numeric sequence of the article.

Sec. 10-34. Records.

(a) It shall be the duty of the animal control officer to keep, or cause to be kept, accurate and detailed records of the impoundment and disposition of all animals coming into his custody.

(b) It shall be the duty of the animal control officer to keep, or cause to be kept, accurate and detailed records of all bite cases reported to him and his investigation of the same.

(c) It shall be the duty of the animal control officer and city treasurer to keep, or cause to be kept, accurate and detailed records of all monies

belonging to the city and paid to them under the provisions of this chapter. Such records shall be open to inspection at reasonable times by persons in the same manner as other city records are audited.
(Ord. No. 2287, § 1, 4-22-08)

Sec. 10-35. Inspections.

The premises on or in which any animals are kept shall be subject to inspection by the health officer or any of his representatives at any reasonable hour of the day for the purpose of enforcing this chapter.
(Ord. No. 2287, § 1, 4-22-08)

Sec. 10-36. Authority of police to take possession of animals kept in cruel manner.

Any animal control officer or police officer may enter the premises where any animal is kept in a reportedly cruel or inhumane manner and demand to examine the animal and take possession of the animal when, in his opinion, it requires humane treatment. The animal control officer or police officer shall be authorized to give owners or custodians warnings or initiate proceedings to have charges filed against them for cruel and inhumane treatment.
(Ord. No. 2287, § 1, 4-22-08)

Secs. 10-37—10-45. Reserved.

DIVISION 2. IMPOUNDMENT

Sec. 10-46. Generally.

(a) Unrestrained dogs, cats, and nuisance animals found running at large shall be taken by the police or animal control officers and impounded in an animal shelter and there confined in a humane manner. Any animal that poses a threat to public health and safety, any wild animal kept illegally, or any animal that has been cruelly treated or abused shall also be impounded.

(b) Licensed impounded dogs and cats shall be kept for not fewer than 120 hours unless sooner reclaimed by their owner.

(c) Unlicensed impounded dogs, cats, other domestic animals, and livestock shall be kept for not fewer than 72 hours unless sooner reclaimed by their owner.

(d) Sick or injured animals wearing no apparent identification through which ownership can be determined may be kept zero to 72 hours at the discretion of the animal control officer and animal shelter staff after consultation with a licensed veterinarian.

(e) If, by a license tag or other means, the owner of an impounded animal can be identified, the animal control officer shall immediately upon impoundment notify the owner by direct contact, telephone, mail, or other reasonable means.

(f) An owner reclaiming an impounded dog or cat shall pay all impounding fees and licensing fees according to the fee schedule in this chapter. If no proof of a current rabies vaccination can be produced, the owner will be charged a $30.00 rabies vaccination fee and given a coupon to obtain a rabies vaccination from any participating veterinarian. Impoundment and boarding fees for all other animals shall be according to the fee schedule contained in this chapter. Subsequent impoundments occurring within 12 months shall be charged double the scheduled fees.

(g) No sick impounded animal shall be released to the owner until the animal control officer is satisfied that arrangements have been made for proper treatment of such animal.

(h) Any dog or cat not reclaimed by its owner within 120 hours for a licensed animal or 72 hours for an unlicensed animal shall become the property ofthe city and shall be placed for adoption in a suitable home or humanely euthanized. Other impounded animals not reclaimed by an owner within 72 hours shall become the property of the city and shall be humanely destroyed.

(i) In addition to, or in lieu of, impounding an animal found at large, the animal control officer or police officer shall issue to the known owner of such animal a summons for violation of this chapter.
(Ord, No. 2287, § 1, 4-22-08; Ord. No. 2296, § 3, 8-12-08)

Sec. 10-47. Fees.

The fee for impounding and keeping an animal under section 10-46 or 10-101 shall be $30.00 for each dog or cat, and the additional sum of $5.00 for each day such dog or cat is kept after the expiration of the first 24 hours, and $5.00 for any other animal, except rabbits, poultry and birds, and the additional sum of $2.00 for each day such animal is kept. These fees are in addition to any fine that may be imposed for violation of a provision in this chapter and shall be paid prior to the animal being claimed.
(Ord. No. 2287, § 1,4-22-08)

Sec. 10-48. Redemption; disposition of unclaimed animals.

(a) Any animal impounded may be reclaimed by the owner upon payment of the fees set forth in section 10-47 within three days after the animal is impounded, subject to the following conditions:

(1) No dog or cat may be reclaimed unless all requirements of section 10-47 have been complied with.

(2) No animal described in section 10-18 may be redeemed by the owner unless the redemption is authorized by a court having jurisdiction.

(3) When in the judgment ofthe animal control officer an animal should be destroyed for humane reasons, such animal may not be redeemed.

(b) Any animal impounded under the provisions of this chapter and not reclaimed by the owner within three days may be humanely destroyed by the city or placed in the custody of some person deemed to be a responsible and suitable owner who will agree to comply with the provisions of this chapter. If the animal is one as to which the respective rights of the owner and the person in possession or custody are determined by state law, such law shall be complied with.

(c) No unspayed female dog or cat which has been impounded by reason of its being a stray shall be allowed to be adopted from the animal shelter unless the prospective owner shall agree to have such female spayed.
(Ord. No. 2287, § 1,4-22-08; Ord. No. 2296, § 4, 8-12-08)

Sec. 10-49. Adoption.

No animal shall be put up for adoption unless it has had a rabies vaccination. If an animal is less than four months old, a commitment from the new owner is required. An animal up for adoption shall be isolated for ten days. The physical condi-

tion of the animal after the ten-day isolation period shall be determined by the animal control officer, and the cost of such examination and food for the ten-day period shall be paid for by the new owner. The new owner shall agree to have the animal spayed or neutered within two days after adoption. The new owner will be required to sign a release relieving the city of all responsibility or guarantee that the animal is in good health, and the city may require at its option to have a veterinarian certify the animal as being suitable for adoption. The fee for this examination shall be borne by the new owner plus the fees set forth in section 10-47.
(Ord, No. 2287, § 1,4-22-08)

Secs. 10-50-10-70. Reserved.

ARTICLE III. DOGS AND CATS

Sec; 10-71. Determination of vicious dog.

(a) It shall be an offense under the terms of this chapter for any person within the city to own, keep, possess, harbor or allow to remain upon premises under his control any vicious animal.

(b) It shall be the duty ofthe chief of police, or his designated agent, to investigate any proper claim that an animal is vicious within the meaning of this chapter. Should the investigating official determine that a vicious animal poses an immediate threat to the public health or safety, he shall immediately seize and impound the animal, or otherwise seek an order from the court that the animal be impounded. The chief of police shall also refer the matter to the city prosecutor for approval of a verified complaint requesting a finding by the court that the impounded animal is vicious and aid in the proceedings instituted in the municipal court against any person for harboring a vicious animal.

(c) If the court shall fail to find, upon a preponderance of the evidence presented in an evidentiary hearing, that the animal seized and impounded is not a vicious animal, the court shall order the chief of police to return the animal to its owner. If such animal is found by the court to be a vicious animal, the court shall order the chief of police to euthanize the animal. In the alternative, the court may order the animal to be permanently removed from the city. Prior to removal of the animal from the city, the animal shall be tattooed with identification marks by a licensed veterinarian. The costs ofthe tattooing shall be the responsibility of the owner of the animal.

(d) At the option of the owner, but subject to the approval of the chief of police, an animal impounded pursuant to this section may be confined in a private kennel or veterinary clinic during the pendency of the vicious animal action. The operators of the facility shall then assume full liability for the confinement and maintenance of such animal and shall not release it without first being authorized by the chief of police or the court. All fees for such impoundment shall be the responsibility of the owner. In no event shall the city be liable for costs or fees charged by the private facility. Further, the city may assess to the owner the cost of transporting the animal to the privately operated impoundment facility.
(Ord. No. 2287, § 1,4-22-08)

Sec. 10-72. Identification of dogs and cats.

No owner or custodian of any dog or cat shall permit such animal to be out of doors outside of the owner or custodian's property or immediate physical presence unless such animal is bearing valid identification. For the purpose of this section, valid identification shall mean a collar or harness and a legible city license tag for the current year registered to the current owner at the current address; a valid, legible rabies tag registered to the current owner at the current address; a legible personal identification tag, which bears valid and current owner information including address and/or telephone number. Any such dog or cat on which the owner or custodian is unable to maintain a collar or harness and valid identification within 30 days from the date that such dog or cat was acquired and/or 30 days from the date that the owner or custodian establishes residency in the city shall have caused the animal to be tattooed by a licensed veterinarian or implanted with permanent microchip identification, the registration for which shall include valid and current owner information and address.
(Ord. No. 2287, § 1,4-22-08)

Sec. 10·73. Keeping of domestic animals.

(a) It shall be unlawful for any person to own, keep, or harbor more than four dogs or cats over three months of age at anyone address or location within the city limits.

(b) All persons residing in the city who own one or more dogs must keep such dogs at the residential premises permanently occupied and inhabited by the dog owners. It shall be unlawful for such dog owners to keep their dogs at any other location within the city limits. This section shall not apply to animal shelters, veterinary establishments, animal hospitals operated by a licensed veterinarian, or commercial animal establishments located on property zoned for such purposes. Such establishments, however, must meet sanitation requirements and keep animals securely cage or penned.

(c) The provisions of such subsections shall not be construed to prohibit any person engaged in operating any abattoir, packinghouse or stockyard from keeping livestock for a reasonable length of time while awaiting their use in connection with the operation of such abattoir, packinghouse or stockyard which had been zoned for such use.
(Ord. No. 2287, § 1,4-22-08)

Sec. 10-74. Female dogs and cats in season.

No person shall permit any female dog or cat in season to go at large in the street or allow her to remain on that person's premises to the annoyance of the neighborhood. If located by an animal control officer, the female dog or cat may be impounded. The owner of any female dog or cat impounded under this section shall be subject to all impounding fees as set forth in this chapter.
(Ord. No. 2287, § 1,4-22-08)

Sec. 10·75. Adequate shelter and space for animals; time restriction on tethering dogs.

(a) It shall be unlawful to fail to provide any animal with adequate shelter. "Adequate shelter" means sufficient space to allow each animal to easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal and interact safely with other animals in the enclosure. The shelter shall provide protection from the weather elements specifically wind, rain, direct sun during times of excessive heat, extreme cold temperatures and will have clean dry flooring.

(b) When a dog is tethered, "adequate space" means a tether that permits the above actions and is appropriate to the age and size of the dog. The tether must be attached to the dog by a properly applied collar, halter, or harness configured so as to protect the dog from injury and prevent the dog or the tether from becoming entangled with other objects or dogs, or from extending over an object or edge that could result in the strangulation or injury of the dog. Furthermore the tether must be at least three times the length of the dog, as measured from the tip of its nose to the base of its tail, except when the dog is being walked on a leash or is attached by a tether to a lead line. When freedom of movement would endanger the dog, temporarily and appropriately restricting movement of the dog according to professionally accepted standards is considered to be provision of adequate space.

(c) It shall be unlawful for any dog to be tethered for more than three hours, cumulatively in any 24-hour period.
(Ord. No. 2287, § 1,4-22-08)

Sec. 10-76 Dogs and cats riding in motor vehicles.

(a) It shall be unlawful for dogs or cats to be left unattended inside a motor vehicle without providing adequate temperature control or ventilation.

(b) It shall be unlawful for any person who owns or has control of any dog to allow such dog to ride in any motor vehicle in any portion thereof, tethered or untethered, that is open in such a manner as to permit such dog to jump out of the vehicle or to be thrown therefrom by acceleration of, stopping of, or accident involving, such vehicle, including, but not limited to, the open bed of a truck, the interior of a convertible vehicle with the top down or removed, the rear storage portion of a station wagon with the tailgate open, and the trunk or hatchback portion of any vehicle with the trunk or hatchback open. For purposes of this

section, the operator of a motor vehicle shall be deemed to have control of any dog riding therein.

(c) The provisions of subsection (a) above shall not apply to:

(1) Any person who owns or has control of any dog and who allows such dog to ride, for a period of one hour or less, in the prohibited portion of any motor vehicle if such dog is confined in an enclosure of adequate construction and design to prevent its escape therefrom, is adequately ventilated, is an adequate size as to allow the dog to stand and turn, and provides adequate protection from the elements; and

(2) Any portion of a motor vehicle which is fully enclosed except for open windows.

(Ord, No. 2287, § 1,4-22-08)

Sec. 10-77. Allowing dogs to urinate or defecate on public or private property.

It shall be unlawful for any owner or person in control of a dog to:

(1) Knowingly or willfully allow hislher dog to urinate or defecate on the private property of other persons without their consent or that ofthe authorized agent of the one having control of the premises.

(2) Knowingly or willfully allow hislher dog to urinate or defecate on public property, except that defecation by a dog on public property shall not constitute a violation of this section if the owner of the dog immediately removes the material defected and disposes of it in a safe and sanitary manner.

(Ord. No. 2287, § 1, 4-22-08)

Sec. 10-78. Harassment of police **dogs, guide dogs.**

No person shall interfere with, hinder, molest, tease or harass in any manner a dog specifically used for enforcement purposes by the police department, any other law enforcement agency, or guide dog.

(Ord. No. 2287, § 1,4-22-08)

Sec. 10-79. Licenses.

(a) It shall be unlawful to own, keep or harbor any dog or cat over the age of four months within the city limits, unless such dog or cat is licensed under this section. Written application for such license shall be made to the police department and shall state the name and address of the owner and the name, breed, color, age and sex of the dog or cat. The annual fee for such license shall be $5.00 for altered dogs/cats and $10.00 for unaltered. There shall be no fee for guide dogs or hearing dogs and a 50 percent discount shall be given to all senior citizens. The fee shall be paid at the time of making application and a numbered receipt shall be given to the applicant and a numbered metallic tag shall be issued to the owner; provided, however, that no license shall be issued for any dog or cat until the owner thereof furnishes written evidence satisfactory to the police department that the dog or cat has been vaccinated against rabies. It shall be permissible for voluntary licensing stations to be operated by veterinary hospitals, allowing such voluntary licensing station to retain $2.00 of the pet licensing fee with the remainder of the licensing fee to be retained by the city. Such voluntary licensing stations shall be licensed by and through the offices of the city manager upon the request of any validly licensed veterinary hospital within the city limits.

(b) All dog or cat licenses shall be issued for one year. Application for a license may be made prior to the month in which it is due and for 30 days from the first of the month in which it is due without penalty. When application to renew a license is made more than 30 days after the month in which license is due, there shall be assessed a penalty of 50 percent of the license fee, which amount shall be added and collected with the regular fee.

(c) The metallic tag issued for a dog or cat shall be stamped with the number and the year for which issued. The shape or design of such tag shall be changed from year to year. Every owner is required to see that such tag is securely fastened to the dog's choke chain, collar or harness, which must be worn by the dog or cat at all times, or an appropriate number is tattooed in a place

recommended by a veterinarian, provided, however, that such tattooed number must be identified to the police department at the time of licensing.

(d) If a dog license tag is lost, the owner may obtain a duplicate tag upon the payment of$1.00.

(e) If there is a change in ownership of a dog or cat during the license year, the new owner may have the current license transferred to his name upon the payment of a transfer fee of $1.00.

(f) No person shall use for any dog or cat a license receipt or license tag issued for another dog or cat.

(g) For the purpose of enforcing this section, any animal controller or police officer is empowered to enter upon any premises upon which a dog is kept or harbored and to demand the exhibition by the owner of such dog or cat of the license or tattoo for such dog.
(Ord. No. 2287, § 1, 4-22-08)

Secs. 10-80-10-100. Reserved.

ARTICLE IV. RABIES CONTROL

Sec. 10-101. Rabies vaccination.

(a) It shall be unlawful for any person to own, keep, hold, board or harbor any dog or cat over the age of four months, unless such dog or cat shall have been vaccinated with a rabies vaccine which has been approved by the state department of health by a licensed veterinarian or a certified veterinary technician working directly under the immediate and direct supervision of a licensed veterinarian, which vaccination must be valid at the time of application for the license.

(b) Any person bringing a dog or cat into the city from some other jurisdiction shall conform with this section within 15 days after bringing such dog or cat into the city.

(c) Any dog or cat found in the city not inoculated or vaccinated in accordance with this section may be impounded by any officer charged with the enforcement of this article. Any dog or cat not wearing a collar bearing a valid and current rabies tag shall rebuttably be presumed to be unvaccinated.

(d) The record of vaccination must be maintained for at least three years.
(Ord. No. 2287, § 1, 4-22-08)

Sec. 10-102. Proclamation of rabies.

(a) The identity and address of the owner of any animal that bites a person shall be promptly furnished to the animal control officer and county health department. The animal control officer shall securely quarantine such animal for a period of ten days and shall not release such quarantined animal until reasonable determination has been made that the animal is not infected with rabies. At the discretion of the animal control officer, the quarantine may be on the premises ofthe owner, at a veterinary hospital ofthe owner's choice at the owner's expense, or at the city animal shelter. In case of an animal whose ownership is unknown, such quarantine shall be at the city animal shelter. The animal may be reclaimed by the owner if adjudged free of rabies and the owner shall then pay any related charges for confinement.

(b) When an animal under quarantine has been diagnosed as being rabid or is suspected of having rabies by a licensed veterinarian while under observation, the health officer, veterinarian or other designated emissary shall immediately send the necessary part of such animal to the state health department for pathological examination and shall notify the proper public health officer of any reports of human contact. If the animal dies or develops rabies-like symptoms within the specified period of confinement, the animal head shall be removed immediately and packed in a shipping container in accordance with instructions published by the state commissioner of health and sent to the state department of health laboratory in Oklahoma City for examination.

(c) When a report gives a position diagnosis of rabies and when the county health director feels that a rabies crisis may be imminent, the health department may recommend to the city manager a citywide quarantine, and upon the invoking of

such quarantine by the city manager, no animal shall be taken into the streets or permitted to be in the streets, except for short periods of exercise under leash and control of a competent adult. During such quarantine, no animal may be taken or removed from the city without permission of the health officer.

(d) During such period of rabies quarantine, every animal bitten by an animal adjudged to be rabid shall be forthwith destroyed, or at the owner's expense and option, shall be treated for a rabies infection by a licensed veterinarian, or held under six months quarantine by the owner, the period of quarantine may be extended from time to time.

(e) No person shall remove from the city any animal suspected of having been exposed to rabies, or any animal which has bitten a human, except as herein provided. The carcass of any dead animal exposed to rabies shall be surrendered to the health officer upon demand, and the animal control officer shall direct disposition of the animal. No person shall refuse to surrender any animal for quarantine or destruction when such demand is lawfully made by the animal control officer.

COrd.No. 2287, § 1, 4-22-08)

Chapter 14

AVIATION*

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.State law references-Aircraft and airports, 3 O.S.; municipal airports, 3 O.S. §§ 61, 62, 65.1 et seq.

ARTICLE I. IN GENERAL

Sec. 14-1. Aviation advisory board.

(a) There is hereby created an aviation advisory board, which shall consist of nine members. One member shall be the city manager or his designated representative. Five members shall be residents of the city, and three members may be nonresidents but must own a business or be property owners in the city, appointed by and serving at the pleasure of the mayor, with the consent ofthe city council.

(b) The members of the board shall serve for terms of two years, except as otherwise provided herein.

(c) The members of the board shall serve without compensation.

(d) As soon as practicable after January 1 of each year, the board shall elect a chairman, vice-chairman and secretary. The secretary need not be a member of the board.

(e) The board shall meet at the call of its chairman, or any five of its members, and at such times and places as the members shall determine.

(f) The board shall advise and make recommendations to the city council and the city manager on all aeronautical matters of interest to the city.
(Code 1974, § 6-3)

Cross reference-Boards and commissions, § 2-166 et seq.

Secs. 14.2-14-25. Reserved.

ARTICLE II. MUNICIPAL AIRPORT

Sec. 14-26. 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:

Aeronautical activity means any activity which involves, makes possible, or is required for the operation of aircraft or which contributes to, or is required for, the safety of such operations and shall include, but not by way of limitation, all activities commonly conducted on airports, such as charter operations, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, flying clubs, aerial advertising and surveying, air carrier operations, air rescue operations, aircraft sales and services, sale of aviation petroleum products, whether or not conducted in conjunction with other included activities, repair and maintenance of aircraft, sale of aircraft, parts, sale and maintenance of aircraft accessories, radio, communication and navigation equipment and any other activity which, because of its direct relationship to the operation of aircraft, can appropriately be regarded as an aeronautical activity.

Standards means the qualifications established in this article, as amended from time to time by the city council upon recommendation of the airport advisory board, setting forth the minimum requirements to be met as a condition for the right to conduct an aeronautical activity on the municipal airport.
(Code 1974, § 6-6)

Cross reference-Definitions generally, § 1-2.

Sec. 14-27. Airport authority-Acceptance of beneficial interest in trust.

The city council does accept, for the city, the beneficial interest in a certain public trust designated as McAlester Airport Authority, dated March 1, 1963, for the comprehensive purpose of furnishing and supplying airport services and facilities to the city, and for purposes collateral thereto, in all respects in accordance with the declaration oftrust of the authority, as filed on March 1, 1963, in the office of the city clerk; and the mayor of the city is hereby directed to endorse the acceptance of beneficial interest on the declaration of trust for and on behalf of the city council.
(Code 1974, § 6-1)

Sec. 14-28. Same-Lease of airport and facilities.

The city does hereby consent and agree to the lease of all of the city's airport and facilities, and all future additions thereto, to the McAlester Airport Authority, as authorized by statute, to be effective at the time and upon the terms and conditions specified in a certain lease, prepared under the direction of the city council and filed in the office of the city clerk on March 1, 1963; and the

mayor of the city is authorized and directed, on behalf of the city, to execute and deliver such lease to the McAlester Airport Authority.
(Code 1974, § 6-2)

Sec. 14.29. Operations manual adopted.

(a) It being necessary to protect the safety of the citizens of the city and of the aviation public, to ensure the efficient operation of the municipal airport and to effect compliance with the requirements of Part 139 of the Federal Aviation Regulations, the McAlester Municipal Airport Operations Manual, a copy of which is on file in the office of the city clerk, is hereby adopted.

(b) Whenever, within parts 01.101 through 01.06 of the airport operations manual, an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such parts the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any provision of such parts shall be punishable as provided in section 1-8.
(Code 1974, § 6-5)

Sec. 14-30. Exclusive rights not permitted.

No person shall be granted an exclusive right to conduct any aeronautical activity upon the airport; provided, however, that no person shall be permitted to use any land or conduct any aeronautical activity or the solicitation of business in connection therewith unless such aeronautical activity is conducted in accordance with the standards established in this article.
(Code 1974, § 6-7)

Sec. 14-31. Aeronautical activity-Application procedure.

(a) *Application.* Any person wishing to acquire the use of land or establish or use any facility on the airport for an aeronautical activity shall make written application to the city manager, which application shall set forth in detail the following:

(1) The name and address of the applicant.

(2) The proposed land use, facility and/or activity sought.

(3) The names and qualifications, including evidence of such certificates as may be required by the Federal Aviation Administration, of the personnel to be involved in conducting such activity.

(4) Evidence of financial responsibility and ability of the applicant and operator to carry out the activity sought.

(5) The tools, equipment, services and inventory, if any, proposed to be furnished in connection with such activity.

(6) The proposed date for commencement of the activity.

(7) The estimated cost of any structure or facility to be furnished, the proposed specifications for same, and the means or methods of financing such construction or acquisition of facilities.

(8) Evidence that the applicant has in force or can furnish insurance of such types and amounts as to protect, defend and hold harmless the city from any and all liability in connection with the conduct of such activity.

(b) *Action on application.* Upon receipt of a properly completed application, the city manager shall forward such application to the aviation advisory board for consideration at its next regular meeting. It shall be the responsibility of the board to determine if the applicant meets the standards and qualifications as set out in this article. Upon making such determination, the board shall recommend approval, modification or rejection of the application to the city council. The city council shall consider the recommendation of the board at the next regularly scheduled council meeting.

(c) *Application for temporary/transient activity.* The airport manager shall approve and generally supervise any temporary/transient commercial activity wherein the aircraft and/or organization is not permanently based at the McAlester Municipal Airport.
(Code 1974, § 6-8)

Sec. 14-32. Same-Lease or contract required.

Upon the approval of any application for aeronautical activity under this article, the city man-

ager shall cause to be prepared a lease or contract agreement setting forth the terms and conditions of the land and/or facility use.
(Code 1974, § 6-9)

Sec. 14-33. Standards for specific aeronautical activities.

(a) *Fuel and oil sales.* Persons conducting aviation fuel and oil sales shall be required to provide:

(1) Standard grade aviation fuel and a standard jet fuel.

(2) An adequate inventory of at least two brands of generally accepted grades of aviation engine oil and lubricants.

(3) Proper mobile fuel-dispensing equipment to service all types of aircraft.

(4) Properly trained line personnel on duty at least eight hours of every calendar day, seven days a week, on-call and readily accessible by telephone at other hours during the day or night.

(5) Adequate parking and tiedown hardware to safely store aircraft in all reasonable expected weather conditions.

(6) Adequate grounding facilities at fueling locations and approved types of fire extinguishers or other equipment commensurate with the hazard involved in refueling and servicing aircraft.

(b) *Aircraft charter and taxi service.* Persons conducting aircraft charter and/or taxi service shall be required to provide:

(1) Properly certified aircraft with properly certificated and qualified operating crews.

(2) Evidence of registration with the United States Department of Transportation for provision of such commercial category of air service.

(c) *Aircraft engine, airframe and accessory maintenance.* Persons conducting aircraft engine, airframe and accessory maintenance shall be required to provide:

(1) Sufficient hangar space to house any aircraft upon which airframe or engine repair is being performed.

(2) Sufficient inside and outside storage space for aircraft awaiting repair or maintenance or delivery after repair and maintenance have been completed.

(3) Adequate equipment and machine tools, jacks, lifts and testing equipment to perform overhauls as required for FAA certification and repair of parts not needing replacement on all single-engine land and light multiengine land general aviation aircraft.

(4) Facilities for washing and cleaning aircraft.

(5) At least one FAA-certificated airframe and engine mechanic available during eight hours of the day, five days per week.

(d) *Aircraft rental and/or sales.* Persons conducting aircraft rental and/or sales activity shall be required to provide:

(1) Hangar space for at least one aircraft to be used for sales or rentals.

(2) For rental activity, at least two properly maintained and certificated aircraft.

(3) For sales activity, an adequate arrangement for securing new and used aircraft for sale.

(4) For sales activity, an adequate stock of readily expendable spare parts or adequate arrangements for securing spare parts for the type and models of aircraft sold.

(5) Adequate facilities for servicing and repairing the sales and/or rental aircraft or satisfactory arrangements with other operators on the airport for such service and repaIr.

(6) A properly certificated pilot capable of demonstrating aircraft for sale or for checking out rental aircraft, which said pilot shall be on duty at least eight hours of every calendar day, seven days a week.

(e) *Flight training.* Persons conducting flight training shall be required to provide a properly certificated flight instructor with appropriate ratings for the type of training offered, with services

available during eight hours of the day, five days per week.

(£) *Crop dusting and spraying.* Persons conducting crop dusting or other chemical spraying shall be required to provide:

(1) Adequate storage for the safe containment of all poisonous or inflammable materials.

(2) Properly certificated aircraft suitably equipped for the specific spraying operation undertaken.

(3) An Oklahoma state operating permit.

(Code 1974, § 6-10)

Sec. 14-34. Combinations of aeronautical activities.

Any person conducting a combination of the specific aeronautical activities enumerated herein shall not be required to duplicate the requirements of the individual activities in those instances in which the requirements of one activity are sufficient to meet the requirements of a separate activity.

(Code 1974, § 6-11)

Sec. 14-35. Fees for aeronautical activities.

(a) *Specific activities.* Persons conducting aeronautical activities shall be assessed fees as established by the city council upon recommendation of the aviation advisory board and reviewed on an annual basis.

(b) *Fees.* Fees shall be paid at the office of the city treasurer on the first working day of each calendar month.

(c) *Combination activities.* The aviation advisory board shall recommend and the council shall cause to be adopted appropriate fees for combinations of aeronautical activities enumerated in this article.

(d) *Fees for temporary/transient commercial activities.* Fees for temporary/transient commercial aeronautical activity shall be paid upon departure, or within ten days thereof, except that when activity is recurring, subsection (b) of this section shall apply.

(Code 1974, § 6-12)

Sec. 14-36. Landing or taking off of aircraft prohibited except at approved airports or areas; landing area per. mits; flight regulations observed.

(a) No person shall land or take off in any aircraft of any type, whether fixed wing, helicopter or lighter-than-air such as a balloon or dirigible, except at an airport or area within the city approved for such operation by the Federal Aviation Administration and the city council, unless such action is necessary in an emergency.

(b) The aviation advisory board shall establish procedures to review each request for an additional landing area within the city and shall submit its recommendation to the city council for approval. The airport manager, in coordination with the chairman of the aviation advisory board, or his designee, shall have authority to approve temporary landing areas. Duration of permIts for temporary landing areas shall be limited to the next meeting of the aviation advisory board.

(c) Permits issued for landing areas will be subject to an annual review by the aviation advisory board. Permits can be revoked at any time, with 30 days' notice, for any condition which is considered in the public interest. Permits are subject to immediate revocation if the aviation advisory board determines an unsafe condition develops which did not exist or was not established to exist prior to issuance.

(d) Approval of a landing area may require conditions of use. Any conditions of use will be set forth in the landing area permit.

(e) No person shall operate an aircraft of any type within the airspace of the city without observing Federal Aviation Administration regulations, part 91.97.

(Code 1974, § 6-13)

Sec. 14-37. Exemption of aircraft owned by federal or state government.

Section 14-36 shall not apply to aircraft owned by the federal or state government wherein the operations involve any of the activities prohibited by that section and are incident to and in aid of national defense or security.

(Code 1974, § 6-14)

Sec. 14-38. Authorization for exhibitions.

On special occasions and for the purpose of exhibition, educational purposes or for photographer's work, the airport manager may authorize such flights to be conducted under his general supervision. No person shall perform any aerobatic maneuvers or stunts while flying in or on any aircraft giving any exhibition, or otherwise, unless specifically authorized by the airport manager.
(Code 1974, § 6-15)

Secs. 14-39-14-60. Reserved.

ARTICLE III. AIRPORT ZONING*

Sec. 14-61. Short title.

This article shall be known and may be cited as the McAlester Airport zoning ordinance.
(Ord. No. 1687, § I, 11-23-82)

Sec. 14-62. 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:

Airport means the McAlester Municipal Airport.

Airport elevation means 770 feet above mean sea level.

Approach surface means a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in section 14-65. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

Approach, transitional, horizontal and conical zones. These zones are set forth in section 14-64 of this chapter.

Board of adjustment means a board consisting of five members appointed by the mayor and approved by the city council.

Conical surface means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to one for a horizontal distance of 4,000 feet.

Hazard to air navigation means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

Height. For the purpose of determining the height limits in all zones set forth in this article and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

Horizontal surface means a horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

Larger than utility runway means a runway that is constructed for and intended to be used by propeller-driven aircraft of greater than 12,500 pounds maximum gross weight and jet-powered aircraft.

Nonconforming use means any preexisting structures, object of natural growth, or use ofland which is inconsistent with the provisions of this article or an amendment thereto.

Nonprecision instrument runway means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

Obstruction means any structure, growth or other object, including a mobile object, which exceeds a limiting height set forth in section 14-65.

Person means an individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, a receiver, an assignee or a similar representative of any of them.

*Cross references-Buildings and building regulations, ch. 18; land development code, ch. 62.

State law references-Airport Zoning Act, 3 O.S. § 100 et seq.; airport zoning required, 3 O.S. § 103.

Primary surface means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is set forth in section 14-64. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

Runway means a defined area on an airport prepared for the landing and takeoff of aircraft along its length.

Structure means an object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation and overhead transmission lines.

Transitional surfaces means surfaces that extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

Tree means any object of natural growth.

Visual runway means a runway intended solely for the operation of aircraft using visual approach procedures.

(Ord. No. 1687, § II, 11-23-82)

Cross reference-Definitions generally, § 1-2.

Sec. 14-63. Penalty.

Each violation of this article or of any regulation, order or ruling promulgated hereunder shall constitute a misdemeanor and be punishable by a fine afnot more than $500.00 or imprisonment for not more than one year in the county jail, or both; and each day a violation continues to exist shall constitute a separate offense.

(Ord. No. 1687, § XII, 11-23-82)

State law reference-Similar provisions, 3 O.S. § 112.

Sec. 14-64. Airport zones established.

In order to carry out the provisions of this article, there are hereby created and established certain zones which include all the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces and conical surfaces as they apply to McAlester Municipal Airport. Such zones are shown on the McAlester Municipal Airport zoning map, consisting of one sheet, prepared by the city engineering department, dated August 15, 1983, which is made a part of this section and is on file in the office of the city manager. An area located in more than one of the following zones is considered to be only in that zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

(1) *Runway larger than utility, with a visibility minimum greater than three-fourths mile nonprecision instrument approach zone (RW-19):* The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(2) *Runway larger than utility, with a visibility minimum as low as three-fourths mile nonprecision instrument approach zone (RW-l):* The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(3) *Transitional zones:* The transitional zones are the areas beneath the transitional surfaces.

(4) *Horizontal zone:* The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and 10,000 feet for all others from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

(5) *Conical zone:* The conical zone is established as the area that commences at the periphery

of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

(Ord. No. 1687, § III, 11-23-82; Ord. No. 1706, § 1, 9-27-83)

Sec. 14-65. Airport zone height limitations.

Except as otherwise provided in this article, no structure shall be erected, altered or maintained, and no tree shall be allowed to grow in any zone created by this article to a height in excess of the applicable height limit established for such zone. Such applicable height limitations are hereby established for each of the zones in question, as follows:

(1) *Runway larger than utility, with a visibility minimum greater than three-fourths mile nonprecision instrument approach zone.* Slopes 34 feet outward for each foot upward, beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

(2) *Runway larger than utility, with a visibility minimum as low as three-fourths mile nonprecision instrument approach zone:* Slopes 34 feet outward for each foot upward, beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

(3) *Transitional zones:* Slope seven feet outward for each foot upward beginning atthe sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 770 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface.

(4) *Horizontal zone:* Established at 150 feet above the airport elevation or at a height of 920 feet above mean sea level.

(5) *Conical zone:* Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

(6) *Excepted height limitations:* Nothing in this article shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 50 feet above the surface of the land.

(Ord. No. 1687, § IV, 11-23-82; Ord. No. 1706, § 2, 9-27-83)

Sec. 14-66. Use restriction.

Notwithstanding any other provisions of this article, no use may be made of land or water within any zone established by this article in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights, and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport.

(Ord. No. 1687, § V, 11-23-82)

Sec. 14-67. Nonconforming uses.

(a) *Regulations not retroactive.* The regulations prescribed in this article shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of November 23, 1992, or otherwise interfere with the continuance of a nonconforming use. Nothing contained in this article shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which has begun prior to November 23, 1992, and is diligently prosecuted.

(b) *Marking and lighting.* Notwithstanding the preceding provisions of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the

city manager to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the city.
(Ord. No. 1687, § VI, 11-23-82)

Sec. 14-68. Permits.

(a) *Future uses.* Except as specifically provided in subsections (1) and (2) below, no material change shall be made in the use of land, no structure shall be erected or otherwise established and no tree shall be planted in any zone hereby created unless a permit therefor has been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations prescribed in this article. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this article shall be granted unless a variance has been approved in accordance with subsection (d) of this section.

(1) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

(2) In areas lying within the limits of the approach zones but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 75 feet in vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this article except as set forth in section 14-65.

(b) *Existing uses.* No permit, or any amendments thereto, shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure or tree to become a greater hazard to air navigation, than it was on November 23, 1992, or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

(c) *Nonconforming uses abandoned or destroyed.* Whenever the city manager determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

(d) *Variances.* Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this article, may apply to the board of adjustment for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this article. Additionally, no application for variance to the requirements of this article may be considered by the board of adjustment unless a copy of the application has been furnished to the airport manager for advice as to the aeronautical effects of the variance. If the airport manager does not respond to the application within 15 days after receipt, the board of adjustment may act on its own to grant or deny the application.

(e) *Obstruction marking and lighting.* Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this article and be reasonable in the circumstances, be so conditioned as to require the owner of the struc-

ture or tree in question to install, operate and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the board of adjustment, this condition may be modified to require the owner to permit the city, at its own expense, to install, operate and maintain the necessary markings and lights.
(Ord. No. 1687, § VII, 11-23-82)

State law reference- Permits and variances, 3 0.8. § 107.

Sec. 14-69. Enforcement.

It shall be the duty of the city manager to administer and enforce the regulations prescribed in this article. Applications for permits and variances shall be made to the city manager upon a form published for that purpose. Applications required by this article to be submitted to the city manager shall be promptly considered and granted or denied. Application for action by the board of adjustment shall be forthwith transmitted by the city manager.
(Ord. No. 1687, § VIII, 11-23-82)

State law reference-Administration of airport zoning ordinances, 3 0.8. § 109.

Sec. 14-70. Board of adjustment.

(a) There is hereby created an airport zoning board of adjustment, referred to in this article as the board of adjustment, to have and exercise the following powers:

(1) To hear and decide appeals from any order, requirement, decision, or determination made by the city manager in the enforcement of this article.

(2) To hear and decide special exceptions to the terms of this article upon which such board of adjustment under such regulations may be required to pass.

(3) To hear and decide specific variances.

(b) The board of adjustment shall be composed of five members, each appointed by the mayor with the approval of the council for a term of three years; provided, however, that for the first appointment under the provisions of this section one member shall be appointed for a term of one year; two shall be appointed for a term of two years; and two shall be appointed for a term of three years. Two alternate members shall be appointed for overlapping terms of two years. All appointments thereafter shall be for a term of three years. Not less than two members shall be appointed for the McAlester Airport advisory committee. The board shall elect a chairman from its membership to serve for a term of two years.

(c) The board of adjustment shall adopt rules for its governance and in harmony with the provisions of this article. Meetings of the board of adjustment shall be held at the call of the chairperson and at such other times as the board of adjustment may determine. The chairperson or, in the absence of the chairperson, the acting chairperson, may administer oaths and compel the at. tendance of witnesses. All hearings of the board of adjustment shall be public. The board of adjustment shall keep minutes of its proceedings showing the vote of each member upon each question; or of its examinations and other official actions, all of which shall immediately be filed in the office of the city clerk and on due cause shown.

(d) The board of adjustment shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this article.

(e) The concurring vote ofa majority of the members of the board of adjustment shall be sufficient to reverse any order, requirement, decision or determination of the city manager or decide in favor of the applicant on any matter upon which it is required to pass under this article, or to effect variation to this article.
(Ord. No. 1687, § IX, 11-23-82)

Cross reference-Boards and commissions, § 2-166 et seq.
State law reference-Board of adjustment, 3 O.S. § 110.

Sec. 14-71. Appeals.

(a) Any person aggrieved, or any taxpayer affected, by any decision of the city manager made in the administration of this article may appeal to the board of adjustment.

(b) All appeals hereunder must be taken within a reasonable time as provided by the rules of the board of adjustment, by filing with the city man-

ager a notice of appeal specifying the grounds thereof. The city manager shall forthwith transmit to the board of adjustment all the papers consti. tuting the record upon which the action appealed from was taken.

(c) An appeal shall stay all proceedings in furtherance of the action appealed from unless the city manager certifies to the board of adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of the city manager cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the board of adjustment on notice to the city manager and on due cause shown.

(d) The board of adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

(e) The board of adjustment may, in conformity with the provisions of this article, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, de. cision or determination as may be appropriate under the circumstances.
(Ord. No. 1687, § X, 11-23-82)

Sec. 14-72. Judicial review.

Any person aggrieved, or any taxpayer affected, by any decision of the board of adjustment may appeal the same, as provided in the Airport Zoning Act (3 O.S. § 100 et seq.).
(Ord. No. 1687, § XI, 11-23-82)

State law reference-Appeals, 3 O.S. § 111.

Sec. 14-73. Conflicting regulations.

Where there exists a conflict between any of the regulations or limitations prescribed in this ar. ticle and any other regulations applicable to the same area, whether the conflict is with respect to the height of structures or trees, and the use of land or any other matter, the more stringent limitation or requirement shall govern and prevail.
(Ord. No. 1687, § XIII, 11-23-82)

Chapters 15-17

RESERVED

Chapter 18

BUILDINGS AND BUILDING REGULATIONS*

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Sec. 18-1. Permit requirements for construction of buildings outside city when connected to city utilities.
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'"Cross references-Airport zoning, § 14-61 et seq.; fire prevention code, § 50-51 et seq.; liquefied petroleum gas, § 50-76 et seq.; housing discrimination, § 58-81 et seq.; manufactured homes and trailers, ch. 74.

State law references-General authority to regulate buildings, 11 O.S. §§ 22-113, 43-102; local building standards, 74 O.S. § 324.8.

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Sec. 18-122. Exceptions.
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Sec. 18-124. Effect of issuance.
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Article IX. Dangerous Buildings

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ARTICLE I. IN GENERAL

Sec. 18-1. Permit requirements for construction of buildings outside city when connected to city utilities.

All persons who build a dwelling or other building outside the city limits and who make connections to city utilities are hereby required, prior to connecting to such utilities, to obtain a building permit, plumbing permit and electrical permit from the city and to comply with such permits as adopted by the city.
(Code 1974, § 7-2)

Sec. 18-2. Improperly built, altered, etc., buildings deemed nuisances.

All buildings and structures, or parts thereof, built, enlarged, altered or moved in violation of this chapter or any other ordinance of the city are hereby declared to be public nuisances and subject to abatement in accord with chapter 46, article II of this Code.
(Code 1974, § 7-3)

Secs. 18-3—18-25. Reserved.

ARTICLE II. DEPARTMENT OF CODE ADMINISTRATION*

Sec. 18-26. Created; code administrator generally.

There is hereby created the department of code administration, the head of which shall be the code administrator appointed by the city manager. The code administrator shall have supervision and control of the department, including the building inspector, the plumbing inspector, the electrical inspector and other inspectors of the building trades.
(Code 1974, § 7-15)

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

*Cross references—Departments, § 2-106 et seq.; employee benefits, § 2-206 et seq.

Sec. 18-27. General powers and duties—Department and inspectors.

The department of code administration shall see that all laws, ordinances and other regulations relating to building, plumbing and electrical installations are properly enforced, except as may be otherwise provided by applicable law or ordinance. The building inspector, the plumbing inspector, the electrical inspector and other inspectors of the building trades, under the supervision and control of the code administrator, shall have such powers, duties and functions as may be prescribed by applicable law or ordinance or by the city manager.
(Code 1974, § 7-16)

Sec. 18-28. Same—Code administrator.

The code administrator shall have the powers, duties and functions prescribed for the building official by any code adopted by this chapter; provided that such powers, duties and functions may be performed by authorized representatives of the code administrator and under his supervision and control. Such authorized representatives may bear such titles as "building inspector," "gas inspector," "plumbing inspector," "electrical inspector," and the like, as may be deemed appropriate to indicate their respective area of concern. When any ordinance provision or provision of any code adopted by this chapter prescribes any power, duty or function for any of such authorized representatives of the code administrator, the administrator himself shall also have such power, duty or function in the absence of his designated representative.
(Code 1974, § 7-17)

Sec. 18-29. Officers' and employees' conflicts of interest.

No officer or employee connected with the department of code administration, except one whose only connection is as a member of any advisory board, shall be financially interested in the furnishing of labor, material or appliances for the construction, alteration or maintenance of a building, or in the making of plans or of specifications therefor, unless he is the owner/occupant of such

building. No such officer or employee shall engage in any work which is inconsistent with his duties or with the interests of the department.
(Code 1974, § 7-18)

Sec. 18-30. Records.

The code administrator shall keep, or cause to be kept, a record of the business of the department of code administration. The records of the department shall be open to public inspection.
(Code 1974, § 7-19)

Secs. 18-31—18-50. Reserved.

ARTICLE III. BUILDING CODE

Sec. 18-51. Adopted.

There is hereby adopted, for the purpose of establishing rules and regulations for the construction, alteration, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, that certain building codes known as the International Building Code, 2009 edition and the International Residential Code, 2009 edition, and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended, of which code not less than three copies are on file in the office of the code administrator; and the same is hereby incorporated as a part hereof as fully as if set out at length in this article. The provisions of such code shall be controlling in the construction, alteration, demolition, equipment, use and occupancy, location and maintenance of all buildings and other structures within the corporate limits of the city.
(Code 1974, § 7-31; Ord. No. 2055, § 1, 10-8-96; Ord. No. 2145, § 1, 2-26-02; Ord. No. 2188, § 1, 12-14-04; Ord. No. 2416, § 1, 3-13-12)

Charter reference—Authority to adopt building code by reference, § 2-15.

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

Sec. 18-52. Definitions.

Wherever the terms "department of building inspection" and "building official" are used in the code adopted by this article they shall mean the department of code administration and the code administrator, or his duly authorized representative, respectively. The term "chief appointing authority," as used in such code, shall mean the city manager.
(Code 1974, § 7-32)

Cross reference—Definitions generally, § 1-2.

Sec. 18-53. Amendments.

The International Building Code, 2009 edition is hereby amended to provide for submission requirements and fees for permits as follows:

(1) *New construction and additions to existing structures:*

a. An architectural set of construction plans which must include at a minimum - floor plan, electrical plan, plumbing locations, mechanical plan along with footing, stem wall and slab details.

b. A plot plan, drawn to scale with all dimensions figured. The plot plan must show the exact size of lot and the location of the proposed and or existing building(s) on the lot. It must also include the exact locations and size of all driveways and parking spaces. The plot plan may be placed on the survey required in subsection (c) below.

c. A survey with existing topography, any radical ground breaks, corners and all existing easements. The survey must be tied to a mean sea level bench mark as identified on FIRM Map 400170005C, Revised 7/3/90, for Zone A and Zone B encroachments. Bench Marks known to Registered Land Surveyors may be applied to Zone C and Zone D as it is identified by FIRM 400170005C, Revised 7/3/90. Assumed bench marks will not be allowed.

A lowest finished floor elevation must be provided for all proposed structures.

This survey must be stamped and signed by a registered land surveyor.

d. A drainage plan of the proposed site in a form specified by the engineering department. The finished floor elevations can be shown on this drainage plan or on the construction plans.

(2) *Fees.* The fees for the permit required by this code shall be in accord with the following schedule:

a. The applicant for a permit to construct, remodel, repair, or add to any residential building shall pay a fee of $0.17 per square foot of total construction area covered by roof, with a minimum fee of $30.00.

b. The applicant for a permit to construct, remodel, repair, or add to any commercial or industrial building shall pay a fee of $0.17 per square foot of total construction area covered by roof, with a minimum fee of $40.00, plus $0.02 per square foot for fire inspection, administration and plan review to assure compliance with fire codes.

c. All structures of more than 2,500 square feet of construction area covered by roof, requiring a detailed plan review by the engineering, code and fire department[s], shall be charged $25.00 per hour per actual time for such plan examination, recommendation or approval.

d. The building inspector shall make the five normal and necessary inspections required for the fees: footing, slab/steel, framing, insulation and final. Any additional inspections required shall be charged at the standard $30.00 per inspection for residential and $40.00 per inspection for commercial as provided for in electrical and plumbing sections.

e. For the moving any building or structure, the fee shall be $100.00 and [as] prescribed in section 18-348.

f. For the demolition of any building or structure, the fee shall be $30.00 for each issuance.

g. All building permit fees and related fees may be waived with a memorandum of understand[ing] (MOU) initiated by the city manager and approved by the city council. All related fees will be refunded on a reimbursement basis upon receipt of a written request for the same from any city commercial or industrial business that intends to expand locally, and through which said expansion provides a minimum of 25 jobs or more to the city.

h. Applicant for a permit to construct a residential swimming pool shall pay a fee of $50.00.

i. Applicant for a permit to construct a water well shall pay a fee of $50.00.

(3) *Violation.* Any person who shall violate a provision of this code or fail to comply therewith or with any of the requirements thereof, or who shall erect, construct, alter, repair, demolish or move, or has erected, constructed, altered, repaired, demolished or moved a building or structure in violation of a detailed statement or drawing submitted and approved thereunder, or of a permit or certificate issued thereunder, shall be guilty of a misdemeanor, and upon conviction shall be fined as prescribed by section 1-8 of this Code. Each day upon which a violation continues shall be deemed a separate offense.

(Code 1974, § 7-33; Ord. No. 2145, § 2, 2-26-02; Ord. No. 2188, § 2, 12-14-04; Ord. No. 2208, § 1, 9-27-05; Ord. No. 2346, § 1, 2-9-10; Ord. No. 2416, § 2, 3-13-12)

Sec. 18-54. Rights of inspectors.

(a) *Right of entry.* In the discharge of duties, the building official or authorized representative shall have the authority to enter at any reasonable hour any building, structure or premises in the jurisdiction to enforce the provisions of this code.

(b) *Relief from personal responsibility.* The building official, officer or employee charged with the enforcement of this code, while acting for the

jurisdiction, shall not thereby be rendered liable personally, and the building official, officer or employee is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that person in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The building official or any subordinates shall not be liable for costs in any action, suit or proceeding that may be instituted in pursuance of the provisions of this code; and any officer of the department of building inspection, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.
(Code 1974, § 7-32.1)

Sec. 18-55. Violations.

(a) *Unlawful acts.* It shall be unlawful for any person to erect, construct, alter, extend, repair, remove, demolish, use or occupy any building or structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

(b) *Notice of violation.* The building official shall serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, removal, demolition, use or occupancy of a building or structure in violation of the provisions of this code, or in violation of a detail statement or a plan approved thereunder, or in violation of a permit or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

(c) *Prosecution of violation.* If the notice of violation is not complied with promptly, the building official shall request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation or to require the removal or termination of the unlawful use of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

(d) *Penalties.* Any person who shall violate a provision of this code or fail to comply therewith or with any of the requirements thereof, or who shall erect, construct, alter, repair, demolish or move, or has erected, constructed, altered, repaired, demolished or moved a building or structure in violation of a detailed statement or drawing submitted and approved thereunder, or of a permit or certificate issued thereunder, shall be guilty of a misdemeanor, and upon conviction shall be fined as prescribed by section 1-8. Each day upon which a violation continues shall be deemed a separate offense.
(Code 1974, § 7-32.2)

Secs. 18-56—18-70. Reserved.

ARTICLE IV. ELECTRICAL CODE*

DIVISION 1. GENERALLY

Sec. 18-71. Title.

This article shall be known and may be cited as the "Electrical Code of the City of McAlester."
(Code 1974, § 7-59)

Sec. 18-72. 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:

Apprentice electrician means any person over 16 years of age who, as his principal occupation, is engaged in learning and assisting in the installation of electrical equipment and under the direct supervision of a registered journeyman electrician or registered electrical contractor.

Electrical appeals board means the state health department. All appeals concerning technical disputes, interpretations, opinions, or electrical rules

*State law reference—Municipal regulation of electrical installations, 59 O.S. § 1693.

and regulations shall be heard by the state electrical investigator and any final decision shall be rendered by that specific department.

Electrical contractor means a person engaged in the general electrical contracting business covering all features of the electrical industry.

Electrical equipment means electrical conductors, metallic raceways, fittings, devices, fixtures, appliances, apparatus and any electrical material of any nature, kind or description, to be installed within or on any building or structure.

Electrical sign contractor means a person engaged in the business of manufacturing, assembling, wiring, rewiring, installing, erecting or repairing interior or exterior electrical signs, but not installing any building wiring or connecting signs to the building wiring.

Electrician's examining board means the state board of health electrical examining board. All electrician's examinations will be conducted by this board and held in Oklahoma City. Permits cannot be issued by the city for electrical work without a current state electrical license.

Journeyman electrician means a person actually engaged in the work of installing or repairing electrical equipment.
(Code 1974, § 7-60)
Cross reference—Definitions generally, § 1-2.

Sec. 18-73. Article does not affect liability for damages.

This article shall not be construed to affect the responsibility or liability of any party owning, operating, controlling or installing any electrical equipment for damages to persons or to property caused by any defect therein, nor shall the city or any officer or employee of the city be held as assuming such liability by reason of the inspections provided for in this article or by reason of the approval or disapproval of any equipment under the provisions of this article.
(Code 1974, § 7-72)

Secs. 18-74—18-80. Reserved.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT

Subdivision I. General Provisions

Sec. 18-81. Relief from personal responsibility.

(a) The electrical official, officer or employee charged with the enforcement of this article, while acting for the jurisdiction, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of official duties.

(b) Any suit instituted against any officer or employee because of an act performed in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The electrical official or any subordinates shall not be liable for costs in any action, suit or proceeding that may be instituted in pursuance of the provisions of this article. Any officer of the department of electrical inspection, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.
(Code 1974, § 7-67.1)

Sec. 18-82. Electrical inspector's right of entry.

The electrical inspector, while in the discharge of his official duty, shall have the authority to enter any building or premises at any reasonable hour, for the purpose of making any electrical inspection, reinspection or test of the electrical equipment contained therein or its installation, and when any electrical installations are found to be in an unsafe or hazardous condition, the electrical inspector shall notify the person where such installations exist to correct the same and place them in a safe condition. Any person failing or refusing to make corrections of hazardous or unsafe electrical installations, after having been notified by the electrical inspector, within a des-

ignated time to be determined by the electrical inspector, shall be guilty of an offense and each day after the expiration of the time designated to make corrections shall constitute a separate offense. When hazardous or unsafe electrical conditions exist and any person fails to make corrections after having been notified, the electrical inspector shall have the authority to discontinue the electrical service. Any person interfering with the electrical inspector shall be guilty of an offense.
(Code 1974, § 7-70)

Sec. 18-83. Special rulings by electrical inspector.

The electrical inspector shall have the authority to make special rulings, when circumstances warrant, for the safeguarding of life and property and the improvement of electrical installations, but in all cases persons engaged in installing electrical equipment and holding a license under this article must be notified by letter of such rulings.
(Code 1974, § 7-71)

Secs. 18-84—18-95. Reserved.

Subdivision II. Permits and Inspections

Sec. 18-96. Work permit.

(a) It shall be unlawful for any person to install any electrical wiring, fixtures or apparatus in or on any building or structure in the city, or make extensions to any existing electrical installations, without first securing a permit from the department of code administration; provided, that extensions may be made to existing circuits in accordance with the provisions of this article, without a permit. Permits shall be issued to registered electrical contractors only.

(b) The electrical contractor shall, prior to proceeding to do any work requiring a permit under this section, call the office of the department of code administration and give the name of the electrical contractor who is to do such work and the address where the work is to be done. He shall then make written application to the department for the issuance of the permit.
(Code 1974, § 7-65)

State law reference—Authority to require permit, 59 O.S. § 1693.

Sec. 18-97. Inspection and approval of new installations—Generally.

(a) It shall be the duty of the electrical inspector to inspect all electrical equipment installed within the city.

(b) New or old work roughed in shall include all electrical equipment to make the installation complete, and shall be free from unintentional grounds, with joints properly made up, ready for attachment of fixtures, droplights and appliances, before it is inspected. After making inspection of work roughed in, the electrical inspector shall leave a tag or notice in the switch cabinet or attached to the service equipment, plainly indicating whether the work has been approved and is ready to conceal, or that the installation is not standard and must not be covered until approved by the electrical inspector.

(c) It shall be unlawful for any person to conceal or cause to be concealed any electrical equipment used for electric light, heat or power until the installation has been approved by the electrical inspector. A tag in the switch cabinet or attached to the service equipment, properly signed and dated, so stating, will be sufficient notice of such approval.

(d) It shall be unlawful for any public service corporation, individual or light, heat or power company to connect or cause to be connected any service or building, for the supply of electric current for light, heat or power, until he or it has been notified, in writing, by the electrical inspector that the electrical work has been inspected and approved and is ready for electric service.
(Code 1974, § 7-66)

Sec. 18-98. Electrical inspections and permit fees.

The following charges shall be assessed for permits and inspections and shall be paid to the city treasurer.

(1) *Residential:* $0.06 per square foot of construction.

(2) *Commercial:* $0.06 per square foot of construction.

(3) *Remodeling/general inspection fees:*

Residential: $30.00.

Commercial: $40.00.

(4) *Required reinspection:*

Residential: $30.00.

Commercial: $40.00.

(Code 1974, § 7-67; Ord. No. 2145, § 3, 2-26-02; Ord. No. 2188, § 3, 12-14-04; Ord. No. 2208, § 2, 9-27-05; Ord. No. 2346, § 2, 2-9-10)

Secs. 18-99—18-110. Reserved.

DIVISION 3. ELECTRICIANS*

Subdivision I. General Provisions

Sec. 18-111. Apprentices.

Apprentice electricians must be registered with the state as provided by 59 O.S. § 1686. Apprentices shall not perform electrical work except under the direct on-the-job supervision of a registered electrical contractor or registered journeyman electrician. Each electrical contractor or journeyman electrician shall be allowed no more than three apprentices under his direct supervision.
(Code 1974, § 7-64)

Secs. 18-112—18-120. Reserved.

Subdivision II. Registration

Sec. 18-121. Required.

It shall be unlawful for any person to engage in the business or work of an electrical contractor, electrical sign contractor, journeyman electrician or apprentice electrician, as defined in this article, unless he has a current and valid registration authorizing him to do so, and issued in accord with this division.
(Code 1974, §§ 7-64, 7-79)

State law reference—Local registration of electrician authorized, 59 O.S. § 1696.

Sec. 18-122. Exceptions.

No registration shall be required under this division for the installation of bell, telephone or signal systems not using over 50 volts, but the installation of the same must comply with all other requirements of this article and other ordinances of the city.
(Code 1974, § 7-80)

*Cross reference—Businesses, ch. 22.

State law reference—State regulation of electricians, 59 O.S. § 1680 et seq.

Sec. 18-123. Registration and fees.

(a) No person shall be registered under the division unless he holds a valid state license or certificate, authorizing him to engage in the field in which he seeks registration.

(b) Before the issuance or renewal of a registration under this division, the applicant shall pay the following fees to the city treasurer:

Type of registration	*Initial fee*	*Renewal fee*
Electrical contractor	$200.00	$80.00
Electrical journeyman	25.00	15.00
Electrical sign contractor	80.00	80.00
Apprentice electrician	5.00	5.00

(c) The fees required by this section shall not be prorated.
(Code 1974, §§ 7-64, 7-84; Ord. No. 2145, § 4, 2-26-02; Ord. No. 2188, § 4, 12-14-04)

Sec. 18-124. Effect of issuance.

A registration issued under this division shall authorize the holder thereof to engage only in the business or work of an electrical contractor, electrical sign contractor, journeyman electrician or apprentice electrician, as the case may be. In addition, a journeyman electrician's registration shall authorize the holder thereof to engage in such work only while working for a registered electrical contractor; and an apprentice electrician's registration shall authorize the holder thereof to engage in such work only while directly supervised by a registered journeyman electrician or electrical contractor.
(Code 1974, § 7-85)

Sec. 18-125. Bond and insurance requirements for electrical contractors.

(a) Every person receiving registration as an electrical contractor under the provisions of this article shall file with the city clerk a bond in the sum of $2,000.00, executed with a surety company authorized to do business in the state. Such bond shall be conditioned that the principal will install all electrical wiring, fixtures and equipment in accordance with the laws of the state and the ordinances and other regulations of the city

relating to electrical installations, and that the principal shall, without further cost to the person for whom the work was done, remedy any defective or faulty work caused by poor workmanship or inferior or nonstandard material. Such bond shall be conditioned further that the principal shall indemnify and save harmless the city from any and all loss, expense, cost, damage, action or liability of any kind whatever, including reasonable attorney's fees, which the city may suffer, or be required to pay, or which may accrue against it, or be recovered from it by reason of any loss, damage or injury sustained, suffered or incurred by any person on account of or by reason of the doing of any electrical work by the principal, his agents, subcontractors or employees, in the making of any electrical connections, alterations, repairs, extensions or renovations, or by reason of the neglect, failure or refusal of the principal, his agents, subcontractors or employees, until such time as the work is fully completed and approved by the electrical inspector.

(b) Each electrical contractor shall further protect his employees and the public against loss by purchasing and maintaining the following insurance:

(1) Standard workers' compensation and employer's liability insurance in a minimum amount of $50,000.00 if he has an employee.

(2) Contractor's liability insurance providing bodily injury coverage of $25,000.00/$50,000.00/$50,000.00 for each person, each occurrence, each property damage and aggregate.

(c) No work shall be performed by or for any electrical contractor, unless the bond and insurance required by this section are in full force and effect and an electrical contractor's registration shall be valid only while such bond and insurance are in effect.

(d) The bond required by this section must be received no later than April 1 and shall run for one year after its approval, and shall be renewed at its expiration. No permit shall be issued to any electrical contractor until the bond provided for in this section has been filed and approved and any such permit issued shall be valid only while the bond is in effect.
(Code 1974, § 7-63)

Sec. 18-126. Expiration and renewal.

All registrations issued under this division shall expire on June 30 next following the date of issuance, and may be renewed by paying the renewal fee prescribed by section 18-123. However, if a journeyman or electrical contractor fails to renew his registration within 30 days after its expiration he shall be required to pay the initial registration fee. No city registration shall be valid after the termination or expiration of the holder's state license or certificate.
(Code 1974, §§ 7-64, 7-87)

Sec. 18-127. Transfer to or use by another.

It shall be unlawful for any person holding a registration under this division to transfer the same or allow the use of the same, directly or indirectly, by any other person for the purpose of obtaining a permit to do any of the electrical work governed by this article.
(Code 1974, § 7-86)

Sec. 18-128. Revocation.

The city council, upon at least ten days' notice and adequate opportunity for a public hearing, may revoke the city registration of any electrical contractor or journeyman electrician for violation of any provision of this article or regulations of the city relating to the operation of electrical trade or business.
(Code 1974, § 7-88)

Secs. 18-129—18-140. Reserved.

DIVISION 4. TECHNICAL STANDARDS

Sec. 18-141. National Electrical Code adopted.

There is hereby adopted, for the purpose of establishing rules and regulations for the installation and use of electrical equipment in buildings and structures, that certain electrical code known

as the National Electrical Code, 2008 edition, and all subsequent editions and amendments, recommended by the American Insurance Association; and the whole thereof, and the same is hereby incorporated as fully as if set out at length in this division. The provisions of such code shall be controlling in the installation and use of electrical equipment in buildings and structures within the corporate limits of the city; provided, however, that if any provision of such code conflicts with any other provision of this article the latter shall govern.
(Code 1974, § 7-96; Ord. No. 2055, § 2, 10-8-96; Ord. No. 2145, § 5, 2-26-02; Ord. No. 2188, § 5, 12-14-04; Ord. No. 2416, § 3, 3-13-12)

Charter reference—Authority to adopt electrical code by reference, § 2-15.

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

Sec. 18-142. Amendments to electrical code.

The National Electrical Code as adopted by the city is amended in the following particulars:

Chapter 3, article 300, paragraph 300-4(a)(1) is amended to read as follows:

(a) (1) Bored holes. In both exposed and concealed locations, where a cable or raceway type wiring method is installed through bored holes in joist, rafters, or similar structural wood members, holes shall be bored at the approximate center of the face of the member. Holes in studs for cable-type wiring methods shall be bored at the approximate center of the face of the member but not less than 1½ inches from the nearest edge. Where this distance cannot be maintained, the cable or raceway shall be protected from penetration by screws or nails by a steel plate or bushing at least 1/16 inch (1.59 mm) thick, and of appropriate length and width installed to cover the area of the wiring.
(Code 1974, § 7-96.1)

Sec. 18-143. General equipment standards.

All electrical equipment installed or used by the city shall be in conformity with the provisions of this article, the statutes of the state and any orders, rules and regulations issued by authority thereof, and with approved electrical standards for safety to persons or to property. Unless by this article, a statute of the state or any order, rule or regulation issued by authority thereof, a specific type or class of electrical equipment is disapproved for installation and use, conformity with the standards of Underwriters' Laboratories, Inc., shall be prima facie evidence of conformity with approved standards for safety to persons and property.
(Code 1974, § 7-97)

Sec. 18-144. Special requirements for wiring in commercial buildings and places of public assembly.

(a) For the purposes of this section the following definitions shall apply:

Electrical nonmetallic tubing (ENMT) means a pliable corrugated raceway of circular cross-section with integral or associated couplings, connectors and fittings listed for the installation of electric conductors. It is composed of a material that is resistant to moisture, chemical atmospheres and is flame retardant. Because of the corrugations, the raceway can be bent by hand with a reasonable force, but without other assistance.

Rigid nonmetallic conduit (RNMC) means a type of conduit and fittings of suitable nonmetallic material that is resistant to moisture and chemical atmospheres. For use aboveground it shall also be flame retardant, resistant to impact and crushing, resistant to distortion from heat under conditions likely to be encountered in service, and resistant to low temperature and sunlight effects. For use underground, the material shall be acceptably resistant to moisture and corrosive agents and shall be of sufficient strength to withstand abuse, such as by impact and by crushing, in handling and during installation. Where intended for direct burial, without encasement in concrete, the material shall also be capable of withstanding continued loading that is likely to be encountered after installation. Materials recognized as having suitable physical characteristics when properly formed and treated include: fiber, asbestos cement, soapstone, rigid polyvinyl chloride (sched-

ule 40 and schedule 80), fiberglass epoxy, high-density polyethylene for underground use and rigid PVC for aboveground.

(b) All wiring installed in commercial buildings must be placed in metallic raceways or in rigid nonmetallic conduit. Armored cable or flexible conduit shall be used only when, in the judgement of the electrical inspector, it is impractical to install other metallic raceways. Existing wiring in a safe condition, according to the judgement of the electrical inspector, may be retained. Any extensions shall be in compliance with this section.

(c) Wiring installed in churches, schools, lodges and all other places of public assembly may be installed in rigid nonmetallic conduits if it is in compliance with applicable provisions and requirements of the National Electrical Code as adopted by the city.
(Code 1974, § 7-98)

Sec. 18-145. Branch circuits; type C lamp cords prohibited in certain places.

In residential and mercantile occupancies, lighting branch circuits shall be confined to 1,000 watts, and not more than eight outlets per circuit will be allowed in the fire zone or fire limits. Branch circuit conductors shall not be smaller than No. 12. Type C lamp cord will not be permitted in the kitchen of restaurants or like places where grease accumulates, nor in part of a building where live poultry is confined.
(Code 1974, § 7-101)

Sec. 18-146. Ground connections prohibited in certain locations.

Ground connections shall not be made in toilets, adjacent to salt storage or acid vapors or in any location where the grounding conductor and fitting is likely to become corroded.
(Code 1974, § 7-102)

Sec. 18-147. Trailer hookups; electrical inspection required.

Before a trailer (mobile home) can be hooked up in a trailer park or lot, an electrical inspection must be made by the codes department electrical inspector, to ensure that the trailer is in good working order and that the trailer park equipment is adequate to safely accommodate the trailer, and is in good working condition. Manufactured trailers (housing) free of axles shall be treated in a like manner. If deficiencies are found in either the trailer, or the park, by the inspector, no hookup or water service shall be allowed until the unsafe or hazardous conditions have been repaired or eliminated to the inspector's satisfaction.
(Code 1974, § 7-104)

Secs. 18-148—18-170. Reserved.

ARTICLE V. PLUMBING CODE*

DIVISION 1. GENERALLY

Sec. 18-171. 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:

Generally. The definitions found in 59 O.S. § 1003 referencing the business, trade or occupation of a plumbing contractor, journeyman plumber or apprentice plumber, and/or the plumbing board or committee are hereby included in the city plumbing ordinances.

Apprentice or *plumber's apprentice* means any person 16 years of age or over who, as his principal occupation, is engaged in learning and assisting in the installation of plumbing under the direct supervision of a registered journeyman plumber or plumbing contractor.

Board means the state board of health.

Commissioner means the state commissioner of health.

***Cross references**—Water supply system, § 106-26 et seq.; sewers and sewage disposal, § 106-201 et seq.

State law references—Plumbing and plumbing contractors, 59 O.S. § 1001 et seq.; duty of city to prescribe plumbing regulations, 59 O.S. § 1015.

Committee means the state committee of plumbing examiners appointed by the state commissioner of health.

Journeyman plumber means, and is hereby defined to be, any person other than a master plumber or plumbing contractor who engages in or works at the actual installation, alteration, repair and/or renovation of plumbing.

Master plumber means a plumbing contractor as defined in this section.

Plumber's appeals board means that board comprising the commissioner of health from the state board of health and the commission of plumbing examiners, which shall constitute the plumbing hearing board who shall investigate complaints, conduct hearings and suspend or revoke plumbing licenses. All appeals concerning technical disputes, interpretations, opinions, plumbing rules or regulations shall be heard by this board.

Plumber's examining board means the examining board for issuing state licenses, which shall consist of the state commission of plumbing examiners from the state board of health, and can conduct examinations of applicants for licenses for plumbing contractors, journeyman plumbers and apprentices. City permits cannot be issued without a current state plumbing license.

Plumbing means and includes:

(1) All piping, fixtures, appurtenances and appliances for, and in connection with, a supply of water within or adjacent to any building, structure, or conveyance on the premises and to the connection with a water main or other source of supply.

(2) All piping, fixtures, appurtenances and appliances for sanitary drainage or storm drainage facilities, including venting systems for such facilities, within or adjacent to any building, structure, or conveyance on the premises and to the connection with a public disposal system or other acceptable terminal.

(3) The installation, repair, maintenance and renovation of all piping, fixtures, appurtenances and appliances for a supply of water, or for the disposal of wastewater, liquid waste, or sewage within or adjacent to any building, structure, or conveyance on the premises and to the source of supply of water or point of disposal of wastes.

Plumbing contractor means any person who is skilled in the planning, superintending and practical installation of plumbing and is familiar with the laws, rules and regulations governing same. This definition may be construed to mean any person who has qualified and is registered under this article as a plumbing contractor, who may operate as an individual, firm, partnership or corporation to engage in the business of plumbing, or the business of contracting to do, or furnish labor and/or labor and materials for, the installation, repair, maintenance or renovation of plumbing, according to the requirements of this article.

Plumbing hearing board means the state plumbing hearing board. It consists of the state commissioner of health as chairman, and the members of the state committee of plumbing examiners.
(Code 1974, §§ 7-115, 7-115.1)

Cross reference—Definitions generally, § 1-2.

Sec. 18-172. Relief from personal responsibility.

(a) The plumbing official, officer or employee charged with the enforcement of this article, while acting for the jurisdiction, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of official duties.

(b) Any suit instituted against any officer or employee because of an act performed in the lawful discharge of duties and under the provisions of this article shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The plumbing official or any subordinates shall not be liable for costs in any action, suit or proceeding that may be instituted in pursuance of the provisions of this article. Any officer of the department of plumbing inspection, acting in good faith and without malice, shall be free from liability for acts performed

under any of its provisions or by reason of any act of omission in the performance of official duties in connection therewith.
(Code 1974, § 7-124.1)

Sec. 18-173. Plumbing inspector's right of entry.

The plumbing inspector, while in the discharge of his official duty, or his authorized representative, shall have the authority to enter any building, structure or premises at any reasonable hour to enforce the provisions of this article. When any plumbing or sanitary installation is found to be in an unsafe or hazardous condition, the plumbing inspector shall notify the person where such condition exists to correct the same and to make it safe. Any person failing or refusing to make correction of a hazardous or unsafe condition, after having been notified by the plumbing inspector, within a designated time to be determined by the plumbing inspector, shall be guilty of an offense and each day after the expiration of the designated time shall constitute a separate offense. When these hazardous conditions exist and the notified person fails to make corrections, the plumbing inspector shall have the authority to immediately discontinue the water supply to the structure. Any person interfering with the plumbing inspector shall be guilty of an offense.
(Code 1974, § 7-124)

Sec. 18-174. Plumbing inspections and permit fees.

The following charges shall be assessed for the permits and inspections required.

(1) *New construction/general permit fees:*

Residential: $0.06 per square foot of construction, including inspection.

Commercial: $0.06 per square foot of construction, including inspection.

(2) *Remodeling/general inspection fees:*

Residential: $30.00

Commercial: $40.00

(3) *Required reinspection:*

Residential: $30.00

Commercial: $40.00

(Code 1974, § 7-122; Ord. No. 2145, § 6, 2-26-02; Ord. No. 2188, § 6, 12-14-04; Ord. No. 2208, § 3, 9-27-05; Ord. No. 2346, § 3, 2-9-10)

State law reference—Authority to charge fees for plumbing permits and inspections, 59 O.S. § 1020.

Sec. 18-175. Backflow prevention devices.

All sanitary drainage piping shall have backflow prevention devices installed as approved by the plumbing inspector prior to connection to the public disposal system.
(Ord. No. 2228, § 1, 4-11-06)

Secs. 18-176—18-185. Reserved.

DIVISION 2. PLUMBERS*

Subdivision I. General Provisions

Sec. 18-186. Apprentices.

Apprentice plumbers must be registered with the state as required by 59 O.S. § 1013. Apprentices shall not perform plumbing work except under the direct on-the-job supervision of a registered plumbing contractor or registered journeyman plumber. Each plumbing contractor or journeyman plumber shall be allowed no more than two apprentices under his direct supervision.
(Code 1974, § 7-116.5)

Secs. 18-187—18-195. Reserved.

Subdivision II. Registration

Sec. 18-196. Required.

It shall be unlawful for any person to engage in the business, trade or occupation of a plumbing contractor, journeyman plumber or apprentice plumber, as those terms are defined in 59 O.S. § 1003, and in section 18-171 of this Code, in this

*Cross reference—Businesses, ch. 22.

city unless he has a current and valid registration authorizing him to do so, and issued in accord with this division.
(Code 1974, § 7-116(a»

State law reference-Authority of city relative to registration of plumbers, 59 O.S. § 1020.

Sec. **18-197.** Fees.

(a) Before the issuance or renewal of a registration under this section, the applicant shall pay the following fees to the city treasurer:

Type of registration	*Initial fee*	*Renewal fee*
Plumbing contractor	$200.00	$80.00
Plumbing journeyman	25.00	15.00
Plumbing apprentice	5.00	5.00

(b) The fee required by this section shall not be prorated.
(Code 1974, § 7-116(b), (c); Ord. No. 2145, § 7, 2-26-02; Ord. No. 2188, § 7, 12-14-04)

Sec. 18-198. Bond for plumbing contractors.

(a) Every person registering as a plumbing contractor under the provisions of section 18-196 shall, before engaging in the practice of plumbing, file with the city clerk a bond in the sum of $2,000.00, executed with a surety company licensed to do business in the state. Such bond shall be payable to the city and shall be conditioned that the principal will restore, with the same material and in the same manner, all streets, alleys, sidewalks and other public places in any way disturbed by him, his agents, subcontractors or employees. Such bond shall be conditioned further that the principal shall indemnify and save harmless the city from any and all loss, expense, cost, damage, action or liability of any kind whatever, including reasonable attorney's fees, which the city may suffer or be required to pay or which may accrue against it or be recovered from it by reason of any loss, damage or injury sustained, suffered or incurred by any person on account of or by reason of the doing of any plumbing by the principal, his agents, subcontractors or employees, in the use of the streets, alleys and public property of the city, or in making any connections, alterations, repairs, extensions or renovations to any pipe or pipes or mains or connections belonging to the water or sewer system of the city, or by reason of the neglect, failure or refusal of the principal, his agents, subcontractors or employees, to erect, place and maintain proper and adequate safety devices, warning signals, lights and barricades about such work until such time as the work is fully completed and approved by the plumbing inspector. Such bond shall be conditioned further that the principal will comply with the rules, regulations and ordinances relating to the turning on or off of the city water supply. Such bond shall be conditioned further that the principal shall do all plumbing in strict accordance with the ordinances and regulations of the city and the laws of the state, and in a good and workmanlike manner.

(b) Each plumbing contractor shall further protect his employees and the public against loss by purchasing and maintaining the following insurance:

(1) Standard workers' compensation and employer's liability insurance in a minimum amount of $50,000.00 if he has an employee.

(2) Contractor's liability insurance providing bodily injury coverage of $25,000.00/$50,000.00/$50,000.00 for each person, each occurrence, each property damage and aggregate.

(c) No work shall be performed by or for any plumbing contractor, unless the bond and insurance required by this section are in full force and effect and a plumbing contractor's registration shall be valid only while such bond and insurance are in effect.

(d) The bond required by this section must be received no later than April 1 and shall run for one year after its approval, and shall be renewed at its expiration. No permit shall be issued to any plumbing contractor until the bond provided for in this section has been filed and approved and any such permit issued shall be valid only while the bond is in effect.
(Code 1974, § 7-117)

Sec. 18-199. Expiration and renewal.

All registrations issued under this division shall expire on June 30 each year, and may be renewed by paying the renewal fee prescribed by section 18-197. However, if an apprentice, journeyman or plumbing contractor fails to renew his registration within 30 days after its expiration date, he shall be required to pay the initial registration fee. No city registration shall be valid after the termination or expiration of the holder's state license or certificate.
(Code 1974, § 7-116.2)

Sec. 18-200. Effect of issuance.

A registration issued under this article shall authorize the holder thereof to engage only in the business or work of a plumbing contractor, journeyman plumber, or plumber's apprentice, as the case may be. In addition, a journeyman plumber's registration shall authorize the holder thereof to engage in such work only while working for a registered plumbing contractor; and an apprentice plumber's registration shall authorize the holder thereof to engage in work only while working for a registered plumbing contractor or journeyman plumber.
(Code 1974, § 7-116.4)

Sec. 18-201. Transfer to or use by another.

It shall be unlawful for any person holding a registration under this article to transfer the same or allow the use of the same, directly or indirectly, by any other person for the purpose of obtaining a permit to do any of the plumbing work governed by this article.
(Code 1974, § 7-116.1)

Sec. 18-202. Revocation.

The city council, upon at least ten days' notice and adequate opportunity for a public hearing, may revoke the city registration of any plumbing contractor or journeyman plumber for violating any provision of the ordinances or regulations of the city relating to the installation of plumbing or for any other cause specified in 59 O.S. § 1010.
(Code 1974, § 7-116.3)

Secs. 18-203—18-215. Reserved.

DIVISION 3. TECHNICAL STANDARDS

Sec. 18-216. Plumbing code adopted.

Except as may be otherwise specifically provided by law or ordinance or rules fully promulgated by the code administrator, the plumbing and drainage system of a building or structure shall be installed in conformity with the 2003 International Plumbing Code, which is hereby adopted for the purpose of establishing rules and regulations for the installation of the plumbing and drainage system of a building structure, and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended, of which code not less than three copies have been and now are filed in the office of the code administrator; and the same is hereby adopted and incorporated as fully as if set out at length in this division. From the date on which this section shall take effect, the provisions of such code, as herein modified, shall be controlling in the installation of the plumbing and drainage system of the building and structures within the corporate limits of the city. Whenever the term "plumbing inspection department" is used in the plumbing code adopted by this section, it shall mean the code administration department of the city. The term "plumbing official" as used in such code, shall mean the code administrator or the plumbing inspector or other duly authorized representative of the code administrator. Whenever reference is made in such code to a "master plumber", it shall mean a plumbing contractor registered in accord with this article.
(Code 1974, § 7-118; Ord. No. 2055, § 3, 10-8-96; Ord. No. 2145, § 8, 2-26-02; Ord. No. 2188, § 8, 12-14-04)

Charter reference—Authority to adopt plumbing code by reference, § 2-15.

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

Sec. 18-217. PVC plastic drain and vent pipe and fittings; PVC plastic water services.

The use of polyvinyl chloride (PVC) plastic drain and vent pipe and fittings, and all water services will be governed by the edition of the 2009 International Plumbing Code, as adopted and amended in this article.
(Code 1974, § 7-123; Ord. No. 2416, § 4, 3-13-12)

Secs. 18-218—18-240. Reserved.

ARTICLE VI. MECHANICAL CODE

DIVISION 1. GENERALLY

Sec. 18-241. Title.

This article shall be known as the "Mechanical Code of the City of McAlester" and is referred to as the mechanical code.
(Code 1974, § 7-126(a))

Sec. 18-242. 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:

Air conditioning or *air conditioning space* means the process of treating air by controlling its temperature, humidity and cleanliness to meet the requirements of a designated area.

Board means the state board of health of the state department of health.

Chief appointing authority as used in the code adopted by this article shall mean the city manager.

Department of building inspection and *building official,* as used in the code adopted by this article, shall mean the department of building administration and the code administrator, or his duly authorized inspectors, respectively.

Examining board means the local committee or board of mechanical examiners.

Gas piping means and includes all natural gas piping within or adjacent to any building, structure, or conveyance on the premises and to the connection with a natural gas meter, regulator or other source of supply.

Heating systems means and includes systems consisting of air heating appliances from which the heated air is distributed and shall include any accessory apparatus and equipment installed in connection therewith.

Mechanical apprentice or *apprentice* means any person 16 years of age or older whose principal occupation is learning mechanical work on the job under the direct supervision of a journeyman or contractor.

Mechanical contractor or *contractor* means any person engaged in the business of planning, contracting, supervising or furnishing labor, or labor and materials for mechanical work.

Mechanical firm means any corporation, partnership, association, proprietorship or other business entity which plans or engages, or offers to engage, in mechanical work for another within this state.

Mechanical journeyman or *journeyman* means any person other than a contractor or apprentice who engages in mechanical work.

Mechanical work means the installation, maintenance, repair, or renovation, in whole or in part, of any heating system, cooling system, mechanical refrigeration system or ventilation system or any equipment or piping carrying chilled water, air for ventilation purposes, or natural gas, or the installation, maintenance, repair or renovation of process piping used to carry any liquid, substance or material, including steam and hot water used for space heating purposes not under the jurisdiction of the department of labor, provided that minor repairs to such systems are excluded.

Minimum standards means meeting the nationally recognized and recommended industry standards for mechanical work and installation, referenced by codes published by BOCA, Southern Building Code Congress International (SBCCI) or the Uniform Building Code (UBC).

Refrigeration system means the erection, installation, repairing, and servicing of a system employing a fluid which normally is vaporized and liquefied in an air conditioning system, food preservation measure or manufacturing process.

Sheet metal means the erection, installation and repairing of all ferrous or nonferrous duct work and all other materials used in all air-conveyor systems, flues, combustion air and air handling systems in all air conditioning.
(Code 1974, § 7-128)

Cross reference-Definitions generally, § 1-2.
State law reference-Similar provisions, 59 O.S. § 1850.2.

Sec. 18-243. Penalty.

Any person who fails to comply with the provisions of this article shall be guilty of a misdemeanor and upon conviction shall be fined as prescribed by section 1-8. Each day upon which a violation continues shall be deemed a separate offense.
(Code 1974, § 7-127.1)

Sec. 18-244. Intent.

This article shall be construed liberally and justly to ensure public health, safety and welfare insofar as they are affected by the installation and maintenance of mechanical systems.
(Code 1974, § 7-126(b»

Sec. 18-245. Applicability.

The provisions of this article shall apply to the mechanical installations in all buildings and structures and their appurtenant constructions. Installations of plumbing systems, as defined in the plumbing code, are not covered by the provisions of this article.
(Code 1974, § 7-126(a), (c»

Sec. 18-246. Matters not provided for.

Any requirements essential for the safe operation of any appliance or mechanical system not specifically provided for by this article shall be determined by the mechanical official.
(Code 1974, § 7-126(d»

Sec. 18-247. Conflicting provisions.

(a) This article shall not be construed to prevent the enforcement of other regulations or ordinances which prescribe mechanical standards other than are provided in this article.

(b) Where differences occur between provisions of this article and referenced standards, the provisions of this article shall apply.
(Code 1974, § 7-126(f), (g»

Sec. 18-248. Continuation of unlawful use.

It shall be unlawful to install, extend, alter, repair or maintain mechanical systems in or adjacent to buildings except in conformity with this article.
(Code 1974, § 7-126(e»

Sec. 18-249. Mechanical code adopted; purpose and scope.

(a) It is the purpose and scope of this article to establish minimum standards in terms of performance objectives, implemented by specific requirements, which will provide reasonable safeguards to protect the public health and safety against the hazards of inadequate, defective or unsafe mechanical installation. The code sets forth comprehensive regulation for the safe installation and maintenance of mechanical facilities, where great reliance was previously placed on accepted practice and engineering standards. It accepts nationally recognized standards as the criteria for determining the performance of materials and systems of construction.

(b) Except as may be otherwise specifically provided by law or ordinance or rules fully promulgated by the code administrator, the design, installation, maintenance, alteration and inspection of mechanical systems, including:

(1) Heating systems;

(2) Ventilating systems;

(3) Air distribution systems;

(4) Cooling systems;

(5) Steam and hot water heating systems;

(6) Process piping;

(7) Boilers and pressure vessels;

(8) Appliances utilizing gas, liquid or solid fuel;

(9) Chimneys and vents;

(10) Mechanical refrigeration systems;

(11) Fireplaces;

(12) Barbecues;

(13) Incinerators;

(14) Crematories;

(15) Fire protection systems;

(16) Air pollution control systems;

(17) Solar heating and cooling systems;

(18) Gas, fuel oil and hydronic piping;

(19) Gas appliances;

and all other gas installation except liquefied petroleum gas installations shall comply with the requirements of the International Mechanical Code, 2003 edition and the International Fuel Gas Code, 2003 edition which is hereby adopted in whole by the city.
(Code 1974, § 7-125; Ord. No. 2055, § 4, 10-8-96; Ord. No. 2145, § 9, 2-26-02; Ord. No. 2188, § 9, 12-14-04)

Charter reference—Authority to adopt by reference, § 2-15.

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

Sec. 18-250. Annual license, permit and inspection fees.

(a) Before receiving a mechanical license, each applicant shall pay an annual fee as follows:

Type of registration	*Initial fee*	*Renewal fee*
Corporation or firm	$300.00	$100.00
Mechanical contractor	200.00	80.00
Mechanical journeyman	25.00	15.00
Mechanical apprentice	5.00	5.00

(b) The fees required by this section shall not be prorated. All corporations, firms, or mechanical contractors shall also show proof of the state required sales tax certificate issued by the state tax commission prior to a license being issued.

(c) Mechanical inspections and permit fees. The following fees shall be assessed for permits and inspections.

(1) *Residential:* $0.04 per square foot of construction new/additions).

(2) *Commercial:* $0.04 per square foot of construction.

(3) *Single inspection:*

Residential: $30.00

Commercial: $40.00

(4) *Required reinspection:*

Residential: $30.00.

Commercial: $40.00.

(Code 1974, § 7-130; Ord. No. 2145, § 10, 2-26-02; Ord. No. 2188, § 10, 12-14-04; Ord. No. 2208, § 4, 9-27-05; Ord. No. 2346, § 4, 2-9-10)

Sec. 18-251. Rights of inspection.

(a) *Right of entry.* In the discharge of duties, the building official or authorized representative shall have the authority to enter at any reasonable hour any building, structure or premises in the jurisdiction to enforce the provisions of this article.

(b) *Relief from personal responsibility.* The building official, officer or employee charged with the enforcement of this article while acting for the jurisdiction, shall not thereby be rendered liable personally, and the building official, officer or employee is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of an act required or permitted in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that person in the lawful discharge of duties and under the provisions of this article shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The building official or any subordinates shall not be liable for costs in any action, suit or proceeding that may be instituted in pursuance of the provisions of this code; and any officer of the department of building inspection, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.
(Code 1974, § 7-128.1)

Sec. 18-252. Appeals board.

(a) A mechanical appeals board shall be established consisting of three members to be appointed by the city manager; one mechanical contractor, one licensed architect and one knowledgeable citizen of the community. Such members shall be appointed for a term of two years and/or until their successors are appointed and qualified.

(b) The mechanical appeals board may, upon its own motion, and shall, upon written complaint filed by any person, investigate the business transactions of any mechanical contractors, mechanical journeyman, mechanical apprentices, or mechanical firms. The appeals board shall have additional duties to:

(1) Hear appeals on technical disputes arising between mechanical contractors and inspections or property owners, as to the interpretation and effect of the codes governing the installation of heat and/or air equipment.

(2) Prepare and issue interpretive opinions relative to the technical aspects of the mechanical code, but only in connection with a real dispute between interested parties.

(3) Formulate its own rules and regulations pertaining to proceedings within the limits of this article.

(Code 1974, § 7-133)

Cross reference—Boards and commissions, § 2-166 et seq.

Sec. 18-253. Examining board.

(a) There is hereby created a mechanical examining board which shall consist of the plumbing inspector as ex officio member and secretary, the building official or his appointee as chairman and four additional members, appointed by the city manager for two-year terms, who shall all be heating, ventilation, or air conditioning contractors engaged in the mechanical business in the city. Only those persons who have had a minimum of four years of professional experience in installation, servicing and/or repairing heat and air systems and who are still active in the trade

shall be eligible for appointment to the examining board. Any board member may be removed for misconduct, incompetency or neglect of duty. The board shall be responsible for determining the time and place of its regular meetings and the chairman shall call the meetings.

(b) The board may assist and advise the department of building inspectors on all matters pertaining to the licensing of mechanical contractors and mechanical journeymen, and the registering of mechanical apprentices; conduct investigations into the qualification of applicants for licensure and registration; conduct investigations and proceedings for alleged violations of the mechanical code and/or licensing ordinance; and shall be responsible for developing and administering the examinations for applicants for license as mechanical contractors or journeymen.
(Code 1974, § 7-129(a), (b))

Cross reference-Boards and commissions, § 2-166 et seq.

Secs. 18-254-18-265. Reserved.

DIVISION 2. MECHANICAL CONTRACTORS, JOURNEYMEN AND APPRENTICES*

Subdivision 1. General Provisions

Sec. 18-266. Exemptions.

The provisions of this division shall not apply to:

(1) A person who is the property owner of record, or his authorized representative, when performing minor repair which shall include but not be limited to cleaning, adjusting, calibrating and repair of mechanical system parts and the replacement of fuses and room thermostats, and other minor repairs which shall not include any repair which could violate the safe operation of the equipment.

(2) The installation of portable, self-contained, ductless air conditioners or heaters.

.Cross reference-Businesses, ch. 22.
State law reference-Mechanical Licensing Act, 59 O.S. § 1850.1 et seq.

(3) The setting or connecting of detached air conditioning units which utilize flexible ductwork on a manufactured home. The term manufactured home shall have the same definition as such term is defined in 470.8. § 1102.

(4) Any permanent employee of a manufacturing facility, whether owned or leased, while performing mechanical work on the premises of such facility. The performance of such mechanical work authorized by this subsection shall not violate any manufacturer specification or compromise any health or safety standards and practices in accordance with state and federal regulations.

(5) The service, repair and installation of boilers, pressure vessels and welded steam lines which are subject to the jurisdiction of the commissioner of labor pursuant to the provisions of 40 O.S. §§ 141.1-141.18.

(6) Employees of state-owned institutions doing maintenance to state-owned facilities which does not violate manufacturer specifications nor compromise health or safety standards and practices.

(7) Persons licensed under the Mechanical Licensing Act (59 0.8. § 1850.1 et seq.).

State law reference-Similar provisions, 59 O.S. § 1850.10(B).

Secs. 18-267-18-275. Reserved.

Subdivision II. License

Sec. 18-276. Required.

It shall hereafter be unlawful for any person working within the corporate limits of the city to engage in the installation and/or servicing business or work of a HV AC (heating, ventilation, air conditioning) mechanical contractor, journeyman or apprentice, as defined in section 18-242 or as defined in the National Mechanical Code as adopted by the city, unless he has a current license authorizing him to do so issued in accordance with this division.
(Code 1974, § 7-127)

Sec. 18-277. Application; examination and fee.

(a) Before any license shall be issued to any person under this division such person shall file an application with the plumbing inspector at least 15 days prior to the quarterly examination date. A passing grade of at least 75 percent of a possible 100 percent must be achieved from the mechanical examining board before being entitled to receive a mechanical license. Any applicant initially failing to pass the examination shall not be permitted to take another examination for a period of 30 days. Any applicant subsequently failing to pass the examination shall not be permitted to take another examination for a period of 90 days.

(b) Examinations for licenses as mechanical contractors or mechanical journeymen shall be uniform and practical in nature for each respective license and shall be sufficiently strict to test the qualifications and fitness of the applicants for licenses. Examinations shall be in whole or in part in writing. The examining board shall conduct examinations quarterly or at such times as it deems necessary.

(c) The examination fee shall be $100.00 for companies, $50.00 for contractors, and $15.00 for journeymen. The fee shall be paid to the city and is nonrefundable. When the applicant passes the examination and is recommended for a license by the board, the examination fee shall be applied to the fee for license. If the applicant fails the examination, all fees are forfeited, and are not cumulative.
(Code 1974, § 7.129(c)-(e))

Sec. 18-278. Expiration.

All licenses issued under this division shall expire on June 30 next following the date of issuance, and may be renewed by paying the renewal fee within 30 days of the expiration date.
(Code 1974, §§ 7-127, 7-131)

Sec. 18-279. Bond and insurance requirements.

(a) Every person prior to receiving a license as a mechanical contractor under the provisions of this division shall file with the city clerk a bond in the sum of $2,000.00, executed with a surety company authorized to do business in the state. Such bond shall be conditioned so that the principal will install all heat and air equipment in accordance with all applicable laws of the state and city ordinances. The principal shall, without further cost to the person for whom the work was done, remedy any defective or faulty work caused by poor workmanship or inferior or nonstandard material. Failure to do so could cause revocation of the mechanical license.

(b) Each contractor shall protect the public against loss by purchasing and maintaining a contractor's liability insurance providing bodily injury coverage of $25,000.00 for each person and $50,000.00 for each occurrence and property damage of $25,000.00 for each occurrence and $25,000.00 aggregate.

(c) No work shall be performed by or for any heat and air contractor unless the bond and insurance required by this section are in full force and effect. The license shall be valid only while such bond and insurance are in effect.
(Code 1974, § 7-132)

Sec. 18-280. Transfer.

It shall be unlawful for any person holding a license under this division to transfer that license or allow the use of same, directly or indirectly, by any other person for the purpose of obtaining a permit, or to perform mechanical installation, repair or servicing. No person shall install, repair or replace gas piping in connection with HVAC work unless such person is licensed as a plumbing contractor or journeyman plumber pursuant to the laws of this state; or is licensed under the mechanicallicense ordinance.
(Code 1974, § 7-130.1)

Sec. 18-281. Appeals board.

(a) The mechanical appeals board shall suspend or revoke, or may refuse to recommend renewal of any license or registration under the mechanical licensing ordinance for any of the following:

(1) Making a material misstatement in the application for a license or registration, or the renewal of a license or registration.

(2) Obtaining any license or registration by false or fraudulent representation.

(3) Loaning or allowing the use of such license by any other person or illegally using a license.

(4) Demonstrating incompetence to act as a mechanical journeyman or mechanical contractor.

(5) Violating any provisions of the mechanical licensing ordinance, or any rule, regulation or order prescribed by the board pursuant to the provisions of the mechanical licensing ordinance.

(6) Willfully failing to perform normal business obligations without justifiable cause.

(b) Any person whose license or registration has been revoked by the mechanical hearing board may apply for a new license one year from the date of such revocation.
(Code 1974, § 7.133(b)(4))

Secs. 18-282-18-300. Reserved.

ARTICLE VII. ENERGY CONSERVATION CODE

Sec. 18-301. Adopted; construction.

(a) It is the purpose and intent of this article to establish minimum standards in terms of the exterior envelopes and selection of heating, ventilating and air conditioning systems, service water heating, electrical distribution systems and equipment required for the purpose of effective use of energy and shall govern all buildings and structures, or portions thereof, hereafter erected that provide facilities or shelter for human occupancy, and except as may be otherwise specifically provided by law or ordinance or rules fully promulgated by the code administrator. The design and construction of the above items shall comply with the requirements of the BOCA National Energy Conservation Code, 1993 edition. This article shall be known as the energy conservation code of the city hereinafter referred to as the energy conservation code.

(b) This article shall be construed liberally and justly to ensure public health, safety and welfare insofar as they are affected by the installation and maintenance of systems covered therein, and the whole thereof is adopted.
(Code 1974, § 7-34)

Charter reference-Authority of council to adopt codes by reference, § 2-15.

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

Sec. 18-302-18-320. Reserved.

ARTICLE VIII. MOVING OF BUILDINGS*

DIVISION 1. GENERALLY

Sec. 18-321. 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:

Building means a structure designed, built or occupied as a shelter or roofed enclosure for persons, animals or property and used for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational or recreational purposes. A structure of not more than the following dimensions shall not fall within this definition: width eight feet; height 131/2 feet; length 35 feet.
(Code 1974, § 7-136)

Cross reference-Definitions generally, § 1-2.

Sec. 18-322. Enforcement.

At the direction of the city manager, the code administrator and the police department shall enforce and carry out the requirements of this article.
(Code 1974, § 7-137)

Sec. 18-323. Appeals.

Appeals to the city council may be taken by any person aggrieved by the decision of the city manager, the code administrator or the police depart-

*Cross references-Streets, sidewalks and other public places, ch. 94; traffic and vehicles, ch. 102.

ment in enforcing this article. Such appeal shall be taken within ten days from the date of such decision, by filing with the city clerk a notice of appeal specifying the grounds thereof. The city clerk shall place the appeal on the next regular agenda of the city council.
(Code 1974, § 7-138)

Sec. 18-324. Compliance with other ordinances.

All persons moving a building under this article shall comply with the building code, the housing code, the zoning ordinance and all other applicable ordinances and laws upon relocating the building in the city.
(Code 1974, § 7-139)

Sec. 18-325. Mover's license.

No person shall move any building over, along or across any highway, street or alley in the city, unless he has a current building mover's license issued by the city treasurer. The annual fee for such license shall be $50.00. The city treasurer shall receipt all persons paying such fee, when paid and accepted by the treasurer under the provisions of this article, and issue to such persons a building mover's license. Such license shall expire on June 30 next following its issuance.
(Code 1974, § 7-140)

Cross reference-Businesses, ch. 22.

Sec. 18-326. Route; use of streets.

The applicant shall submit the proposed route to be used in moving any structure. The proposed route must be approved by the public works director, the police chief, fire chief and all utility companies. In making their determinations, the public works director, police chief and fire chief shall act to assure maximum safety to persons and property in the city and to minimize congestion and traffic hazards on public streets. Only the streets so designated shall be used in moving the building. During the months of June, July, August and September of any year, no building or structure shall be moved across any public street or highway paved with asphalt or oil covered without specific approval of the city manager.
(Code 1974, § 7-141)

Sec. 18-327. Limitation on occupancy of streets.

The person to whom a permit is issued under this article shall remove the building from the city streets after four days of such occupancy, unless an extension is granted from the city manager. Buildings or structures shall not be moved on, over, along or across streets, avenues or boulevards of the city before 8:30 a.m. or after 3:30 p.m. and shall not be moved on Sundays or legal holidays.
(Code 1974, § 7-142)

Sec. 18-328. Notice in change of proposed time of move.

Every permittee under this article shall notify the code administrator of a desired change in the moving date and hours as proposed in the application for his permit. Those changes must then be reapproved by the police chief and fire chief.
(Code 1974, § 7-143)

Sec. 18-329. Flagman or escort.

The permittee under this article shall pay the expense of a traffic officer ordered by the code administrator to accompany the movement of the building to protect the public 'from injury; provided, however that the foregoing shall not apply if the permittee furnishes his own flagman or escort.
(Code 1974, § 7-144)

Sec. 18-330. Lights, barricades.

Every permittee under this article shall cause red lights to be displayed, during the nighttime, on every side of the building being moved, while it is standing on a street, in such a manner as to warn the public of the obstruction, and shall at all times erect and maintain barricades across the streets in such a manner as to protect the public from damage or injury by reason of the moving of the building.
(Code 1974, § 7-145)

Sec. 18-331. Notice of damage to city property.

Every person holding a permit to move a building shall notify the code administrator, in

writing, of any and all damage done to property belonging to the city, within 24 hours after the damage or injury has occurred.
(Code 1974, § 7-146)

Sec. 18-332. Payment of expenses and damages incurred by city.

(a) After a building has been removed pursuant to a permit issued under this article, the code administrator shall furnish the city manager with a written statement of all expenses incurred in removing and replacing all property belonging to the city, and of all material used in the making of the removal and replacement, together with a statement of all damage caused to or inflicted upon property belonging to the city; provided, however, that if any property is not located in conformity with governing ordinances, the permittee shall not be liable for the cost of removing the same. The city manager shall authorize the code administrator to demand of the permittee sufficient payment to cover such expenses and damages. Should the permittee refuse or fail to reimburse the city, the city manager shall take steps to collect on the applicant's cash deposits, surety bond or liability insurance, as the case may be.

(b) The permittee shall be liable for any expenses, damages or costs in excess of deposited amounts or securities, and the city attorney shall prosecute any action against the permittee in a court of competent jurisdiction for the recovery of such excessive amounts.
(Code 1974, § 7-147)

Sec. 18-333. Clearance, filling of original site.

(a) The person holding a permit under this article shall remove all rubbish and materials and fill all excavations to existing grade at the original building site, so that the premises are left in a safe and sanitary condition, within ten working days after removal of the building.

(b) The city shall proceed to do the work necessary to leaving the original premises in a safe and sanitary condition, where the permittee does not comply with the requirements of subsection (a), and the cost thereof shall be charged against the general deposit made by the permittee under section 18-349.
(Code 1974, § 7-148)

Sec. 18-334. Plugging of sewer at original site; notice regarding utility services.

The permittee under this article shall see that the sewer line at the original building site is plugged with a concrete stopper and that the city is notified to shut off the water and remove the water meter. The permittee shall also notify the gas and electric service companies to remove their services.
(Code 1974, § 7-149)

Secs. 18-335—18-345. Reserved.

DIVISION 2. PERMIT

Sec. 18-346. Required.

No person shall move any building over, along or across any highway, street or alley in the city, without first obtaining a permit from the code administrator.
(Code 1974, § 7-157)

Sec. 18-347. Application, accompanying documents.

(a) A person seeking issuance of a permit under this division shall file an application for such permit with the code administrator, on forms provided by the administrator. Such application shall set forth:

(1) A description of the building proposed to be moved, giving street number, construction materials, dimensions, number of rooms and condition of exterior and interior.

(2) A legal description of the lot from which the building is to be moved, giving the lot, block and tract number, if located in the city.

(3) A legal description of the lot to which such building is proposed to be moved, giving the lot, block and tract number, if located in the city.

(4) The portion of the lot to be occupied by the building when moved.

(5) The highways, streets and alleys over, along or across which the building is proposed to be moved.

(6) The proposed moving date and hours.

(7) Any additional information which the code administrator shall find necessary to a fair determination of whether a permit should be issued.

(b) The application for a permit under this division shall be accompanied by sufficient evidence that the building and lot from which it is to be removed are free of any entanglements and that all taxes and any city charges against the same have been paid in full.

(c) The applicant for a permit under this division, if other than the owner of the building, shall file with the application a written statement or bill of sale, signed by the owner, or other sufficient evidence, that he is entitled to move the building.
(Code 1974, § 7-158)

Sec. 18-348. Fees.

The application for a permit under this division shall be accompanied by a permit fee in the amount of $100.00, plus an inspection fee of $50.00. Persons/contractors making an application for a permit to move a building or structure into the city limits from a location outside the city shall be required to post a $5,000.00 bond as security to bring the building or structure up to standard. This bond is in addition to the permit and inspection fees. Buildings or structures to be moved into the city require inspection, prior to issuance of moving permit. A mileage charge of $0.555 per mile, round trip, will be assessed from the nearest point of city limits to the location of the structure for inspection purposes.
(Code 1974, § 7-159; Ord. No. 2416, § 5, 3-13-12)

Sec. 18-349. Applicant's general deposit, bond or insurance.

(a) An application for a permit under this division shall be accompanied by a cash deposit in the sum of $10,000.00 as an indemnity for any damage which the city may sustain by reason of damage or injury to any highway, street, alley, sidewalk, fire hydrant or other property of the city, which may be caused by or be incidental to the removal of the building over, along or across any street in the city, and to indemnify the city against any claim of damages to persons or private property, and to satisfy any claims by private individuals arising out of, caused by or incidental to the moving of the building over, along or across any street in the city.

(b) Any person filing an application under this division may, in lieu of the general cash deposit required in subsection (a), file with the code administrator a bond, approved as to form by the city attorney, executed by a bonding or surety company authorized to do business in the state, in the amount of $10,000.00, conditioned upon the assurance that this article and other applicable ordinances and laws will be complied with. Such bond shall run to the city for the use and benefit of any person intended to be protected thereby and shall be conditioned on the payment of any damage to public or private property and the payment for any damage or loss resulting from any malfeasance, misfeasance, nonfeasance or negligence in connection with any of the activities or conditions upon which the permit applied for is granted.

(c) Any person filing an application under this division may, in lieu of the general cash deposit required in subsection (a), file with the code administrator a liability insurance policy, issued by an insurance company authorized to do business in the state and approved as to form by the city attorney, in the same amount and providing the same protection as would be required for a bond under subsection (b) above.
(Code 1974, § 7-160)

Sec. 18-350. Applicant to deposit amount of city's estimated expenses.

Upon receipt of an application for a permit under this division, it shall be the duty of the code

administrator to procure from the public works director an estimate of the expense that will be incurred in removing and replacing any property of the city, the removal and replacement of which will be required by reason of the moving of the building through the city, together with the cost of materials necessary to be used in making such removals and replacements. The applicant shall deposit with the city treasurer the amount of such estimated expenses and costs, in addition to any other deposit required by this division.
(Code 1974, § 7-161)

Sec. 18-351. Inspection of building, applicant's equipment.

The code administrator shall inspect the building to be moved under a permit applied for pursuant to this division and the applicant's equipment, to determine whether the standards for issuance of a permit are met. This inspection shall be made within two working days after receipt of the application.
(Code 1974, § 7-162)

Sec. 18-352. Issuance to licensed mover only.

The permit required by this division shall be issued only to a person holding a current building mover's license issued pursuant to section 18-325.
(Code 1974, § 7-163)

Sec. 18-353. Denial.

(a) The code administrator shall refuse to issue a permit applied for under this division, if he finds that:

(1) Any application requirement or any fee deposit requirement has not been complied with.

(2) The building is too large to move without endangering persons or property in the city.

(3) The building is in such a state of deterioration or disrepair or is otherwise so structurally unsafe that it does not meet standards of the housing code, and could not be moved without endangering persons and property in the city.

(4) The building is structurally unsafe or unfit for the purpose for which moved, if the removal location is in the city.

(5) The applicant's equipment is unsafe or fails to meet the requirements of this Code and that persons and property would be endangered by its use.

(6) Zoning or other ordinances would be violated by the building in its new location.

(7) For any other reason persons or property in the city would be endangered by the moving of the building.

(8) If a building moving permit application shows a location within 600 feet of a new subdivision or a location where it will decrease property value, all residential property owners within 600 feet of the new location shall be required to sign a release before a permit is issued.

(9) If the building is to be moved to a location in the city and is determined to not be economically feasible for rehabilitation or to a standard condition meeting minimum city housing codes.

(b) Upon his refusal to issue a permit applied for under this division, the code administrator shall return to the applicant the unapproved application.
(Code 1974, § 7-164)

Sec. 18-354. Deposit of money, bonds, etc., received under division.

The code administrator shall deposit all fees, deposits, bonds and insurance policies received by him under this division with the city treasurer.
(Code 1974, § 7-165)

Secs. 18-355—18-375. Reserved.

ARTICLE IX. DANGEROUS BUILDINGS*

Sec. 18-376. Duties of codes administrator.

The general duties to investigate and determine the present location and owner of those

*Cross reference—Nuisances, § 46-26 et seq.

State law reference—Condemnation or repair of dangerous or dilapidated buildings, 11 O.S. §§ 22-112, 22-112.1.

certain structures which are considered to be dilapidated or dangerous to the safety of inhabitants of the city is placed upon the codes administrator of the city. Any determination that a building is classed as dilapidated or dangerous will be by any one or several reasons, regarding dilapidation, deterioration, age or obsolescence, inadequate provision of ventilation, light, air or sanitation, neglect, need of repair, or accumulation of debris, where the same constitutes a danger to the safety of the neighborhood. Utility companies shall be notified by the codes department of the impending condemnation and location of the structure. Basis for enforcement is found in 11 O.S. § 22.112.
(Code 1974, §§ 7-178, 17-27)

Sec. 18-377. Designation of administrative officer; appeals.

The city council designates the codes administrator as the administrative officer responsible for carrying out the duties of the city council regarding dilapidated or dangerous structure determinations and removals. The property owner or mortgage holder shall have a right of appeal to the city council from any order of the administrative officer. Such appeal shall be taken by filing written notice of appeal with the city clerk within ten days after the administrative order is rendered.
(Code 1974, § 17-29)

Sec. 18-378. Condemnation proceedings.

If a house or structure has been posted by the building inspector and subsequently condemned by the city council as being dangerous, unsafe, unsanitary or unfit for occupancy (as provided for in this article) and if the structure could be safely remodeled, the owner of the property must obtain a special remodeling permit. The permit shall specify that the structure has been previously condemned, but demolition proceedings have been stayed for 90 days. Prior to the special remodeling permit being issued, the permit applicant must post a $2,500.00 cash deposit with the city. The structure must then be repaired to meet all current building, electrical, plumbing, and mechanical codes that could apply to new construction, and work must be completed within the 90-day special permit period. Existing plumbing or wiring systems may be left in place with modifications at the inspector's discretion. At the completion of the 90-day special permit period, the structure shall be re-inspected by the city codes inspectors. No renewal or extension of the 90-day special remodel permit will be granted. If the code inspectors determine that the structure meets all applicable building, electrical, plumbing, and mechanical codes, the $2,500.00 cash deposit shall be returned, without interest, to the permit applicant and the condemnation has been withdrawn. If the structure fails to meet all applicable codes, as determined by the city codes inspectors, the condemnation process will continue without further action by the city council and the $2,500.00 cash deposit will be retained by the city and applied toward demolition costs, if any, incurred by the city. The $2,500.00 cash deposit will be returned to the permit applicant if the owner has completed removal of the structure prior to the beginning of city demolition proceedings.
(Code 1974, § 7-48; Ord. No. 2262, § 1, 8-14-07)

Chapters 19-21

RESERVED

Chapter 22

BUSINESSES*

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Sec. 22-5. Consent required for sale of personal property on or in vacant property.
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Sec. 22-91. Registration of peddlers and solicitors engaged in interstate commerce.

***Cross references**—Alcoholic beverages and nonintoxicating beverages, ch. 6; alcoholic beverages, § 6-26 et seq.; electricians, § 18-111 et seq.; plumbers, § 18-186 et seq.; mechanical contractors, journeymen and apprentices, § 18-266 et seq.; building mover's license, § 18-325; ambulances, § 42-1; discrimination, § 58-26 et seq.; manufactured homes and trailers, ch. 74; taxation, ch. 98; vehicles for hire, ch. 110.

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ARTICLE I. IN GENERAL

Sec. 22-1. Definitions.

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

Automobile salvage yard means any yard, premises or tract of land in or upon which nonoperating motor vehicles are stored, or upon which motor vehicles, appliances and other metal objects of any kind are wrecked or dismantled for the purpose of wrecking, whether or not such salvage is for sale.

Junkyard means any place where any kind of bones, hides, shoes, clothing, old iron, tin, rubber goods, rags, sacks, bottles, cans, paper, metal and other articles of whatsoever kind, commonly called junk, are kept or sold.

Peddler or *solicitor* means any person, whether a resident of this city or not, traveling from house to house, or from street to street, for the purpose of selling or soliciting for sale goods, wares, merchandise or services, other than agricultural products produced or processed in this state; and shall also mean and include any person transacting a temporary business within the city at an established place of business. The word "peddler" shall include the terms "solicitor," "transient or itinerant merchant or vendor," and "transient or itinerant photographer."

Tree trimmer means a person who engages in the business or occupation of pruning, trimming or spraying trees for hire.
(Code 1974, § 8-1)

Cross reference-Definitions generally, § 1-2.

Sec. 22-2. Short weights and measures prohibited.

It shall be unlawful for any person to sell, or offer for sale, any food, fuel, clothing or any other commodity which does not weigh or measure fully as much, according to standards weights or measures of the state, as the weight or measure for which it is sold or offered for sale.
(Code 1974, § 8-3)

State law reference-Weights and measures generally, 2 O.S. § 5-62.1 et seq.

Sec. 22-3. Deposit of advertising matter on streets, other public property.

It shall be unlawful for any person to throw, leave or deposit, or cause to be thrown, left or deposited, upon any street, alley, sidewalk or other public area, any handbill, circular or other advertising matter.
(Code 1974, § 8-2)

Sec. 22-4. Annual inspection fee and service charge for telephone companies.

(a) There is hereby levied an annual inspection fee and service charge upon each and every person operating a telephone exchange in the city, in an amount equal to two percent of the gross revenues for each current year for exchange telephone transmission service rendered wholly within the limits of the city to compensate the city for the expenses incurred and services rendered incident to the exercise of its police power, supervision, police regulation and police control of the construction of lines and equipment in the city. The inspection fee and charge shall be due and payable to the city on or before May 1 of each year, and shall be paid into and appropriated and expended from the general revenue fund of the city.

(b) During continued substantial compliance with the terms of this section by the owner of any telephone exchange, the charge levied hereby shall be and continue to be in lieu of all concessions, charges, excise, franchise, license, privilege and permit fees or taxes or assessments, except ad valorem taxes; provided, however, that it is not intended hereby to extinguish or abrogate any existing arrangement whereby the city is permitted to use underground conduit, duct space or pole contacts of any telephone company for the fire alarm and police call systems of the city.
(Code 1974, § 8-4)

Sec. 22-5. Consent required for sale of personal property on or in vacant property.

It shall be unlawful for any person, including a civic or religious organization, to sell, barter, trade or transfer any merchandise, wearing apparel or other personal property of any kind on or in any vacant property in the city, without the consent of the owner or person in control of such property.
(Code 1974, § 8-13)

Sec. 22-6. Tree trimmers must clean up after operations.

Any person engaging in the occupation of a tree trimmer shall remove all limbs, trees and debris cut or caused by him in such business from the public parking, streets and other public places, and shall fill in all excavations made by him, and shall leave no stumps or other objects protruding in the parking area or other public places.
(Code 1974, § 8-16)

Secs. 22-7-22-30. Reserved.

ARTICLE II. LICENSES GENERALLY

Sec. 22-31. Required.

It shall be unlawful for any person to engage in any business, trade, occupation, calling, profession or other activity mentioned in section 22-34, or to operate or maintain any place referred to in section 22-34, unless he has a current license to do so issued in accordance with this article.
(Code 1974, § 8-33)

Sec. 22-32. Separate license for each place of business and each profession, calling or business engaged in.

Every person having more than one place of business or who shall exercise or follow more than one profession, calling or business required to be licensed by this article shall obtain a separate license for each such place and each such profession, calling or business.
(Code 1974, § 8-34)

Sec. 22-33. Bond required for certain applicants.

(a) An applicant for license under this article shall be required to produce a bond in the penal sum of $2,000.00, signed by the applicant and signed, as surety, by some surety company authorized to do business in the state, conditioned upon compliance with all applicable ordinances of the city and for final deliverance of goods, wares, merchandise, services, photographs, magazines and newspapers in accordance with the terms of any order obtained prior to delivery, and also conditioned to indemnify any and all purchasers or customers for any and all defects in material or workmanship that may exist or result from the sale or service rendered, and that may be discovered by such purchaser or customer within 30 days after delivery. Such bond shall be for the use and benefit of all persons that make any purchase or give any order to the principal on the bond or to any agent or employee of the principal. In the case of multiple representatives or agents, the bond will be to cover the actions, sales and services of all agents.

(b) This section shall not apply to applicants for licenses under section 22-34(1), (7), (8), (9) or (10).
(Code 1974, § 8-35)

Sec. 22-34. Fee-Schedule.

The city hereby imposes and levies a license fee or tax on every person engaged in, conducting, pursuing, carrying on or operating any business, trade, occupation, calling or activity mentioned in the following schedule or maintaining or operating any place mentioned in such schedule. Such license fee or tax shall be paid prior to the issuance of the license and the amount thereof shall be as follows:

(1) Auctioneer license, $25.00 per year per license.

(2) Auction/merchant permit, $50.00 per auction.

(3) Auction permit, $10.00 per day.

(4) Automobile salvage yard, $100.00 per year.

(5) Bingo parlor license, $250.00 per year per license (veterans organizations excluded).

(6) Carnival, $500.00 per day.

(7) Circus, $500.00 per day (nonprofit organizations qualified by IRS § 501C3 excluded).

(8) Junk dealer or junkyard, $100.00 per year.

(9) Peddler or solicitor, $100.00 per year, or $10.00 per day. For each additional peddler or solicitor representing the person, the fee or tax shall be $60.00 per year, or $6.00 per day. The peddler or solicitor shall also pay the estimated sales tax to the state tax commission prior to issuance of permit. This paragraph shall not apply to peddlers and solicitors engaged in interstate commerce and registered under section 22-91.

(10) Pest control service, exterminators and termite contractors, $100.00 per year.

(11) Restaurant and/or food service as follows:

Employees	*Per year*
1—10	$ 25.00
11—25	35.00
26 or more	50.00

(12) Shooting gallery, $50.00 per year. This paragraph shall not apply to turkey shoots or similar types of public shootings sponsored by civic, fraternal, veterans or other nonprofit organizations.

(13) Theatre license, $75.00 per year per viewing screen.

(14) Tree trimmer, $50.00 per year.

(15) Wholesale fireworks distributor, $100.00 per year.

(Code 1974, § 8-36; Ord. No. 2021, § 1, 8-10-94; Ord. No. 2280, § 1, 1-8-08)

State law references—General authority to levy and collect license taxes, 11 O.S. § 22-106; authority to license tree trimmers, 2 O.S. §§ 3—278; authority to levy license tax on shooting galleries, 63 O.S. § 705.

Sec. 22-35. Same—Not prorated or refunded.

No license fee or tax required by this article shall be prorated or refunded for any reason.
(Code 1974, § 8-37)

Sec. 22-36. Issuance; contents.

A license required by this article shall be issued by the city treasurer, upon the applicant's compliance with and subject to all applicable provisions of this chapter and other ordinances of the city. Such license shall be signed by the city treasurer and shall specify the business, trade, occupation, profession or other activity for which it is issued.
(Code 1974, § 8-38)

Sec. 22-37. Display and carrying on person.

It shall be the duty of any person to whom a license is issued under this article to post the same in a secure manner in some part of his place of business where the license may be readily seen at all times by any person entering such place of business. Every peddler or solicitor shall have his license on his person at all times while conducting business and shall present the license to any person upon request.
(Code 1974, § 8-39)

Sec. 22-38. Assignment or transfer.

The assignment or transfer of licenses issued under this article is prohibited.
(Code 1974, § 8-40)

State law reference—Similar provisions, 11 O.S. § 22-107.

Sec. 22-39. Duplicates when lost or destroyed.

Whenever any license issued under this article has been lost or destroyed without any wrongful act or connivance by the holder, the city treasurer, on application, shall issue a duplicate license for the unexpired time. Before a duplicate is issued, the holder shall make and file with the city treasurer an affidavit that the license has not been transferred, that it has been lost or destroyed without any wrongful act or connivance

by the holder, and that, if believed lost, he has made diligent search therefor. The fee for such duplicate license shall be $1.00.
(Code 1974, § 8-41)

Sec. 22-40. Expiration.

Every annual license issued under this article shall expire on June 30 next following the date of its issuance. Daily licenses shall expire at the expiration of the number of days for which issued and for which the license fee or tax has been paid.
(Code 1974, § 8-42)

Sec. 22-41. Revocation.

At any time, for the protection of the morals, peace, health or safety of the people of the city or for violation of the ordinances of the city, a license issued under this article may be revoked by the city manager, or a representative of the city manager, giving the licensee a hearing on the matter prior to revocation.
(Code 1974, § 8-43)

Sec. 22-42. Special provisions applicable to fireworks wholesaler's license.

No person shall be issued a license for the wholesale sale and distribution and storage of fireworks unless such business is conducted from facilities which have been inspected and approved by the Alcohol, Tobacco and Firearms Division of the U.S. Treasury, and unless he has secured a license under the provisions of 18 U.S.C. § 40 to engage in such business, and unless he has complied with zoning ordinances of the city.
(Code 1974, § 8-45)

Sec. 22-42.1. Licensed retail sales of fireworks.

(a) Issuance of this license does not allow the applicants or organizations to manufacture, use, discharge or explode any common class C or other firework and related items within the corporate limit of the city.

(b) All applicants must follow Oklahoma State laws and Oklahoma State Fire Marshal requirements for the sale of fireworks commonly referred to as class "C". Applicant must obtain any license or permit required by State of Oklahoma. A copy of the requirements for consumer fireworks retail sales facilities from the Oklahoma State Fire Marshall will be given to applicants.

(c) Annual licenses for the sale of class C fireworks, except those restricted by the State of Oklahoma are only authorized between June 15 and July 6 and from December 15 through January 2. Applicants are required to obtain separate applications for the July 4 season and New Year's season.
(Ord. No. 2494, 4-22-14)

Sec. 22-42.2. Requirements.

(a) Any applicant individual or organization must obtain a permit from the City of McAlester by completing an application with the city. All applications must be approved by code enforcement, fire department and police department.

(b) All applicants must be at least 21 years of age to be eligible for a license.

(c) All applicants are required to obtain a $25.00 permit for each location and per season within the corporate limits. Nonprofit organizations are not exempt from the permit fee.

(d) Applicants must have a current sales tax permit filed with Oklahoma Tax Commission.

(e) Retail license must be posted and visible in sales area. Address must be the physical address of the facility.

(f) Signs stating "FIREWORKS-NO SMOKING WITHIN 50 FEET" must be posted on all sides of the entire facility.

(g) Each stand must have a portable fire extinguisher with a minimum 2A/IBC rating. If stand exceeds 200 square feet two portable fire extinguishes are required with at least one being a multi-purpose dry chemical type.

(h) Each structure must be located within commercially zoned areas or an approved area by code enforcement, fire department and police department. Structures must comply with all the requirements by city and state codes.
(Ord. No. 2494, 4-22-14)

Sec. 22-42.3. Inspections.

(a) The site for the fireworks stand must be inspected by the code enforcement officer to verify that all requirements for zoning have been met.

(b) The site for the fireworks stand must be inspected by the fire department for safety and ordinance compliance.
(Ord. No. 2494, 4-22-14)

Sec. 22-42.4. Operation of stands or structures.

(a) Fireworks stands or structures are not to be opened before June 15 or opened after 11:00 p.m. on July 5 of the licensed year.

(b) Fireworks stands or structures are not to be opened before December 15 or opened after 11:00 p.m. on January 2.
(Ord. No. 2494, 4-22-14)

Sec. 22-42.5. Transferability.

All licenses granted will be strictly and absolutely nontransferable.
(Ord. No. 2494, 4-22-14)

Sec. 22-42.6. Removal of structures.

All fireworks stands and structures for the sale of fireworks and related items must be taken down and/or removed from their location within 15 days after July 4 and after January 1 of each year. In addition, the area wherein the stand or structure was located shall be returned to its prior condition by picking up all refuse pertaining to the operation of the fireworks stand or structure.
(Ord. No. 2494, 4-22-14)

Sec. 22-42.7. Penalties.

Any person, firm or corporation or other legal entity, which shall violate any of the provisions of this chapter or fail to comply therewith, or with any of the requirements thereof, shall be deemed guilty of a misdemeanor, subject to a fee not to exceed $1,000.00, or imprisonment not to exceed one year, or both. Each day or part of a day during which such violation is continued or repeated shall constitute a separate offense.
(Ord. No. 2494, 4-22-14)

Secs. 22-43—22-65. Reserved.

ARTICLE III. AMUSEMENTS

Sec. 22-66. Hours of operation for pool, domino and amusement halls or parlors.

It shall be unlawful for any person to operate, conduct or maintain any public pool or billiard hall, or public pool or billiard table, or any public domino hall, parlor or table for playing the game of dominoes, or any public recreation or amusement parlor, hall or place, within the city, except between the hours of 7:00 a.m. and 12:00 midnight, Monday through Friday of each week and between 7:00 a.m. on Saturday and 2:00 a.m. on the following Sunday, and between 12:00 noon and 12:00 midnight on Sunday.
(Code 1974, § 8-5)

Sec. 22-67. Public dances.

(a) It shall be unlawful for any person to operate, conduct or supervise, or assist in the operation, conduct or supervision of, any dance where the public is permitted to dance, at any time on Sunday or between 1:00 a.m. and 7:00 a.m. on any other day.

(b) Any place operated in violation of this section shall constitute a public nuisance subject to abatement under the provisions of chapter 46, article II of this Code.
(Code 1974, § 8-6)

Sec. 22-68. Sunday movies.

It shall be unlawful for any person to show moving pictures, for profit or to persons who pay admission charges to view them, at any time between the hours of 2:00 a.m. and 1:00 p.m. on Sunday.
(Code 1974, § 8-8)

Sec. 22-69. Shooting galleries.

Every shooting gallery constructed, established, set up or operated in this city shall be constructed, established, set up and operated in accordance with the standards, specifications and requirements of 63 O.S. §§ 701 through 708, and shall comply with all the requirements thereof.
(Code 1974, § 8-9)

Secs. 22-70—22-90. Reserved.

ARTICLE IV. PEDDLERS AND SOLICITORS

Sec. 22-91. Registration of peddlers and solicitors engaged in interstate commerce.

(a) It shall be unlawful for any person engaged in interstate commerce to go from house to house or place to place in the city soliciting, selling or taking orders for or offering to sell or take orders for any goods, wares, merchandise, services, photographs, newspapers or magazines, without having first registered with the city treasurer giving the following information:

(1) The name, house address and local address, if any, of the registrant.

(2) The name and address of the person whom he represents or for whom or through whom orders are to be solicited or cleared.

(3) The nature of the articles or things which are to be sold or for which orders are to be solicited.

(4) Whether the registrant, upon any sale or order, shall demand, receive or accept payment or any deposit of money in advance of final delivery.

(5) The period of time during which the registrant wishes to solicit or sell in the city.

(b) At the time of the registration provided for in this section, the registrant shall submit, for inspection of the city treasurer, written proof of his identity which may be in the form of an automobile operator's license or an identification letter or card issued to the registrant by the person for whom or through whom orders are to be solicited or cleared.

(c) The term "interstate commerce," as used in this section, means soliciting, selling or taking orders for any goods, wares, merchandise, photographs, newspapers or magazines, or subscriptions to newspapers or magazines which, at the time the order is taken, are in another state or will be produced in another state and shipped or introduced into this city in the fulfillment of such orders.
(Code 1974, § 8-10)

Sec. 22-92. Hours, days regulated.

It shall be unlawful for any person to engage in the business or activity of a peddler or solicitor within the city between 6:00 p.m. and 8:00 a.m. or at any time on Sunday, without obtaining, in advance, the express permission of the prospective customer or person being solicited.
(Code 1974, § 8-11)

Sec. 22-93. Going upon residences without invitation prohibited.

The practice of going in and upon private residences in the city, by solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise, not having been requested or invited so to do by the owner or occupant of the private residences, for the purpose of soliciting orders for the sale of goods, wares and merchandise or for the purpose of disposing of or peddling or hawking the same, is hereby declared to be a nuisance and punishable as such nuisance as a misdemeanor.
(Code 1974, § 8-12)

Sec. 22-94. Purpose and intent.

The public purpose of this section is to protect the rights of all peoples to exercise their First Amendment rights as well as the people and/or property of those who chose to be non-participating.
(Ord. No. 2469, § 2, 6-25-13)

Sec. 22-95. Definitions.

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

(1) "*Beg,*" "*begging*" or "*panhandling*" shall be synonymous and shall mean asking for money or objects of value, with the intention that the money or object be transferred at that time, and at that place. "Solicit" or "soliciting" shall include using the spoken, written, or printed word, bodily gestures, signs, or other means of communication with the purpose of obtaining an immediate donation of money or other thing of value the same as begging or panhandling and also include the offer to immediately exchange and/or sell any goods or services.

(2) "*Aggressive manner*" shall mean:

a. Approaching or speaking to a person, or following a person before, during or after soliciting if that conduct is intended or is likely to cause a reasonable person to fear bodily harm to oneself or to another, or damage to or loss of property or otherwise to be intimidated into giving money or other thing of value;

b. Continuing to solicit from a person after the person has given a negative response to such soliciting;

c. Intentionally touching or causing physical contact with another person without that person's consent in the course of soliciting;

d. Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact;

e. Using violent or threatening language and/or gestures toward a person solicited which are likely to provoke an immediate violent reaction from the person being solicited;

f. Following the person being solicited, with the intent of asking that person for money or other things of value;

g. Speaking in a volume unreasonably loud under the circumstances;

h. Soliciting money from anyone who is waiting in line for tickets, for entry to a building or for any other purpose;

i. Soliciting in a manner with conduct, words or gestures intended or likely to cause a reasonable person to fear immediate bodily harm, danger or damage to or loss of property or otherwise be intimidated into giving money or any other thing of value;

j. Begging in a group of two or more persons in an intimidating fashion;

k. Soliciting any person within 20 feet of any outdoor seating area of any cafe, restaurant or other business, automated teller machine, mass transportation stop, public toilet or pay telephone;

l. Soliciting any person in public after dark, which shall mean the time from one-half hour before sunset to one-half hour after sunrise.

(3) "*Automated teller machine*" shall mean a device, linked to a financial institution's account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments which are made available to banking customers.

(4) "*Public place*" shall mean a place to which a governmental entity has title, to which the public or a substantial group of persons has access, including, but not limited to: any street, highway, sidewalk, walk-

way, parking lot, plaza, transportation facility, school, place of amusement, park, or playground.

(Ord. No. 2469, § 3, 6-25-13)

Sec. 22-96. Offense.

It shall be unlawful for any person to aggressively beg, panhandle or solicit any other person.

(Ord. No. 2469, § 4, 6-25-13)

Secs. 22-97—22-115. Reserved.

ARTICLE V. PRECIOUS METALS DEALERS*

DIVISION 1. GENERALLY

Sec. 22-116. 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:

Precious metal dealer or *dealer* means any person engaged in the business of buying precious metals, whether for cash or trade; and further, this definition shall include any dealer whose business is itinerant in nature, as well as any dealer who conducts his business at a permanent and fixed location within the city. As used herein, "dealer" shall include the employers and principals on whose behalf any purchase or trade is made and all employees or agents personally making such purchases or trades.

Precious metals means items containing, in any degree, as part of its composition gold, silver, platinum or pewter.

(Code 1974, § 36-1)

Cross reference—Definitions generally, § 1-2.

Sec. 22-117. Identification of sellers.

All dealers shall require each person offering an item or article for sale or trade to produce personal identification. Dealers shall ascertain the name, permanent address and age of all sellers of precious metals. Dealers shall verify a seller's identity only by means of a driver's license or some other form of identification issued by a governmental agency which must contain thereon a picture or adequate physical description of the person identified. It shall be unlawful for a dealer to fail to request identification or to accept inadequate identification before transacting business with a seller of precious metals.

(Code 1974, § 36-7)

Sec. 22-118. Exemptions.

(a) The provisions of this article shall not apply to pawnbrokers licensed by the city who are otherwise regulated.

(b) Retail merchants, having permanent and fixed business within the city, shall be exempted from the provisions of this article insofar and only insofar as they make purchases directly from manufacturers, suppliers and wholesalers of precious metals for their retail inventories.

(c) Upon obtaining the written approval of the chief of police, exhibitors at bona fide coin shows, art shows, antique shows and exhibitions of a similar nature, where the same are sponsored by a local nonprofit, civic or cultural organization, shall be exempted from the provisions of this article.

(Code 1974, § 36-13)

Sec. 22-119. Records kept by dealer.

Every dealer shall keep and maintain an adequate record of all transactions with sellers of precious metals. The record of the transactions shall be maintained in a running ledger book; or, the dealer may maintain the original bill of sale, or other written receipt, issued at the time of the transaction. Entries on the record shall be legibly written in ink at the time the dealer acquires the article from the seller; and the same shall not be obliterated or erased. The following shall be required to be maintained for each transaction with a seller of precious metals:

(1) The date and time of the sale or trade.

(2) Name, address and age of the seller of the items.

*State law references—Precious Metal and Gem Dealer Licensing Act, 59 O.S. § 1521 et seq.; preservation of preexisting local ordinances, 59 O.S. § 1527.

(3) The number appearing on the seller's driver's license or other governmental identification card.

(4) Physical description of the seller, including height, weight, race and sex.

(5) A concise and accurate description of the article acquired by the dealer, including any identifying marks, names, initials, serial numbers, brand names or other personalized features.

(6) The amount paid for the article or articles by the dealer.

The dealer shall maintain the information required by this section for a period of one year from the date of the acquisition of the article.
(Code 1974, § 36-8)

State law reference—Required records, 59 O.S. § 1530.

Sec. 22-120. Report of transactions to police.

Within 24 hours of the sale or trade of any article of precious metal to a dealer, the dealer shall deliver to the office of the chief of police, or the front desk of the police department, a duplicate or photocopy of the record of transaction required to be kept. If the delivery time falls on a weekend or holiday, the dealer shall deliver the required records no later than 12:00 noon of the next regular workday. The dealer may supply a written statement containing only the following information:

(1) Name of the dealer and name of the agent or employee dealing with the seller.

(2) Description of article or articles received by dealer, including any identifying marks, numbers, names or initials.

(3) Name and address of the seller of each item.

(Code 1974, § 36-9)

Sec. 22-121. Right of law enforcement officers to inspect dealer's records.

Any police officer of the city, or any law enforcement officer of the county, state or federal government, during the dealer's regular business hours, shall have the right to enter the business premises of the dealer for the purpose of inspecting the records required to be maintained under this article or any item of precious metal regulated hereunder. The application for, and acceptance of, a license under this article shall be deemed conclusive consent of the dealer to such entry and inspection.
(Code 1974, § 36-10)

Sec. 22-122. Holding period after acquisition of items by dealer.

No precious metals of any kind whatsoever shall be removed or sold from the place of business of any dealer for a period of 72 hours from the time the same has been acquired or purchased by the dealer. During this period of time, all items or articles of precious metal shall be retained in the original condition in which they were received by the dealer and shall be available for inspection during the 72-hour period. Itinerant dealers, after notifying the chief of police, may deposit such for the required 72-hour period in a place of safekeeping, located within the city and approved by the chief of police.
(Code 1974, § 36-11)

State law reference—Holding periods, 59 O.S. § 1531.

Sec. 22-123. Purchase from minors.

No dealer shall purchase from or receive in trade any precious metal from any seller under the age of 18 years, unless the parents or guardian of such person shall consent to the transaction in writing. The written consent shall state that the transaction is fully approved by the parent or guardian, shall be signed by the same and must contain the address and telephone number of the parent or guardian.
(Code 1974, § 36-12)

Secs. 22-124—22-135. Reserved.

DIVISION 2. LICENSE

Sec. 22-136. Required.

No person shall carry on, operate or engage in the business of purchasing, whether for cash or trade, any precious metals within the city without first obtaining a license from the city clerk.
(Code 1974, § 36-2)

Sec. 22-137. Application.

Any person desiring to obtain a license as a precious metal dealer shall file a written application with the city clerk, together with the amount of the license fee as hereinafter prescribed. The application form shall request the following information:

(1) If the applicant is an individual, the full name, birthdate, permanent residence address and telephone number.

(2) If the applicant is a partnership, corporation or other business entity, the full name, birthdate, permanent residence address and telephone number of each partner or each officer and director.

(3) Listing of any trade names or aliases used by the applicant for the last five years.

(4) The names, birthdates, permanent addresses and telephone numbers of each person employed, or intended to be employed, in the business as of the time of the filing of the application.

(5) Exact address or location of the place within the city where the business of the dealer will be carried on.

(6) If the applicant's business is itinerant with no permanent location within the city, a listing of the last four locations immediately preceding the date of the application where the applicant conducted business as a precious metal dealer.

(Code 1974, § 36-3)

Sec. 22-138. Fee.

There is hereby levied a license fee, on a daily or annual basis as the applicant may elect, for issuance of a precious metals dealer's license, which shall be paid at the time an application is made. No part of the license fee shall be subject to refund or abatement. The amount of the fee shall be $50.00 per day or $150.00 per year.
(Code 1974, § 36-4)

Sec. 22-139. Investigation of application; issuance or denial.

(a) Upon receipts of the application and required fees under this division, the city clerk shall refer the same to the chief of police for investigation of the applicant's moral character and business responsibility. Within five days from the receipt of the application, the chief of police shall return the same to the city clerk, accompanied by his recommendations to issue or deny the license. Grounds for denial shall include: the application contains a materially false or fraudulent statement; and the applicant, or an officer, partner or employee thereof, has been convicted of a felony within the five years immediately preceding the date of the application.

(b) Upon receipt of the recommendation of the chief of police, the city clerk shall issue the license accordingly. If the license is denied, the grounds for denial shall be stated in writing and a copy supplied to the applicant.
(Code 1974, § 36-5)

Sec. 22-140. Transfer; display.

The license issued under this division shall not be transferable to any other person. No person shall do business as a precious metals dealer, or attempt to do business, under a license transferred to him. The dealer shall at all times prominently display on the business premises a currently valid license.
(Code 1974, § 36-6)

Secs. 22-141—22-160. Reserved.

ARTICLE VI. USED GOODS

Sec. 22-161. Garage sales, other residential sales.

(a) As used in this section, the term "residential sale" shall mean any sale of what is held out to be or is commonly known as a garage, porch, backyard or patio sale or any other type of general sale conducted from or on any premises not located in a zoning district which permits such sale, where goods or articles of any type are held out for sale to the public. This definition shall not include situations where specific items are held out for sale and all advertisements of such sale specifically name the items to be sold.

(b) No person shall hold, conduct, engage in or participate in, in any manner, more than one residential sale lasting more than three days each within a six-month period of time.

(c) The provisions of this section shall not apply to or affect the following:

(1) Persons acting pursuant to an order of a court of competent jurisdiction.

(2) Persons acting in accordance with their powers and duties as public officials.

(3) Duly licensed auctioneers selling at auctions.

(4) Charitable organizations or persons, when the proceeds from the sale are used directly for charitable purposes and the goods or articles are not sold on a consignment basis.

(d) It shall be unlawful for any person to engage in the business or activity of a residential sale as herein provided, without first obtaining a permit for same. The permit shall be $5.00 for each residential sale. The permit holder shall maintain a copy of the permit at the site of sale in such a manner as may be seen from street.

(e) Any person who shall violate any provision of this section shall be subject to a penalty as provided for in section 1-8.
(Code 1974, § 8-13.1)

Sec. 22-162. Pawnbrokers, junk and secondhand dealers shall not buy or receive property from minors.

It shall be unlawful for any pawnbroker, any junk dealer or secondhand dealer to buy, receive as a pledge, or receive for storage, or take possession of, any property, secondhand goods, clothing or wares of any kind, from any minor within the city.
(Code 1974, § 8-14)

State law reference—Pawnbrokers not to accept pledge from persons under 18 years old, 59 O.S. § 1511(C)(1).

Sec. 22-163. Fencing requirements for junkyards, automobile salvage yards.

(a) It shall be unlawful for any person to keep or maintain a junkyard or automobile salvage yard in the city, unless the same is enclosed by a secure and solid fence of permanent material and of a minimum height of eight feet. Pickets, if used, shall be four inches wide with not more than a one-inch opening between them. Entrance to such yards shall be by doors or gates which can be firmly and securely locked. The doors or gates shall be kept locked at all times when the junkyard or automobile salvage yard is not open for business.

(b) The fence required by this section shall be kept in good repair at all times, and if made of wood, it shall be kept painted. The fence shall not contain any poster or advertising of any kind, except one sign of the licensee not exceeding 100 square feet in size.

(c) All salvage and junk at a junkyard or automobile salvage yard, and all trucks, trailers and other equipment used in handling the same, shall be kept within the fence required by this section, clear of the street and parking areas, and shall not be stored, parked or deposited on the street or parking areas.
(Code 1974, § 8-15)

Secs. 22-164—22-173. Reserved.

ARTICLE VII. MEDICAL FACILITIES*

Sec. 22-174. Hospitals.

(a) No new hospital shall be developed, either through construction or conversion of existing space, in the city unless a permit therefor has been issued by the city treasurer.

(b) Before developing a facility for use as a newly-licensed hospital, the person proposing to operate the hospital shall apply to the city treasurer for a permit for the facility in addition to any other required approvals. The application for permit shall be in such form as the city treasurer shall prescribe and shall include a demonstration

*Editor's note—Ord. No. 2066 §§ 1, 2, adopted May 27, 1997, set out provisions intended for use as §§ 22-174, 22-175 of art. VI, Used Goods. At the editor's discretion, and to preserve the causality of this Code, the provisions of Ord. No. 2066 have been codified as a new art. VII, §§ 22-174, 22-175, under the title of "Medical Facilities."

of the hospital's probable impact on existing hospital and surgical services in the city, including permitted facilities not yet completed.

(c) The application for permit shall be accompanied by a filing fee equal to one percent of the capital cost of the proposed hospital, with a minimum fee of $1,000.00 and a maximum fee chargeable hereunder of $75,000.00. It is intended that the fee charged by this section shall be used to cover the costs of the application evaluation. Any excess of fees collected over costs incurred over $1,000.00, but less than $75,000.00, shall be refunded to the applicant.

(d) Within 30 days after receiving a completed application for a permit, the city treasurer shall cause a paid public notice to be published in a newspaper of general circulation in the area where the hospital is to be located and in a newspaper of general circulation in the area where the application is available for inspection. The notice shall include the name and proposed location of the facility, a brief description of the proposal, information on where the original application can be viewed, and an explanation of how parties may file materials to be considered along with the application.

(e) Any person may submit written evidence and argument regarding the proposed hospital to the city treasurer to be reviewed by city staff. Written materials shall be submitted to the city treasurer within 30 days after publication of the paid notice. The applicant shall have 45 days after publication of the paid notice to respond in writing to materials timely filed by other persons.

(f) No permit to establish a hospital shall be issued by the city treasurer unless, after reviewing the application and timely filed written materials and responses, the city council makes the following findings:

(1) The proposed hospital will contribute to the orderly development of hospital and surgical services in the city;

(2) The proposed hospital will not cause an undue financial or staffing hardship on any existing provider of essential hospital or surgical services in the city, including permitted facilities not yet completed; and

(3) The proposed hospital can be adequately served by the city's existing utility systems and/or infrastructure.

(g) The city treasurer shall schedule the application for permit for consideration by the city council within 120 days after publication of the paid notice. A permit shall be effective for 36 months from the date of issue, during which time an applicant shall start construction or conversion work on the hospital. If construction or conversion work is not started within the time required by this section, the permit shall be null and void.

(h) The city staff may establish standards for review and approval of detailed building plans and specifications that are in addition to the requirements for a permit under this section.
(Ord. No. 2066, § 1, 5-27-97)

Sec. 22-175. Ambulatory surgical care facilities.

(a) No new ambulatory surgical care facility shall be developed, either through construction or conversion of existing space, in the city, unless a permit therefor has been issued by the city treasurer.

(b) Before developing a facility for use as a newly-licensed ambulatory surgical care facility, the person proposing to operate the ambulatory surgical care facility shall apply to the city treasurer for a permit for the facility in addition to any other required approvals. The application for permit shall be in such form as the city treasurer shall prescribe and shall include a demonstration of the ambulatory surgical care facility's probable impact on the existing services in the city, including permitted facilities not yet completed.

(c) The application for permit shall be accompanied by a filing fee equal to one percent of the capital cost of the proposed ambulatory surgical care facility, with a minimum fee of $1,000.00, and a maximum fee chargeable hereunder of $75,000.00. It is intended that the fee charged by this section shall be used to cover the costs of the application evaluation. Any excess of fees col-

lected over costs incurred over $1,000.00, but less than $75,000.00, shall be refunded to the applicant.

(d) Within 30 days after receiving a completed application for a permit, the city treasurer shall cause a paid public notice to be published in a newspaper of general circulation in the area where the ambulatory surgical care facility is to be located and in a newspaper of general circulation in the area where the application is available for inspection. The notice shall include the name and proposed location of the facility, a brief description of the proposal, information on where the original application can be viewed, and an explanation of how parties may file materials to be considered along with the application.

(e) Any person may submit written evidence and argument regarding the proposed ambulatory surgical care facility to the city treasurer to be reviewed by city staff. Written materials shall be submitted to the city treasurer within 30 days after publication of the paid notice. The applicant shall have 45 days after publication of the paid notice to respond in writing to materials timely filed by other persons.

(f) No permit to establish an ambulatory surgical care facility shall be issued by the city treasurer unless, after reviewing the application and timely filed written materials and response, the city council makes the following findings:

(1) The proposed ambulatory surgical care facility will contribute to the orderly development of surgical services in the city;

(2) The proposed ambulatory surgical care facility will not cause an undue financial or staffing hardship on any existing provider of essential surgical services in the city, including permitted facilities not yet completed; and

(3) The proposed ambulatory surgical care facility can be adequately served by the city's existing utility systems and/or infrastructure.

(g) The city treasurer shall schedule the application for permit for consideration by the city council within 120 days after publication of the paid notice. A permit shall be effective for 36 months from the date of issue, during which time an applicant shall start construction or conversion work on the ambulatory surgical care facility. If construction or conversion work is not started within the time required by this section, the permit shall be null and void.

(h) The city staff may establish standards for review and approval of detailed building plans and specifications that are in addition to the requirements for a permit under this section.
(Ord. No. 2066, § 2, 5-27-97)

Chapters 23-25

RESERVED

Chapter 26

CEMETERIES*

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.Cross reference-Health and sanitation, ch. 54.
State law reference-Cemeteries, 8 O.S.

ARTICLE I. IN GENERAL

Secs. 26-1-26-25. Reserved.

ARTICLE II. MUNICIPAL CEMETERIES*

DIVISION 1. GENERALLY

Sec. 26-26. 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:

Cemetery means and includes any cemetery owned or operated by the city.
(Code 1974, § 9-1)

Cross reference-Definitions generally, § 1-2.

Sec. 26-27. Vehicles operated on established driveways only.

It shall be unlawful for any person to ride or drive any vehicle through any cemetery, except on the established and designated driveways therein.
(Code 1974, § 9-2)

Sec. 26-28. Speed limit for vehicles.

It shall be unlawful for any person to drive any vehicle in a cemetery at a speed greater than 15 miles per hour.
(Code 1974, § 9-3)

Sec. 26-29. Removing, damaging, etc., property.

It shall be unlawful for any person, not acting in the line of duty or within his own rights, to injure or remove any tree, shrub or plant, or to pluck flowers from any lot, or to deface any monument, tombstone, ornament on any grave, or any fence, curbing or railing around any grave, lot or part of a lot, or to remove any ornament at any grave, or to damage anything whatsoever in a cemetery.
(Code 1974, § 9-4)

State law references-Injury to cemetery or tomb, 21 O.S. § 1167; malicious injury to property, 21 O.S. § 1760.

Secs. 26-30-26-40. Reserved.

DIVISION 2. CEMETERY BOARD

Sec. 26-41. Created; composition; appointment and terms of members.

There is hereby created a cemetery board consisting of seven members. All members shall be appointed by the mayor, with the approval of the council, for terms of three years expiring on December 31, provided that, the terms of the two new members appointed in 1991 shall expire December 31, 1992.
(Code 1974, § 9-14)

Sec. 26-42. Members not compensated.

The members of the cemetery board shall serve without compensation.
(Code 1974, § 9-15)

Sec. 26-43. Removal of members.

The mayor, with the approval of the city council, may remove a member of the cemetery board.
(Code 1974, § 9-16)

Sec. 26-44. Officers.

The mayor, with the approval of the council, shall appoint a chairman of the cemetery board. As soon as practicable after the first meeting of the cemetery board each year, the membership shall elect a vice-chairman and secretary. The secretary need not be a member of the board. A majority of the board shall fill vacancies as they may occur in the position of vice-chairman and secretary, as long as the vice-chairman is a member of the board duly appointed by the mayor and council.
(Code 1974, § 9-17)

'"State law reference-Municipal cemeteries, 11 O.S. § 26-101 et seq.

tCross reference-Boards and commissions, § 2-166 et seq.

Sec. 26-45. Meetings-Generally.

The cemetery board shall determine the time and place of its regular meetings, and the chairman or any four of the members may call special meetings.
(Code 1974, § 9-18)

Sec. 26-46. Same-Failure to attend.

If a member of the cemetery board fails to attend more than half of all the meetings of the board, regular and special, held within a year, he shall ipso facto cease to be a member.
(Code 1974, § 9-19)

Sec. 26-47. Advice, recommendations to council and manager.

The cemetery board may advise and make recommendations to the council and the city manager on any matters pertaining to the cemetery.
(Code 1974, § 9-20)

Secs. 26-48-26-60. Reserved.

DIVISION 3. CEMETERY CARE FUND*

Sec. 26-61. 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:

Fund means the cemetery care fund created by section 26-62.
(Code 1974, § 9-32)

Cross reference-Definitions generally, § 1-2.

Sec. 26-62. Created; name.

In all cemeteries of the city where lots are sold or charges made for interments, 12.5 percent of all monies received from the sale of lots and interments shall be segregated and set aside as a permanent fund to be known as the cemetery care fund. Such fund shall be used and invested as provided in this division.
(Code 1974, § 9-33; Ord. No. 2199, § 1, 8-23-05)

Sec. 26-63. General duties of city treasurer.

It is hereby made the duty of the city treasurer to set up and establish the fund and to keep a separate account of all revenues and funds received and derived from the sale oflots sold in any cemetery of the city, and charges made for interments and other services rendered and performed by the city in any cemetery for which a charge is made, and at the end of each calendar month to transfer and credit to the fund 12.5 percent of all such amounts received from the sale of cemetery lots and charges made for interments.
(Code 1974, § 9-34; Ord. No. 2273, § 1, 12-11-07)

Sec. 26-64. Deposit or investment; use of interest.

The fund shall be separately deposited or invested as the city council may order and provide from time to time, and the interest on such fund shall be added to the fund as the same shall be earned and collected. The interest on the fund shall be expended and used in improving, caring for and embellishing the lots, walks and drives and in making other necessary improvements on the cemeteries of the city; provided that, before any part of the interest on the fund shall be so used or expended, an appropriation therefor shall be made by the city council and duly entered upon the minutes of the council proceedings.
(Code 1974, § 9-35)

Sec. 26-65. Use of principal.

The cemetery care fund principal shall be expended for purchasing lands for cemeteries and for making capital improvements which shall mean all items and articles, either new or replacements, not consumed with use but only diminished in value with prolonged use, including but not limited to roads and streets, drainage improvements, water and sewerage improvements, machinery, equipment, furniture and fixtures, all real property, all construction or reconstruction of buildings, appurtenances and improvements to

*Cross reference-Finance, § 2-256 et seq.
State law reference-Perpetual care funds, 8 O.S. § 26-201 et seq.

real property, the cost and expenses related thereto of rights-of-way or other real property, engineering, architectural or legal fees, and payment for improvements for which subsequent reimbursement is made.
(Code 1974, § 9-36; Ord. No. 2199, § 1, 8-23-05)

Sec. 26-66. Not to be included in general funds of city or in financial statement to county excise board.

No part of the fund or the interest thereon shall be included at any time in the general funds of the city, nor shall the same be included in any financial statement made to the county excise board in estimating the revenues of the city, nor shall the same be deducted in any such financial statement and estimate of the city for any fiscal year from the amount to be levied and raised by taxation for the city during such fiscal year or any fiscal year.
(Code 1974, § 9-37)

Sec. 26-67. Failure to set aside proceeds for benefit of fund.

It shall be unlawful for the city manager, city treasurer or any other appointee of employee or any other person having control of funds derived from the sale of cemetery lots of interments to fail to set aside, segregate and deposit in the fund 12.5 percent of the proceeds of the sale of cemetery lots and charges for interments, or to directly or indirectly cause the same to be done.
(Code 1974, § 9-38; Ord. No. 2273, § 1, 12-11-07)

Chapters 27-29

RESERVED

Chapter 30

CIVIL EMERGENCIES

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ARTICLE I. IN GENERAL

Sec. 30-1. Fallout protection in public buildings.

(a) Every officer, board, department, commission or agency of the city charged with the duty of preparing specifications or awards or entering into contracts for the design, erection or construction of buildings or other structures, including additions to existing structures, for the city, shall incorporate or cause to be incorporated in each building or other structure, to the fullest extent practicable, fallout protection for at least its normal anticipated population, which shall meet or exceed the minimum space and fallout protection criteria recommended by the Office of Civil Defense, United States Department of Defense.

(b) It shall be the policy of the city that fallout shelters be incorporated in all public buildings of the city, to the fullest extent practicable, in order to provide protection against radiation for the greatest number of people in the event of nuclear attack.
(Code 1974, § 11-11)

Sec. 30-2. Powers, duties of fallout shelter managers.

(a) In case of a national emergency or whenever a state of emergency is declared by the mayor, community fallout shelter managers, duly appointed by the civil defense director, shall open public shelters, take charge of all stocks of food, water and other emergency supplies stored in such shelters, admit the general public according to the city-county shelter use plan and take whatever control measures are necessary for the protection and safety of the occupants.

(b) Civil defense shelter managers are authorized to use reasonable restraint against those who refuse to cooperate with the routine of shelter living under emergency conditions. Refusal to carry out the orders of the civil defense shelter manager and his appointed staff shall be deemed a misdemeanor.
(Code 1974, § 11-12)

Secs. 30-3-30-25. Reserved.

ARTICLE II. CONTINUITY OF GOVERNMENT*

Sec. 30-26. Title.

This article shall be known and may be cited as the "Continuity of Government Ordinance of the City of McAlester, Oklahoma."
(Code 1974, § 11-24)

Sec. 30-27. 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:

Attack means any attack or series of attacks by an enemy of the United States causing, or which may cause, substantial damage or injury to civilian property or persons in the United States in any manner, by sabotage or by the use of bombs, missiles, shellfire or atomic, radiological, chemical, bacteriological or biological means or other weapons or processes.

Duly authorized deputy means a person who is presently authorized to perform all of the functions, exercise all of the powers and discharge all of the duties of an office in the event the office is vacant or at such times as it lacks administration due to the death, absence or disability of the incumbent officer.

Emergency interim successor means a person designated pursuant to this article for possible temporary succession to the powers and duties, but not the office, of a city officer if such officer or any duly authorized deputy is unavailable to exercise the powers and discharge the duties of the office.

Unavailable means either that a vacancy in office exists and there is no deputy authorized to exercise all of the powers and discharge the duties of the office, or that the lawful incumbent of the office (including any deputy exercising the powers and discharging the duties of an office because of a vacancy) and his duly authorized deputy are absent or unable, for physical, mental or legal

*Cross reference-Administration, ch. 2.
State law reference-Emergency Interim Executive and Judicial Succession Act, 63 O.S. § 685.1 et seq.

reasons, to exercise the powers and discharge the duties of the office.
(Code 1974, § 11-25)

Cross reference-Definitions generally, § 1-2.
State law reference-Similar definitions, 63 O.S. § 685.3.

Sec. 30-28. Designation of emergency interim successors.

(a) Within 30 days after first entering upon the duties of his office, the mayor and each member of the city council shall, in addition to any duly authorized deputies, designate such number of emergency interim successors to his office, and specify their rank in order of succession after any duly authorized deputy, so that there will be not less than three duly authorized deputies or emergency interim successors, or combination thereof, for the office.

(b) The city council, with respect to the city manager and the city clerk, and the city manager, with respect to all other appointive officers, shall designate such number of emergency interim successors to such officers, and specify their rank in order of succession after any duly authorized deputy, so that there will be not less than three duly authorized deputies or emergency interim successors, or combination thereof, for each officer.

(c) The officers designating emergency interim successors under this section shall review and, as necessary, promptly revise the designations of emergency interim successors or duly authorized deputies or any combination thereof for each officer specified.
(Code 1974, § 11-26)

State law reference-Duty of city officersto designate interim successors, 63 0.8. § 685.6.

Sec. 30-29. Qualifications, status of emergency interim successors.

(a) No person shall be designated or serve as an emergency interim successor unless he may, under the constitution and statutes of this state and the charter of ordinances of this city, hold the office of the person to whose powers and duties he is designated to succeed, but no provision of any ordinance prohibiting an officer or employee of this city from holding another office shall be applicable to an emergency interim successor.

(b) A person designated as an emergency interim successor holds that designation at the pleasure of the designator; provided that, he must be replaced if removed. He retains this designation as emergency interim successor until replaced by another appointed by the authorized designator.
(Code 1974, § 11-27)

Sec. 30-30. Formalities of emergency interim successors taking office.

At the time of their designation, emergency interim successors shall take such oath and do such other things, if any, as may be required to qualify them to exercise the powers and discharge the duties of the office to which they may succeed.
(Code 1974, § 11-28)

Sec. 30-31. Filing of information concerning deputies and emergency interim successors.

The name, address and rank in order of succession of each duly authorized deputy shall be filed with the city clerk and each designation, replacement or change in order of succession of an emergency interim successor shall become effective when the designator files with the city clerk the successor's name, address and rank in order of succession. The city clerk shall keep on file all such data regarding duly authorized deputies and emergency interim successors and it shall be open to public inspection.
(Code 1974, § 11-29)

Sec. 30-32. Powers, duties of emergency interim successors.

If in the event of an attack any city officer and any duly authorized deputy of such officer is unavailable, his emergency interim successor highest in rank in order of succession, who is not unavailable, shall, except for the power and duty to appoint emergency interim successors, exercise the powers and discharge the duties of such officer. An emergency interim successor shall exercise such powers and discharge such duties only until such time as the lawful incumbent officer or any duly authorized deputy or an emergency interim successor higher in rank in order of succession exercises, or resumes the exercise of, the powers

and discharge of the duties of the office, or until, where an actual vacancy exists, a successor is appointed to fill such vacancy or is elected and qualified as provided by law.
(Code 1974, § 11-30)

State law reference-Similar provisions, 63 O.S. § 685.9.

Sec. 30-33. Quorum and vote requirements for council in event of attack.

In the event of an attack, quorum requirements for the city council shall be suspended, and where the affirmative vote of a specified proportion of members for approval of an ordinance, resolution or other action would otherwise be required, the same proportion of those voting thereon shall be sufficient.
(Code 1974, § 11-31)

Secs. 30-34-30-55. Reserved.

ARTICLE III. CIVIL DEFENSE AND EMERGENCY RESOURCE MANAGEMENT*

Sec. 30-56. 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:

Civil defense means the preparation for and the carrying out of all emergency functions, other than functions for which the military services are primarily responsible, by organized and trained volunteer civilian persons who will extend existent governmental functions and provide other necessary nongovernmental functions, as listed below, to prevent, minimize and repair injury and damage resulting from enemy attack, sabotage, or other hostile action, or disasters caused by fire, flood, tornado, earthquake or other causes developing to such an extent to cause an extreme emergency situation to arise which by declaration of the governor jeopardizes the welfare of the citizens of this state. These functions include, without limitation, firefighting services, police services, medical and health services, rescue, engineering, air raid warning services, communications, radiological, chemical and other special. weapons of defense, evacuations of persons from stricken areas, emergency welfare services (civilian war aid), emergency transportation, existing or properly assigned functions of plant protection,. integration of industry emergency plans into civil defense plans, assistance to private and public utility companies in the temporary restoration of public utility services, and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing functions.

Civil defense or *disaster emergency* means any state of emergency caused by enemy attack upon the United States or a state of emergency declared by the President of the United States or the governor of the state upon the occurrence of an attack upon the United States or when such attack is imminent or when an emergency is caused by a disaster, natural or manmade.

Enemy attack means an actual attack by a foreign nation by hostile air raids, or other forms of warfare upon this state or any other state or territory of the United States.
(Code 1974, § 11-2)

Cross reference-Definitions generally, § 1-2.
State law reference-Similar provisions, 63 O.S. § 683.3.

Sec. 30-57. Establishment, composition of office of civil defense; office space, equipment, etc.

(a) There is hereby established within the executive branch of the city government the office of civil defense. This office shall consist of:

(1) The civil defense advisory committee provided for in this article.

(2) The director of civil defense appointed pursuant to this article.

(3) Such other volunteer civil defense advisory committees as may be created by the di. rector of civil defense for the evaluation of technical, professional or other phases of the work of the office of civil defense, and

*State law reference-Oklahoma Civil Defense and Emergency Resources Management Act of 1967, 63 O.S. § 683.1 et seq.

which may provide advisory assistance on any matters pertaining to the city's civil defense.

(b) Appropriate office space, furniture, equipment and supplies, as required, shall be provided for the office of civil defense. Expenditures for these purposes, within the appropriations therefor, shall be made only on the authority of the city council.

(Code 1974, § 11-2)

State law reference-Local civil defense organizations, 63 O.S. § 683.11.

Sec. 30-58. Civil defense advisory committee.

There is hereby created a civil defense advisory committee, consisting of the mayor as chairman, and five other members appointed by the mayor and serving at his pleasure. The committee shall elect from among its members a vice-chairman and a secretary. Except as otherwise provided in this chapter, the committee shall function in an advisory capacity on all matters pertaining to civil defense. It shall hold regular meetings at least four times a year and at other times on the call of the mayor. The committee shall serve without compensation.

(Code 1974, § 11-3)

Cross reference-Boards and commissions, § 2-166 et seq.

Sec. 30-59. Director of civil defense-Office created; appointment, term.

The office of director of civil defense is hereby created. The director of civil defense shall be appointed by the mayor and shall serve at his pleasure.

(Code 1974, § 11-4)

Sec. 30-60. Same-General powers and duties.

(a) The director of civil defense shall be the executive head of the office of civil defense and shall have general direction and control of such office. He shall be responsible for carrying out the civil defense program of the city and the provisions of this article. In so carrying out the provisions of this article, the director is expressly authorized to cooperate, insofar as permitted by other appropriate legislation, with the federal government, the government of the state and its subdivisions, with other states and their subdivisions and with private agencies in all matters pertaining to civil defense in this city.

(b) The director of civil defense shall coordinate the activities of all organizations for civil defense within the city, and shall maintain liaison with and cooperate with civil defense agencies and organizations of other governmental units, both within and without the state, and of the federal government, and shall have such additional authority, duties and responsibilities as may be authorized under this chapter or amendments thereof.

(c) Prior to an emergency the director of civil defense shall have the following powers:

(1) To make, amend and rescind the necessary orders, rules and regulations to carry out the provisions of this article within the limits of the authority conferred upon him herein, with due consideration to be given to the plans and powers of the federal government, the government of the state, and other public and private agencies and organizations empowered to act in either enemy. caused emergencies or natural emergencies, or both.

(2) To prepare comprehensive plans for the civil defense of the city in both enemy-caused and natural emergencies, such plans and programs to be integrated and coordinated with the plans and programs of the federal government, of the government of the state, and of other public and private agencies and organizations empowered to act in either enemy-caused or natural emergencies, or both.

(3) To establish, within the limits of funds available, a public warning system, composed of sirens, horns or other acceptable warning devices.

(4) To establish and carry out recruitment and training programs as may be necessary to develop an adequate, qualified civil defense volunteer corps.

(5) To conduct drills, exercises and similar programs as may be necessary to develop a well-trained, alert, fully prepared civil defense organization.

(6) To make such studies and surveys of the industries, resources and facilities of this city as he deems necessary to ascertain its capabilities for civil defense, and plan for the most efficient emergency use thereof.

(7) On behalf of the city, to enter into mutual-aid arrangements with surrounding communities, subject to the approval of the city council.

(8) To delegate any administrative authority vested in him under this article, and to provide for the subdelegation of any such authority.

(9) To take any other action proper and lawful under his authority to prepare for either an enemy-caused or a natural emergency.

(Code 1974, § 11-5)

Sec. 30-61. Same-Powers during civil defense or disaster emergency.

In the event of any actual civil defense or disaster emergency, as proclaimed by the mayor, the director of civil defense, with the approval of the mayor, may exercise during such emergency the power to enforce all rules and regulations relating to civil defense and, acting under the authority of state statutes or under the authority of the mayor as an agent of the governor of the state, may take control of all means of transportation and communications, all stocks of fuel food clothing, medicine and supplies, and all fadilities: including buildings and plants, and exercise all powers necessary to secure the safety and protection of the civilian population. In exercising such powers, he shall be guided by regulations and orders issued by the federal government and the governor of the state relating to civil defense and shall take no action contrary to orders which may be issued by the governor under similar emergency powers.

(Code 1974, § 11-6)

Sec. 30-62. Same-Powers during natural emergency.

In the event of any natural emergency, as proclaimed by the mayor, the director of civil defense, with the approval of the mayor and acting under his instructions, shall coordinate in every way proper the activities of the civil defense organization. He is specifically charged in such emergency with the collection, evaluation and dissemination of information to all agencies participating in the city's civil defense organization or cooperating in any such emergency. He shall, as director, have the power to recommend appropriate action, but he shall not otherwise have control over the participating agencies. He shall also recommend to the mayor the allocation of any funds received from the federal or state governments or from any other source to alleviate distress and aid in restoring normal conditions.

(Code 1974, § 11-7)

Sec. 30-63. Establishment of emergency control centers.

The director of civil defense shall, within the appropriations therefor, establish a primary and one or more secondary control centers, as he deems necessary to serve during an enemy-caused or a natural emergency.

(Code 1974, § 11-8)

Sec. 30-64. Acceptance of gifts, grants and loans for civil defense purposes.

Whenever the federal government or the state or any person shall offer to the city any services, equipment, supplies, materials or funds by way of gift, grant or loan, for purposes of civil defense, the mayor may accept such offer and may authorize the director of civil defense to receive the same subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

(Code 1974, § 11-9)

Sec. 30-65. Exemption from liability for damages resulting from civil defense activities.

Neither the city nor any officer or member of the civil defense organizations provided for in this article shall be liable for personal injury or prop-

erty damage sustained by the any person appointed or acting as a volunteer civil defense worker or member of any agency engaged in any civil defense activity prior to or during either an enemy-caused or a natural emergency, nor shall the city or any such officer or member be liable for the death or injury of any person or damage to property resulting from such civil defense activity prior to or during either an enemy-caused or a natural emergency.
(Code 1974, § 11-10)

State law reference-Similar provisions, 63 O.S. § 683.14.

Secs. 30-66-30-85. Reserved.

ARTICLE IV. PUBLIC ORDER PRESERVATION*

Sec. 30-86. 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:

City manager means the city manager or his designated representative.

Civil emergency means:

(1) A riot. Any use of force or violence, or any threat to use force or violence, if accompanied by the immediate power of execution, which threatens to result in acts described in subsection (4) below by three or more persons acting together, and without authority of law, which cannot be controlled or stopped under existing conditions and authority, is a riot.

(2) An unlawful assembly consisting of three or more persons assembling together with intent to do any unlawful act described in subsection (4) below with force or violence against the person or property of another, and who make any overt act to carry out such unlawful purpose, or who do a lawful act in an unlawful, violent or tumultuous manner, which cannot be controlled or stopped under existing conditions or authority.

(3) A natural disaster or a manmade calamity, including but not limited to flood, conflagration, cyclone, tornado, earthquake or explosion occurring within or affecting property within the city limits, which endangers life and property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare of the citizens.

(4) Unlawful activities, such as looting, arson, fire bombing, sniping, interference with emergency vehicles, widespread criminal damage to property, which in the opinion of the city manager, based upon consultation with the chief of police, cannot be controlled nor stopped under existing conditions and authority without unduly further endangering life of property.

Curfew means that period of time, as declared by the city manager, during which no person shall be upon the public streets, sidewalks, grounds or semipublic property, either on foot or in vehicles of any type within the city except, however, that persons authorized by the city manager by administrative order shall not be subject to the curfew.
(Code 1974, § 11-43)

Crossreference-Definitions generally, § 1.2.

Sec. 30-87. Proclamation of existence of emergency.

Whenever the city manager shall, after consultation with the chief of police, find that a civil emergency exists and that invocation of the extraordinary powers conferred by this article is necessary to ensure or to restore the public peace, he shall forthwith proclaim, in writing, the existence of such emergency.
(Code 1974, § 11-44)

Sec. 30-88. Invocation of curfew.

Mter the proclamation of the existence of a civil emergency, as authorized in section 30-87, the city manager may order the invocation of the curfew.

*Cross reference-Offenses against public peace and order, § 82-161 et seq.

State law references-Oklahoma Riot Control and Prevention Act, 21 O.S. § 1321.1 et seq.; authority of city to enact ordinance in conformity with said act, 21 O.S. § 1321.9.

Such order shall declare the hours of curfew in all or any portion of the city, thereby requiring all persons in such designated curfew areas to forthwith remove themselves from the public streets, alleys, parks or other public or semipublic places. The curfew shall be declared by proclamation which shall be delivered to the chief of police, who shall see that copies thereof are delivered to all news media within the city and who shall also use public address systems to notify the public of the proclamation and curfew hours and warn the public that violation of the curfew constitutes a misdemeanor or violators are subject to arrest.
(Code 1974, § 11-45)

Sec. 30-89. Closing of streets.

After the proclamation of the existence of a civil emergency, as authorized in section 30-87, the city manager may close any and all streets, alleys and other public ways in the city to the public whenever it is necessary for the preservation oflife and property and the maintenance of law and order.
(Code 1974, § 11-46)

Sec. 30-90. Closing certain businesses, prohibiting sale of certain products, etc.

After the declaration of the existence of a civil emergency, as authorized in section 30-87, the city manager may:

(1) Order the closing of all retail package liquor stores and outlets.

(2) Order the closing of all bars and other establishments selling intoxicating liquor or beer by the drink.

(3) Order the discontinuance of selling, distributing or giving away gasoline or other flammable or combustible products in any container other than a gasoline tank properly affIxed to a motor vehicle, such sale to be limited to not more than one gallon per motor vehicle, or in the alternative, order the closing of gasoline stations and other establishments, the chief activity of which is the sale, distribution or dispensing of liquid flammable or combustible products.

(4) Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever, or in the alternative, order the closing of all establishments or portions thereof where firearms or ammunition are kept for sale or distribution.

(5) Issue such other orders as are imminently necessary for the protection of life and property.

(Code 1974, § 11-47)

Sec. 30-91. Notice of orders affecting business establishments.

All orders issued pursuant to the authority contained in section 30-90 regulating or prohibiting the conduct of business shall be delivered to the police department, which shall forthwith inform the operator or person in charge of the business affected, advising him that failure to comply with the order constitutes a violation of this article for which he may be arrested.
(Code 1974, § 11-48)

Sec. 30-92. Termination or extension of emergency proclamation.

Any emergency proclaimed in accordance with the provisions of this article shall terminate after 48 hours from the issuance of the proclamation, or upon the issuance of a proclamation determining an emergency no longer exists, whichever occurs first; provided, however, that such emergency may be terminated by the city council prior to the termination of 48 hours or may be extended for such additional periods of time as deemed necessary by the city council.
(Code 1974, § 11-49)

Sec. 30-93. Failure to disperse from scene of riot or unlawful assembly during emergency.

During the existence of an emergency proclaimed in accordance with this article, every person remaining present at the place of any riot or unlawful assembly, after having been ordered to disperse by the police or other lawful authority, except those public officers and persons assisting

them in attempting to disperse the same, shall be deemed guilty of a violation of this article.
(Code 1974, § 11-50)

Sec. 30-94. Violation of article or emergency orders.

Any person convicted of a violation of this article or any order issued pursuant to this article is guilty of a misdemeanor.
(Code 1974, § 11-51)

Sec. 30-95. Article supplemental to other ordinances.

The provisions of this article shall not be construed to repeal, replace or limit any other ordinance of this city or limit the authority and power vested in the city council and the city manager. It is the intent of the city council that this article supplement the other ordinances of the city.
(Code 1974, § 11-52)

Chapters 31-33

RESERVED

Chapter 34

COURT

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ARTICLE I. IN GENERAL

Sec. 34-1. Municipal court.

Cases arising out of violations of the Charter and ordinances of the city shall be tried by the municipal court created by state law, or a lawful successor of the court created by state law.
(Ord. No. 2289, § 1, 5-27-08)

Sec. 34-2. City judge, city prosecutor; appointment, removal.

The city judge and city prosecutor shall be appointed by the city manager, subject to confirmation by the city council. The city judge and city prosecutor shall serve at the pleasure of the city manager, and may be removed by the city manager.
(Ord. No. 2290, § 1, 5-27-08)

Secs. 34-3—34-25. Reserved.

ARTICLE II. MUNICIPAL COURT NOT OF RECORD*

DIVISION 1. GENERALLY

Sec. 34-26. Application of article.

This article shall govern the organization and operation of the municipal court of the city, as put into operation by resolution duly passed on February 10, 1969, and filed in accordance with law.
(Code 1974, § 16-1)

Sec. 34-27. Clerk's bond.

The bond of the clerk of the municipal court shall be in the sum of $10,000.00. When executed, the bond shall be submitted to the city council for approval and, when approved, it shall be filed with the city clerk and retained in the municipal archives.
(Code 1974, § 16-17)

State law reference—Bond required and form prescribed, 11 O.S. § 27-111.

*__Charter reference__—Municipal court, § 5-1.

Cross reference—Administration, ch. 2.

State law reference—Municipal courts not of record, 11 O.S. § 27-101 et seq.

Sec. 34-28. Frequency, notice of sessions.

The judge of the municipal court shall conduct a session of the municipal court at least once every 16 days. Notice of such sessions shall be given as prescribed in the Oklahoma Open Meeting Act, 25 O.S. § 301 et seq.
(Code 1974, § 16-23(b))

Sec. 34-29. Postponement of trial.

Before a trial commences in the court, either party, upon good cause shown, may obtain a reasonable postponement thereof.
(Code 1974, § 16-25)

Sec. 34-30. Defendant must be present at trial.

The defendant must be present in person at the trial of his case in the court.
(Code 1974, § 16-26)

Sec. 34-31. Witness fees.

Witnesses in any proceeding in the court, other than police officers or peace offices, shall be entitled to $2.00 for each day of attendance, plus $0.10 for each mile actually and necessarily traveled in going to and returning from the place of attendance, if their residence is outside the limits of the city. However, no witness shall receive fees or mileage in more than one case for the same period of time or the same travel. A defendant seeking to subpoena witnesses must deposit with the clerk of the court, a sum sufficient to cover fees and mileage for one day of attendance for each witness to be summoned, but such deposit shall not be required from an indigent defendant who files an affidavit setting out:

(1) The names of no more than three witnesses;

(2) That the defendant, by reason of his poverty, is unable to provide the fees and mileage allowed by law;

(3) That the testimony of said witnesses is material; and

(4) That their attendance at the trial is necessary for his proper defense.

The fees of such witnesses shall be paid by the city.
(Code 1974, § 16-28)

State law reference—Witness fees to be prescribed by ordinance, 11 O.S. § 27-121.

Sec. 34-32. Rendition and recording of judgment generally.

At the close of a trial in the court, judgment must be rendered immediately by the judge who shall cause it to be entered in his docket.
(Code 1974, § 16-29)

Sec. 34-33. Discharge of defendant upon acquittal.

If judgment of the court is of acquittal, and the defendant is not to be detained for any other legal case, he must be discharged at once.
(Code 1974, § 16-30)

Sec. 34-34. Rendition of judgment on plea of guilty or conviction after trial.

If the defendant pleads guilty or is convicted after trial, the court must render judgment thereon, fixing the penalty within the limits prescribed by this Code or other applicable ordinance and imposing sentence accordingly.
(Code 1974, § 16-31)

Sec. 34-35. Costs upon judgment of conviction.

(a) If judgment of conviction is entered, the clerk of the court shall tax the costs to the defendant in a sum of not to exceed $30.00, plus the fees and mileage of jurors and witnesses, together with any collection fee which may be charged, all of which the defendant shall pay, in addition to any fine that may be imposed.

(b) Also, there is hereby established a technology fund for the express and sole purpose of funding technological maintenance and improvements for the city. There shall be a $25.00 fee assessed in addition to any other costs or fees assessed on every citation disposed of in the municipal court except those that are voided, declined for prosecution or on which the defendant is acquitted. The revenues generated by this fee shall be deposited in a nontransferable interest bearing account. Expenditures may be made from this account only for technological maintenance and improvements for the city.

(c) In addition, regarding any such fines, costs or fees which exceed the sum of $50.00 and which remain unpaid by any individual who has filed a state income tax return, the clerk of the court may file a claim with the Oklahoma Tax Commission requesting that the amount owed to the city be deducted from any state income tax refund due to that individual, all in compliance with the provisions of O.S. § 68-205.2 et seq.
(Code 1974, § 16-32; Ord. No. 2175, § 1, 6-22-04; Ord. No. 2206, § 1, 9-27-05; Ord. No. 2334, § 2, 9-22-09; Ord. No. 2455, § 1, 3-12-13)

State law reference—Council to determine costs by ordinance, 11 O.S. § 27-126.

Sec. 34-36. Work performed by prisoners.

(a) All prisoners confined to jail on conviction or on plea of guilty may be compelled, if their health permits, to work on the public streets, avenues, alleys, parks, buildings or other public premises or property. For each day of such work, the prisoner shall be credited for serving two days of imprisonment under his sentence.

(b) The chief of police, subject to the direction of the city manager, shall direct where the work referred to in subsection (a) shall be performed. The head of the department in charge of the place where the work is to be performed, or some person designated by him, shall oversee the work. If a guard is necessary, the chief of police shall make provision therefor.
(Code 1974, § 16-33)

Sec. 34-37. Copy of judgment of imprisonment as warrant for execution of sentence.

If, after conviction, judgment of imprisonment is entered, a copy thereof, certified by the clerk, shall be delivered to the chief of police, the sheriff of the county or other appropriate police officer. Such copy shall be sufficient warrant for execution of the sentence.
(Code 1974, § 16-34)

Sec. 34-38. Failure to appear.

(a) Any person who is charged with a violation of this Code and who, having been duly issued a summons, or having been arraigned and released on recognizance, or having made a promise to appear, and violates such recognizance, or fails to answer the summons, or fails to honor a promise to appear and does not voluntarily appear before this court on the appointed date and time, regardless of the disposition of the charge for which the citation was originally issued, shall be guilty of an offense.

(b) Any person who shall violate the provisions of this section by failing to appear in the municipal court shall be deemed guilty of an offense and upon conviction thereof shall be punishable by a fine not to exceed $200.00 and cost.
(Ord. No. 2061, § 1, 4-8-97)

Sec. 34-39. Execution of sentences of municipal court.

(a) All sentences of imprisonment shall be executed by the chief of police of the municipality, and any person convicted of a violation of any ordinance of the municipality and sentenced to imprisonment shall be confined in the jail, farm, or workhouse of the municipality, in the discretion of the court, for the time specified in the sentence; provided, however, the court may, in lieu of imprisonment, order the defendant to engage in a term of community service without compensation. If the defendant fails to perform the required community service or if the conditions of community service are violated, the judge may impose a sentence of imprisonment, not to exceed the maximum sentence allowable for the violation for which the defendant was convicted.

(b) The judge of the municipal court imposing a judgment and sentence, at the judge's discretion, is empowered to modify, reduce, suspend, or defer the imposition of a sentence or any part thereof and to authorize probation for a period not to exceed six months from the date of sentence under terms or conditions as the judge may specify. Procedures relating to suspension of the judgment or costs or both shall be as provided in 11 O.S. § 27-123. Upon completion of the terms of probation, the defendant shall be discharged without a court judgment of guilt, and the verdict, judgment of guilty, or plea of guilty shall be expunged from the record and the charge dismissed with prejudice to any further action. Upon a finding of the court that the conditions of probation have been violated, the municipal judge may enter a judgment of guilty.

(c) The judge of the municipal court may continue or delay imposing a judgment and sentence for a period of time not to exceed six months from the date of sentence. At the expiration of this period of time the judge may allow the municipal attorney to amend the charge to a lesser offense.

(d) If a deferred sentence is imposed, an administrative fee not to exceed $500.00 may be imposed as costs in the case, in addition to any deferral fee otherwise authorized by law.
(Ord. No. 2246, § 1, 9-26-06)

Secs. 34-40—34-50. Reserved.

DIVISION 2. JUDGE*

Sec. 34-51. Number; qualifications.

There shall be one judge of the court, who must be duly licensed to practice law in the state.
(Code 1974, § 16-5)

State law references—Council to determine number of judges; judge's qualifications, 11 O.S. § 27-104(A).

Sec. 34-52. Term of office.

The official term of the judge expires on February 12, in each odd-numbered year.
(Code 1974, § 16-7)

State law reference—Judge's term to be two years, expiring on date fixed by ordinance, 11 O.S. § 27-104(A).

Sec. 34-53. Alternate and acting judges.

There shall be appointed an alternate judge of the court, possessed of the same qualifications as the judge. His appointment shall be for the same term and made in the same manner as the judge. He shall sit as acting judge of the court in any

*Cross reference—Officers and employees, § 2-66 et seq.

State law reference—Municipal judges, 11 O.S. § 27-104 et seq.

case if the judge is absent from the court, unable to act as judge, or disqualified from acting as judge in the case.
(Code 1974, § 16-11(a))

State law reference—Alternate or acting judge, 11 O.S. § 27-106.

Sec. 34-54. Removal.

Proceedings for removal of a municipal judge shall be instituted by the filing of a verified written petition, setting forth facts sufficient to constitute one or more legal grounds for removal. Petitions may be signed and filed by the mayor or by 25 or more qualified electors of this city. In the latter event, verification may be executed by one or more of the petitioners. The council shall set a date for hearing the matter, and shall cause notice thereof, together with a copy of the petition, to be served personally upon the judge at least ten days before the hearing. At the hearing, the judge shall be entitled to representation by counsel, to present testimony and to cross examine the witnesses against him, and to have all evidence against him presented in open hearing. So far as they can be made applicable, the provisions of the Oklahoma Administrative Procedure Act governing individual proceedings (75 O.S. §§ 309 through 317 and any amendments or additions thereto in effect at the time of the hearing) shall govern removal proceedings hereunder. Judgement of removal shall be entered only upon individual votes, by a majority of all members of the city council, in favor of such removal.
(Code 1974, § 16-13)

State law reference—Removal of judge, 11 O.S. § 27-104(A).

Sec. 34-55. Vacancy in office.

A vacancy in the office of judge shall occur if the incumbent dies, resigns, ceases to possess the qualifications for the office or is removed, and the removal proceedings have been affirmed finally in judicial proceedings or are no longer subject to judicial review.
(Code 1974, § 16-14)

State law reference—Vacancies, 11 O.S. §§ 27-104(A), 27-107.

Chapters 35-37

RESERVED

Chapter 38

ELECTIONS*

Sec. 38-l. Absentee voting for physically incapacitated persons.
Sec. 38-2. Ward boundaries.

.Charter references-Authority of council to regulate elections, § 2-4(6); elections generally, art. 6; recall elections, art. 7; school district elections, art. 8.

Cross reference-Administration, ch. 2.

State law reference-Municipal elections, 11 O.S. § 16-101 et seq.

Sec. 38-1. Absentee voting for physically incapacitated persons.

(a) A registered voter who swears or affirms that he is physically incapacitated and thereby unable to vote in person at his precinct on the day of any municipal election may apply for an absentee ballot by United States mail upon a form prescribed by the secretary of the state election board or upon a written application setting forth substantially the same facts. The application must be received by the secretary of the county election board conducting the election no later than 5:00 p.m. on Wednesday preceding an election held on Tuesday, or at a like time for elections held on days other than Tuesday.

(b) When such application is received by the secretary of a county election board, it shall be his duty to verify the registration of the voter. Once such registration is verified, the secretary shall cause to be implemented the following procedure:

(1) The chairman and vice-chairman of the county election board shall be designated as an absentee voting board. If necessary, the secretary may appoint additional absentee voting boards from among the members of precinct election boards and counters within the county, with two members of each board, each with a different political party affiliation.

(2) On the Friday, Saturday or Monday preceding the election, the absentee voting board shall deliver, to each registered voter who has requested ballots for an incapacitated voter, ballots and materials as may be necessary to vote same. The ballots shall be removed from the back of the book of ballots for the precinct in which the voter is registered.

(3) The voter must mark his ballots in the manner provided for marking the ballots in the presence of the absentee voting board, but in such a manner as to make it impossible for any person other than the voter to ascertain how the ballots are marked.

(4) The voter shall then seal the ballots in a plain opaque envelope and shall seal the plain opaque envelope in an envelope bearing an affidavit attesting to said voter's incapacitation. The voter must complete the affidavit, and his signature on same must be witnessed by both members of the absentee voting board.

(5) The envelope bearing an affidavit then must be sealed in another envelope, which shall be returned by the absentee voting board to the secretary of the county election board on the same day the affidavit was executed.

(6) Members of an absentee voting board shall be reimbursed for their expenses at the rate of $20.00 per day. One member of each such board shall also be allowed mileage and reimbursement at the rate prescribed for travel by state employees.

(7) Ballots cast by incapacitated voters in the aforementioned manner shall be counted in the same manner as is provided for counting absentee ballots in state and county elections.

(Code 1974, § 12-1)

Charter reference—Absentee ballots, § 6-10.

Sec. 38-2. Ward boundaries.

The ward boundaries of the City of McAlester, Oklahoma, are as follows:

First Ward: Said ward shall begin at intersection of the center of west Electric Avenue right-of-way and the center of north "D" Street right-of-way; thence southerly along the center of the right-of-way of north "D" Street to its intersection with the center of the right-of-way of west Madison Avenue; thence easterly along the center of the right-of-way of west Madison Avenue to its intersection of the center of the north-south right-of-way of the Union Pacific Railway; thence southerly along the center of the right-of-way of the Union Pacific Railway to its intersection with the center of the right-of-way of Carl Albert Parkway; thence easterly along the center of the right-of-way of Carl Albert Parkway to its intersection with the easterly City Limits; thence northerly along the easterly City Limits to its intersection with the center of the right-of-way of east Electric Avenue; thence westerly along the center of the

right-of-way of Electric Avenue to its intersection with the center of right-of-way of north "D" Street and point of beginning.

Second Ward: All that part of the City south and east of the following described line: beginning at the intersection of the center of the right-of-way of Business U.S. 69 Highway and the center of the right-of-way of Oklahoma Avenue; thence easterly along the center of the right-of-way of Oklahoma Avenue to its intersection with the center of right-of-way of Fifth Street; thence northerly along the center of the right-of-way of Fifth Street to its intersection with the center of the right-of-way of Indiana Avenue; thence easterly along the center of the right-of-way of Indiana Avenue to its intersection with the center of the right-of-way of Ninth Street; thence northerly along the center of the right-of-way of Ninth Street to its intersection with the center of right-of-way of South Avenue; thence easterly along the center of the right-of-way of South Avenue to its intersection with the easterly City Limits.

Third Ward: All that part of the City south and west of the following described line: beginning at intersection of the center of the right-of-way of Chicago, Rock Island and Union Pacific Railway and the center line of the right-of-way of West street; thence northerly along the center line of the right-of-way of West Street to its intersection with the center of the right-of-way of west Madison Avenue; thence easterly along the center of right-of-way of west Madison Avenue to its intersection with the center of north-south right-of-way of the Union Pacific Railway; thence southerly along the center of the north-south right-of-way of the Union Pacific Railway to its intersection with the center of the right-of-way of Ottawa Avenue; thence easterly along the center of right-of-way of Ottawa Avenue to its intersection with the center of right-of-way of Second Street; then southerly along the center of the right-of-way of Second Street to its intersection with the center of right-of-way of east Seneca Avenue; thence easterly along the center of the right-of-way of east Seneca Avenue to its intersection with the center of right-of-way of Ninth Street; thence southerly along the center of right-of-way of Ninth Street to its intersection with the center of right-of-way of Indiana Avenue; thence westerly along the center of right-of-way of Indiana Avenue to its intersection with the center of the right-of-way of Fifth Street; thence southerly along the center of right-of-way of Fifth Street to its intersection with the center of the right-of-way of Oklahoma Avenue; thence westerly along the center of right-of-way of Oklahoma Avenue to its intersection with the center of the right-of-way of U.S. 69 Business Highway.

Fourth Ward: All that part of the City north and west of the following described line: beginning at the intersection of the center of the right-of-way of the Chicago, Rock Island and Union Pacific Railway and the center of the right-of-way of West Street; thence northerly along the center of the right-of-way of West Street to its intersection with the center of the right-of-way of west Madison Avenue; thence easterly along the center of the right-of-way of west Madison Avenue to its intersection with the center of the right-of-way of north "D" Street; thence northerly along the center of right-of-way of north "D" street to its intersection with the center of the right-of-way of west Electric Avenue; thence easterly along the center of right-of-way of west Electric Avenue to its intersection with the center of the right-of-way of Hickory Street; thence northerly along the center of right-of-way of Hickory Street to the City Limits.

Fifth Ward: All that part of the City north and east of the following described line: beginning at the intersection of the center of the right-of-way of Hickory Street and the center of the right-of-way of west Coal Avenue; thence southerly along the center of the right-of-way of Hickory Street to its intersection with the center of the right-of-way of west Electric Avenue; thence easterly along the center of the right-of-way of Electric Avenue to its intersection with the easterly City Limits.

Sixth Ward: All that part of the City within the following described boundaries: beginning at the intersection of the easterly City Limits and the center of the right-of-way of Carl Albert Parkway; thence westerly along the center of the right-of-way of Carl Albert Parkway to its intersection with the center of the north-south right-of-way of the Union Pacific Railway; thence southerly along the center of the north-south right-of-way of the

Union Pacific Railway to its intersection with the center of the right-of-way of Ottawa Avenue; thence easterly along the center of the right-of-way of Ottawa Avenue to its intersection with the center of the right-of-way of Second Street; thence southerly along the center of the right-of-way of Second Street to its intersection with the center of the right-of-way of east Seneca Avenue; thence easterly along the center of the right-of-way of east Seneca Avenue to its intersection with the center of the right-of-way of Ninth Street; thence southerly along the center of the right-of-way of Ninth Street to its intersection with the center of the right-of-way of South Avenue; thence easterly along the center of the right-of-way of South Avenue to its intersection with the easterly City Limits.

(Ord. No. 1874, § 2, 11-26-91; Ord. No. 2003, § 1, 8-24-93; Ord. No. 2082, § 1, 5-12-98; Ord. No. 2132, § 2, 6-12-01; Ord. No. 2406, § 2, 11-8-11)

Charter references—Wards to be constituted by ordinance, § 2-1(A); wards, § 2-1.

Chapters 39-41

RESERVED

Chapter 42

EMERGENCY SERVICES*

Article I. In General

Sec. 42-1. Ambulance services must comply with statutes.
Sees. 42-2-42-25. Reserved.

Article II. Alarm System Regulations

Sec. 42-26. Purpose.
Sec. 42-27. Definitions.
Sec. 42-28. Alarm business; registration requirements.
Sec. 42.29 License/false alarm fees/penalties.
Sees. 42-30-42-50. Reserved.

Article III. 911 Emergency Number Service

Sec. 42-51. Short title.
Sec. 42-52. Definitions.
Sec. 42-53. Purpose.
Sec. 42-54. Established.
Sec. 42-55. Fee.
Sec. 42-56. Other participants.
Sec. 42-57. Rate of emergency telephone fee for calendar year.
Sec. 42-58. Collection of emergency fee; establishment of rate.
Sec. 42-59 False alarm, compj,'",nt or informatil)l)' 'f"""" lt,v,

.Cross references-Fire department, § 50-26 et seq.; police department, § 66-26 et seq.

ARTICLE I. IN GENERAL

Sec. 42-1. Ambulance services must comply with statutes.

(a) All ambulance services shall be operated in compliance with statute.

(b) A fee schedule for the City of McAlester Emergency Medical Services shall include, but not be limited to, a base rate of $625.00 per patient and a "loaded per mile" charge of $11.00. (Ord. No. 2457, § 1, 3-12-13)

Cross reference—Businesses, ch. 22.

State law reference—Oklahoma Emergency Medical Services Act, 63 O.S. § 1-2501 et seq.

Secs. 42-2—42-25. Reserved.

ARTICLE II. ALARM SYSTEM REGULATIONS*

Sec. 42-26. Purpose.

The purpose of this article is to require minimum standards for alarm systems and services, and to license users thereof to improve system effectiveness, and to minimize unnecessary and/or prolonged involvement of emergency public service resources and personnel on non-emergency calls.
(Ord. No. 2190, § 1, 2-8-05)

Sec. 42-27. 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:

Alarm administrator means the department head or his/her designee of the department designated by the city manager to perform the administrative functions of this article.

Alarm business means the business by any individual, partnership, corporation, or other entity of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, installing, or monitoring any alarm system, or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved, installed, or monitored in or on any building, structure or facility, but excluding any person who installs his/her own alarm on his/her own property to protect his/her own personal property.

Alarm system means one or more devices designed to detect and signal unauthorized intrusion, entry, robbery, fire, or other emergency condition, which said signals are responded to by public law enforcement officers, fire department personnel, private security guards or security officers, and shall include, but not be limited to, the following:

(1) Interconnecting systems which are connected, either directly or through a mechanical device, to a telephone for the purpose of using the telephone line to transmit a message upon activation of the alarm system;

(2) Automatic dialing devices; and

(3) Audible systems not interconnected to telephone lines which, when activated, sound a bell, siren, or other device to make an audible or visual signal at the location protected by the alarm system. Alarm systems installed in vehicles shall be excluded from this definition.

Alarm user means any person, firm, partnership, association, corporation, company or organization in control of a building, structure or facility located within the City of McAlester wherein an alarm system is maintained.

False alarm means the activation of a burglary, robbery, fire or other alarm for the purpose of summoning emergency assistance, or which causes the police or fire department to be summoned, at a time when no emergency exists, and includes, but shall not be limited to those caused by:

(1) Error, mistake, or any action by any person, firm, corporation, or other entity or agency thereof, owning or operating any

*Editor's note—Ord. No. 2190, § 1, adopted Feb. 8, 2005, amended art. II in its entirety to read as herein set out. Former art. II, §§ 42-26—42-28, pertained to burglar alarm systems, and derived from Code 1974, §§ 8-46—8-48.

State law reference—Alarm Industry Act, 59 O.S. § 1800.1 et seq.

dwelling, building, or place which results in the activation of any alarm system when no emergency exists;

(2) Malfunction or any activation of any alarm system caused by a flaw in the normal operation, design, installation, maintenance of the system, faulty equipment, change in environment, atmospheric conditions, or premises upon or within which the system is operating; or

(3) Intentional misuse or any intentional activation of an alarm system when no burglary, robbery, vandalism, fire, or other emergency is in progress, but excluding testing during installation and regular maintenance when the alarm user notifies the police, in advance, and receives clearance for the test. An alarm will not be considered a false alarm if it is determined by the police, that the alarm was the result of vandalism, attempted entry, or severe weather conditions, which caused visible, physical or other evidence of damage or attempted damage to the premises.

Multiple false alarms which occur during any consecutive 24-hour period, or on weekends from 5:00 p.m. on Friday to 8:00 a.m. on Monday shall be considered as one false alarm for the purpose of enforcing this article.

In-station alarms means an alarm system which is connected to the police station communications area or the fire department by telephone or other means which summons emergency assistance. (Ord. No. 2190, § 1, 2-8-05)

Sec. 42-28. Alarm business; registration requirements.

(a) It shall be unlawful for any person to operate or maintain a burglar alarm system monitored by the city or any independent monitoring system unless he/she has a current license issued in accordance with this article.

(b) Each burglar alarm system shall be required to be licensed separately, and each will be considered independent regardless of ownership.

(c) A license required by this article shall be issued by the city treasurer, or his/her designee, upon the applicant's compliance with, and subject to all applicable provisions of this article. Such license shall be signed by the city treasurer, or his/her designee, and shall specify the business trade, occupation, profession, residential location, or other activity for which it is issued.

(d) The assignment or transfer of licenses issued under this article is hereby prohibited.

(e) Whenever any license issued under this article has been lost or destroyed without any wrongful act or connivance by the holder, the city treasurer, upon application, shall issue a duplicate license for the unexpired time. Before a duplicate is issued, the holder shall make and file with the city treasurer an affidavit that the license has not been transferred, that it has been lost or destroyed without any wrongful act or connivance by the holder, and that, if believed lost, he has made a diligent search therefore. The fee for such duplicate license shall be $1.00.

(f) It shall be the duty of any person to whom the license is issued under this article to, present the license to authorized city personnel, upon request.

(g) It shall be the duty of any person to whom the license is issued under this article to provide the city with a current list of persons authorized by the license holder to respond to the alarm on behalf of the licensee.

(h) No person, firm or corporation shall engage in the alarm industry business, as defined in 59 O.S. §§ 1800.1—1800.16, unless pursuant to the State Alarm Industry Act.

(i) Every alarm business selling, leasing, or furnishing any alarm system within the city shall furnish the alarm user with instructions that provide adequate information to enable the alarm user to operate the system properly and to obtain service for the alarm system.

(j) Every alarm business doing business with alarm users shall be required to register with the city. Such registration shall be valid only as long as the alarm business maintains a license pursuant to subsection (a) of this section. Registration

shall include copies of the state license of the company or individual providing services to the alarm user, and such other information as the city's alarm administrator shall deem appropriate.
(Ord. No. 2190, § 1, 2-8-05)

Sec. 42-29 License/false alarm fees/penalties.

(a) There shall be a license fee levied on each alarm system operated in the city. There shall also be levied a false alarm fee. The license and false alarm fees shall be as follows:

(1) License fees shall be $25.00 for the first year, and $10.00 per year thereafter for each license.

(2) Fourth false alarm. 25.00

(3) Fifth false alarm. 40.00

(4) Sixth false alarm 50.00

(5) Each false alarm thereafter. 75.00

(b) Every annual license issued under this article shall expire on June 30th next following the date of issuance.

(c) The false alarm fee shall be due and payable monthly on dates to be determined by the city, and each bill will be stamped with a past due date. If such bill is not paid on or before the past due date stamped thereon, the alarm license may be subject to revocation at the discretion of the alarm administrator.

(d) If the alarm license is revoked, the alarm user will be required to make application for a new license, pay any false alarm fees owed and pay the appropriate fees. It shall be a violation of this article to operate an alarm system when the permit for that alarm system has been revoked by the alarm administrator.

(e) If the alarm user's license is revoked or false alarm fees are assessed, the user may appeal the revocation or assessment to the alarm administrator, provided, the appeal is made in writing within ten business days from the date of revocation or fee assessment. The alarm administrator may waive the revocation and/or fees after considering the appeal of the user, including such facts as proof of repair, weather conditions conditions of equipment, and factors which ma; have been beyond the control of the alarm user (i.e. weather conditions, power surges or outages, telephone lines, etc.).
(Ord. No. 2190, § 1, 2-8-05)

Secs. 42-30-42-50. Reserved.

ARTICLE III. 911 EMERGENCY NUMBER SERVICE*

Sec. 42-51. Short title.

This article shall be known and may be cited as the "911 Emergency Number Ordinance."
(Code 1974, § 8-62)

Sec. 42-52. 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:

Emergency telephone fee means a fee to finance the operation of emergencY telephone service.

Emergency telephone service means a telephone system utilizing a three-digit number, 911, for reporting to the appropriate public agency provid-Jag law enforcement, fire, medical, or other emergency services, including ancillary communications systems and personnel necessary to pass the reported emergencY to the appropriate emergency service and personnel.

Local exchange telephone company means any company providing exchange telephone services to any service user in this city.

Person means any individual, firm, partnership, copartnership, joint venture, association, cooperative organization, private corporation, whether organized for profit or not, fraternal organization, nonprofit organization, estate, trust, business or common law trust, receiver, assignee for the benefit of creditors, trustee or trustee in bankruptcy, state, any political subdivision of the state, state agency, department, commission, board, bureau or any other service user.

Public agency means any city, town, county, municipal corporation, public district or public authority located within this state which provides

*State law reference--Nine-one-one Emergency Number Act, 63 O.S. § 2811 et seq.

or has authority to provide firefighting, law enforcement, ambulance, emergency medical or other emergency services.

Service user means any person who is provided exchange telephone service in this city.

Tariff rate means the rate or rates billed by local exchange telephone company stated in tariffs applicable for such company, as approved by the Oklahoma Corporation Commission, which represent the recurring charges of such local exchange telephone company for exchange telephone service or its equivalent, exclusive of all taxes, fees, licenses or similar charges whatsoever.
(Code 1974, § 8-64)
Cross reference-Definitions generally, § 1-2.
State law reference-Similar provisions, 63 O.S. § 2813.

Sec. 42-53. Purpose.

It is the purpose of the 911 emergency number ordinance to establish the number 911 as the primary emergency telephone number for use throughout the city in order to expedite the response of police, fire, medical rescue and other emergency services to any person calling the telephone number 911. The city council finds and declares that:

(1) It is in the public interest to shorten the time required for a citizen to request and receive emergency aid.

(2) Numerous different emergency telephone numbers currently exist throughout the city.

(3) Provisions of a single, primary three-digit emergency number through which emergency service can be quickly and efficiently obtained would provide a significant contribution to law enforcement and other public safety efforts by making it less difficult to quickly notify public safety personnel.

(Code 1974, § 8-63)
State law reference-Similar provisions, 63 O.S. § 2812.

Sec. 42-54. Established.

There is hereby established in the city a 911 emergency number service.
(Code 1974, § 8-61)
State law reference-Authority to establish services, 63 O.S. § 2814.

Sec. 42-55. Fee.

(a) The city hereby provides for the operation of an emergency telephone service within the city and hereby imposes an emergency telephone fee for such service in all areas within the city, for which emergency telephone service has been contracted. The council hereby imposes such fee in an amount not to exceed five percent during the first year of the fee and not to exceed five percent in any year thereafter of the tariff rate in areas within the city for which emergency telephone service has been contracted. The exact rate of the fee to be imposed for each calendar year shall be established by the council.

(b) The proceeds of the fee shall be utilized to pay for the operation of emergency telephone service as specified in this article and may be collected at any time subsequent to execution of a contract with the provider of such service at the discretion of the governing body. Collection of such fee shall not begin prior to contracting for the emergency telephone service.

(c) The emergency telephone fee shall be imposed only upon the amount received from the tariff for exchange telephone service or its equivalent within the city. No such fee shall be imposed upon more than 100 exchange access lines or their equivalent per person per location.

(d) Every billed service user shall be liable for any fee imposed pursuant to this article until it has been paid to the local exchange telephone company.

(e) The duty to collect any fee imposed pursuant to the authority ofthe 911 emergency number ordinance from a service user shall commence with the execution of a contract for the emergency telephone service. Fees imposed pursuant to the authority of this article and that are required to

be collected by the local exchange telephone company shall be added to and may be stated separately in the billings to the service user.

(f) The local exchange telephone company shall have no obligation to take any legal action to enforce the collection of any fee imposed pursuant to authority of this article. The local exchange telephone company shall annually provide the city council with a list of amounts uncollected along with the names and addresses of those service users which carry a balance that can be determined by the local exchange telephone company to be nonpayment of any fee imposed pursuant to the authority of this article.

(g) Any fee imposed pursuant to the authority provided by this article shall be collected insofar as practicable at the same time as, and along with, the charges for exchange telephone service in accordance with the regular billing practice of the local exchange telephone service. The tariff rates determined by or stated in the billing of the local exchange telephone company shall be presumed to be correct if such charges were made in accordance with the business practices of the local exchange telephone company. The presumption may be rebutted by evidence which established that an incorrect tariff rate was charged.
(Code 1974, § 8-65)

State law reference-Fee generally, 63 O.S. § 2814 et seq.

Sec. 42-56. Other participants.

Any other public agency within the exchange of the city is hereby authorized to become a part of the 911 emergency service by imposing a similar fee and expressing their desire to participate in the city's 911 emergency telephone service.
(Code 1974, § 8-66)

Sec. 42-57. Rate of emergency telephone fee for calendar year.

The rate of the emergency telephone fee for each calendar year to be established as provided for by section 42-58 shall be set by separate resolution of the city.
(Code 1974, § 8-67)

Sec. 42-58. Collection of emergency fee; establishment of rate.

(a) The fee imposed pursuant to authority of this article and the amount required to collect are due monthly. The amount of fee collected in one month by the local exchange telephone company shall be remitted to the city council no later than 30 days after the close of the month in which such fees were collected. On or before the last day of each month, a return for the preceding month shall be filed with the council in such form as the council and local telephone company required to file the return shall agree. The local exchange telephone company required to file the return shall deliver the return, together with a remittance of the amount of the fee payable to the city treasurer for deposit into a special fund. The local exchange telephone company shall maintain records of the amount of any fee collected in accordance with the provisions of this article. Such records shall be maintained for a period of one year from the time the fee is collected.

(b) From every remittance to the council made on 0r before the date when the same becomes due, the local exchange telephone company required to remit the same shall be entitled to deduct and retain, as an administrative fee, an amount not exceeding three percent thereof.

(c) At least once each calendar year, the council shall establish a fee rate not to exceed the amount authorized by the provisions of section 42-55 that, together with any surplus revenues, will produce sufficient revenues to fund the expenditures authorized by this article. Amounts collected in excess of that necessary within a given year shall be carried forward to subsequent years. The council shall make its determination of such rate each year no later than September 1 and shall fix the new rate to take effect commencing with the first billing period of each service user on or following the next January 1. Immediately upon making its determination and fixing the rate, the council shall publish in its minutes the new rate, and it shall, at least 90 days before such new rate will become effective, notify by certified mail every local exchange telephone company providing emergency telephone service to areas within the jurisdiction of the council. The

council may at its own expense require an annual audit of the books and records of the local exchange telephone company concerning the collection and remittance of the fee authorized by this article.
(Code 1974, § 8-68)
State law reference-Collection of fee, 63 O.S. § 2814.

Sec. 42-59. False alarm, complaint or information; penalty.

No person shall call the number 911 for the purpose of making a false alarm or complaint or reporting false information which could result in the dispatch of emergency services from any public agency as defined in section 42-52. Any person violating the provisions of this section, upon conviction, shall be guilty of an offense punishable as provided in section 1-8.
(Code 1974, § 8-69)
State law reference-Similar provisions, 63 O.S. § 2819.

Chapters 43-45

RESERVED

Chapter 46

ENVIRONMENT*

Article I. In General

Sec. 46-1. Standard specifications for storm drainage.
Secs. 46-2—46-25. Reserved.

Article II. Nuisances

Sec. 46-26. Enumeration.
Sec. 46-27. Creation or maintenance prohibited.
Sec. 46-28. Abatement—Generally.
Sec. 46-29. Same—By suit in district court.
Sec. 46-30. Same—Health nuisances.
Sec. 46-31. Same—Procedures cumulative.
Sec. 46-32. Declaration of synthetic cannabinoids and incense as a public nuisance.
Sec. 46-33. Definitions.
Sec. 46-34. Possession, use, sale or display of synthetic cannabinoids or incense.
Sec. 46-35. Enforcement.
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Sec. 46-52. Application.
Sec. 46-53. Prohibited; responsibilities.
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Sec. 46-55. Designation of administrative officer.

***Cross reference**—Health and sanitation, ch. 54.
State law reference—Public health and safety, 63 O.S.

ARTICLE I. IN GENERAL

Sec. 46-1. Standard specifications for storm drainage.

Ordinance No. 974, providing standard specifications for storm drainage, applying to all subdividing and developing of land within the corporate limits of the city, requiring and regulating primary and secondary drainage canals and surface drainage bridges, culverts, closed and open storm sewers and drainage and requiring and regulating drainage canals and storm sewers outside addition boundaries and prescribing penalties for the violations of its provisions and declaring it an emergency, is hereby recognized as continuing in full force and effect to the same extent as if set out at length in this article.
(Code 1974, § 31-1)

Secs. 46-2—46-25. Reserved.

ARTICLE II. NUISANCES*

Sec. 46-26. Enumeration.

In addition to any other public nuisances declared by other sections of this Code, the following are determined to be and shall constitute public nuisances:

(1) Any condition or act annoying, injuring or endangering the safety, health, comfort and repose of any considerable number of persons in the city.

(2) Any condition or act which in any way renders any considerable number of persons insecure in life or in the use of property.

(3) The accumulation of liquid household waste, stagnant or standing pools of water, growing weeds, or other conditions which afford breeding places for flies, mosquitoes or vermin.

(4) Dense smoke, noxious fumes and odors, gas, soot or cinders which affect a considerable number of persons as to health and comfort.

(5) All acts, omission of acts, occupations and uses of property which are a menace to the public health.

(6) All places where drunks, persons of lewd or disreputable character or flagrant violators of the law congregate.

(7) Any vehicle used for indecent or immoral practices or purposes.

(8) All indecent or obscene pictures, books, pamphlets, magazines or newspapers.

(9) The placing or leaving, upon or in any public park or watershed, or waters supplying water to the city, of any rubbish, refuse, tin cans, garbage, dead animals or organic waste of any kind.

(10) Polluting or contaminating the public water supply.

(11) Any livestock grazing or running at large upon the watersheds of the city.

(12) Obstructing any existing drainage channel which provides for runoff of stormwater.

(13) Permitting trees, grass, weeds, or any other vegetation to grow to the extent that water flow is obstructed; excepting that easements dedicated for surface water drainage across privately owned property shall be deemed a public way and major maintenance of the easement, when required, shall be performed by the city at no cost to the owner.

(14) All violations of this Code.

(Code 1974, §§ 17-5, 17-6)

Sec. 46-27. Creation or maintenance prohibited.

It shall be unlawful for any person to create or maintain a public nuisance within the city, or to permit a public nuisance to remain on-premises under his control within the city. Under section 1-3 of the City Charter, the city shall have the power to ordain and to enforce local legislation for

*Cross references—Animals, ch. 10; dangerous buildings, § 18-376 et seq.

State law reference—Nuisances generally, 50 O.S.

the proper organization and functioning of the city government, for the preservation and enforcement of good government and order, for the protection of health, life, morals and property, and for the prevention, abatement, and removal of nuisances, and otherwise for the promotion of the common welfare.
(Code 1974, § 71-1)

Sec. 46-28. Abatement—Generally.

(a) The city council is empowered to summarily abate, or have summarily abated by the codes department, any nuisance referred to in this chapter or any other chapter of the Code, whenever it is practical to do so, following the procedures outlined in this chapter.

(b) All expenses incurred in abating a nuisance under this section shall be paid by the owner or person creating or maintaining such nuisance.
(Code 1974, § 17-4)

Sec. 46-29. Same—By suit in district court.

If abatement of any nuisance is deemed impractical by the city council, the council shall, by resolution, direct the bringing of a suit in the district court for the abatement of the public nuisance, as authorized by 50 O.S. § 17.
(Code 1974, § 17-7)

Sec. 46-30. Same—Health nuisances.

(a) Pursuant to the authority granted by 63 O.S. § 1-1011, the codes administrator shall have the authority to order the owner or occupant of any private premises in the city to remove from such premises at his own expense, any source of filth, cause of sickness, condition conducive to the breeding of insects or rodents that might contribute to the transmission of disease, or any condition adversely affecting the public health within 24 hours, or within such other time as might be reasonable. Failure to do so shall constitute an offense.

(b) The order shall be in writing and may be served personally on the owner or occupant of the premises, or authorized agent thereof, by the health officer (codes administrator), his designee (codes inspectors) or by a police officer; or a copy thereof may be left at the last usual place of abode of the owner, occupant or agent, if known and within the state.

(c) If the premises are unoccupied and the residence of the owner, occupant or agent is unknown, or is without the state, the order may be served by posting a copy thereof on the premises, or by publication in at least one issue of a newspaper having a general circulation in the city.

(d) If an order given pursuant to subsection (a) is not complied with, the health officer (codes administrator) may cause the order to be executed and complied with, and the cost thereof shall be certified to the chief financial officer, and the cost of removing or abating the public nuisance including an administrative fee of $100.00 shall be added to the water bill or other city utility bill of the owner or occupant if he is a user of water from the city water system or other utility service.

(e) The cost, including the administrative fee, shall be treated as a part of the utility bill to which it is added, and shall become due and payable, and be subject to the same regulations relating to delinquency in payment, as the utility bill itself. If the owner or occupant is not a user of any city utility service, the cost, including the administrative fee, after certification to the chief financial officer, may be collected in any manner in which any other debt due the city may be collected.
(Code 1974, § 17-8; Ord. No. 2462, § 1, 4-23-13)

Sec. 46-31. Same—Procedures cumulative.

The various procedures prescribed by this article and by other ordinances for abating public nuisances shall be cumulative one to the other, and the city may elect to follow any such procedure which is applicable in abating any particular nuisance.
(Code 1974, § 17-9)

Sec. 46-32. Declaration of synthetic cannabinoids and incense as a public nuisance.

It is hereby declared by the City of McAlester that the use, possession, sale or display of all

forms of synthetic cannabinoids and incense as defined herein, is a public nuisance, which poses an immediate threat to the public health and safety of the citizens of the City of McAlester, Oklahoma.
(Ord. No. 2509, § 2, 7-8-14)

Sec. 46-33. Definitions.

As used in this article the following terms shall be defined as follows:

(1) "*Incense*" shall mean any loose leaf incense, herbal incense, granular incense or aromatic plant material containing any chemical compound, synthetic or natural, which imitates the effects of any controlled substance in granular, loose leaf or powder form which may be used or converted into a form intended for introduction into the human body.

(2) "*Synthetic cannabinoids*" shall mean, unless specifically excepted or unless listed in state statute, any material, compound, mixture, or preparation that contains any quantity of a synthetic cannabinoid found to be in any of the following chemical groups or any of those groups which contain any synthetic cannabinoid salts, isomers, or salts of isomers, whenever the existence of such salts, isomers, or salts of isomers is possible within the specific chemical groups:

a. *Naphthoylindoles:* Any compound containing a 3-(1-naphthoyl) indole structure with or without substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, (N-methylpiperidin-2-yl) methyl, cyanoalkyl, (N-methylpyrrolidin-2-yl) methyl, (tetrahydropyran-4-yl)methyl, ((N-methyl)-3 morpholinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted on the indole ring to any extent or whether or not substituted on the naphthyl group to any extent. Naphthoylindoles include, but are not limited to, 1-[2-(4-morpholinyl) ethyl]-3-(1-naphthoyl) indole (JWH-200); 1-(5-fluoropentyl)-3-(1-naphthoyl) indole (AM2201), 1-pentyl-3-(1- naphthoyl) indole (JWH-018), and 1-butyl-3-(1-naphthoyl) indole (JWH-073).

b. *Naphthylmethylindoles:* Any compound containing a 1H-indol-3-yl-(1-naphthyl) methane structure with or without substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, (N-methylpiperidin-2-yl) methyl, cyanoalkyl, (N-methylpyrrolidin-2-yl) methyl, (tetrahydropyran-4-yl) methyl, ((N-methyl)-3-morpholinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted on the indole ring to any extent or whether or not substituted on the naphthyl group to any extent. Naphthylmethylindoles include, but are not limited to, (1-pentylindol-3-yl)(1- naphthyl) methane (JWH-175).

c. *Naphthoylpyrroles:* Any compound containing a 3-(1-naphthoyl) pyrrole structure with or without substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, (N6methylpiperidin-2-yl) methyl, cyanoalkyl, (N-methylpyrrolidin-2-yl) methyl, (tetrahydropyran-4-yl) methyl, ((N-methyl)-3-morpholinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted on the pyrrole ring to any extent or whether or not substituted on the naphthyl group to any extent. Naphthoylpyrroles include, but are not limited to, 1-hexyl-2-phenyl-4-(1-naphthoyl) pyrrole (JWH-147).

d. *Naphthylmethylindenes:* Any compound containing a naphthylmethylideneindene structure with or without substitution at

the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, (N-methylpiperidin-2-yl) methyl, cyanoalkyl, (Nmethylpyrrolidin-2-yl) methyl, (tetrahydropyran-4-yl) methyl, ((N-methyl)-3-morpholinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted on the indene group to any extent or whether or not substituted on the naphthyl group to any extent. Naphthylmethylindenes include, but are not limited to, (1-[(3-pentyl)-1H-inden-1-ylidene) methyl] naphthalene (JWH-176).

e. *Phenylacetylindoles:* Any compound containing a 3-phenylacetylindole structure with or without substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, (N-methylpiperidin-2-yl) methyl, cyanoalkyl, (N-methylpyrrolidin-2-yl) methyl, (tetrahydropyran-4-yl) methyl, ((N-methyl)-3-morpholinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted on the indole ring to any extent or whether or not substituted on the phenyl group to any extent. Phenylacetylindoles include, but are not limited to, 1-pentyl-3-(2-methoxyphenylacetyl) indole (JWH-250), and 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl) indole (RCS-8); 1-pentyl-3-(2-chlorophenylacetyl) indole (JWH-203).

f. *Cyclohexylphenols:* Any compound containing a 2-(3-hydroxycyclohexyl) phenol structure with or without substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, (N-methylpiperidin-2-yl) methyl, cyanoalkyl, (Nmethylpyrrolidin-2-yl)methyl, (tetrahydropyran-4-yl) methyl, ((N-methyl)-3- morpholinyl) methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted on the cyclohexyl group to any extent. Cyclohexylphenols include, but are not limited to, 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (some trade or other names: CP-47,497) and 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (some trade or other names: cannabicyclohexanol; CP-47,497 C8 homologue).

g. *Benzoylindoles:* Any compound containing a 3-(1-naphthoyl) indole structure with or without substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, (N-methylpiperidin-2-yl) methyl, cyanoalkyl, (N-methylpyrrolidin-2-yl) methyl, (tetrahydropyran-4-yl)methyl, ((N-methyl)-3-morpholinyl) methyl or 2-(4-morpholinyl) ethyl group, whether or not further substituted on the indole ring to any extent or whether or not substituted on the phenyl group to any extent. Benzoylindoles include, but arenot limited to, 1-pentyl-3-(4-methoxybenzoyl) indole (RCS-4), 1-[2-(4- morpholinyl) ethyl]-2-methyl-3-(4-methoxybenzoyl) indole (Pravadoline or WIN 48, 098).

(Ord. No. 2509, § 1, 7-8-14)

Sec. 46-34. Possession, use, sale or display of synthetic cannabinoids or incense.

(a) Pursuant to the declaration as a public nuisance of all forms of synthetic cannabinoids and incense as defined by this section, the following activities shall deemed a violation punishable by fine as established within this section:

(1) To appear or be upon or in any street, alley, place of business, or other public place while under the influence of synthetic cannabinoids or incense;

(2) To use, have, or possess synthetic cannabinoids/incense upon or in any street, alley, place of business, or other public place within the city;

(3) To use synthetic cannabinoids or incense in any place within the city; or

(4) To sell, display or otherwise transfer synthetic cannabinoids or incense, as defined by this section, within the city.

(b) *Factors that may be considered in determining violation:* In determining whether a product or sale is prohibited by this article, statements on package labeling such as "Not For Human Consumption" shall not be considered conclusive for purpose of determining whether a violation has occurred when other relevant factors (viewed alone or in totality) indicate that the product is intended to be consumed or ingested by humans, or is a product regulated by this article. Other relevant factors that may be used to determine whether a product or sale is prohibited by this section include, but are not limited to: verbal or written representations at the point of sale regarding the purpose, methods, use, or effect of the product; aspects of the packaging or labeling suggest the user will achieve a "high," euphoria, relaxation, mood enhancement, or that the product has other effects on the body; the cost of the product is disproportionately higher than other products marketed for the same use; the product contains a warning label stating or suggesting that the product is in compliance with state laws regulating controlled substances; the product's name or packaging uses images or slang referencing an illicit street drug; illicit or underground methods of sale or delivery are employed by the seller or provider; the product resembles an illicit street drug such as cocaine, methamphetamine or marijuana.
(Ord. No. 2509, § 3, 7-8-14)

Sec. 46-35. Enforcement.

Any violation of this section may be enforced by any law or code enforcement officer of the city. Any incense or synthetic cannabinoid, as defined by the section, may be seized and held by the city as evidence to be used in any further proceeding.
(Ord. No. 2509, § 4, 7-8-14)

Sec. 46-36. Penalty for violation.

A person charged with a violation of this section shall upon first conviction be punished by a fine of $100.00. Upon second conviction the person shall be punished by a fine of $300.00. Upon a third and subsequent conviction, the person shall be punished by a fine of $500.00.
(Ord. No. 2509, § 5, 7-8-14)

Secs. 46-37—46-50. Reserved.

ARTICLE III. LOT CLEANING*

Sec. 46-51. 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:

Administrative officer means the codes department and code administrator designated by the city council to carry out the duties of abating detrimental accumulations of trash or growth of weeds and grass.

Cleaning means the removal of trash from property.

Owner means the owner of record as shown by the most current tax rolls of the county treasurer.

Trash means any refuse, litter, ashes, leaves, debris, paper, combustible materials, rubbish, offal, or waste, or matter of any kind or form which is uncared for, discarded or abandoned.

Weed includes but is not limited to poison ivy, poison oak, or poison sumac and all vegetation at any state of maturity which:

(1) Exceeds 12 inches in height, except healthy trees, shrubs, or produce for human consumption grown in a tended and cultivated garden; unless such trees and shrubbery by their density or location constitute a detriment to the health, benefit and welfare of the public and community, or a hazard to traffic or create a fire hazard to the property or otherwise interfere with the mowing of such weeds.

*State law reference—Lot cleaning, 11 O.S. § 22-111.

(2) Regardless of height, harbors, conceals or invites deposits or accumulation of refuse or trash.

(3) Harbors rodents or vermin.

(4) Gives off unpleasant or noxious odors.

(5) Constitutes a fire or traffic hazard.

(6) Is dead or diseased.

The term "weed" shall not include tended crops on land zoned for agricultural use which are planted more than 150 feet from a parcel zoned for other than agricultural use.

(Code 1974, § 17-17)

Cross reference—Definitions generally, § 1-2.

State law reference—Similar provisions, 11 O.S. § 22-111(D).

Sec. 46-52. Application.

The provisions of this article shall not apply to any property zoned and used for agricultural purposes.

(Code 1974, § 17-17(6))

State law reference—Similar provisions, 11 O.S. § 22-111(E).

Sec. 46-53. Prohibited; responsibilities.

It shall be unlawful for any owner or person otherwise in possession or control of any lot, tract or parcel of land situated wholly or in part within the corporate limits of the city to allow trash or weeds to grow, stand or accumulate upon premises, including abutting right-of-way, and it shall be the duty of such owner to remove or destroy any such trash or weeds. The city will cause property within its municipal limits to be cleaned of trash and weeds or grass to be cut or mowed in accordance with established procedures.

(Code 1974, § 17-18; Ord. No. 2462, § 2, 4-23-13)

Sec. 46-54. Reporting accumulation; inspection, determination.

Any officer or employee of the city who discovers an accumulation of trash or weeds upon any premises within the corporate limits of the city shall report such condition to the nuisance abatement officer of the codes department, who thereupon shall make an inspection and determination of violation.

(Code 1974, § 17-19)

Sec. 46-55. Designation of administrative officer.

The city designates the codes administrator as the administrative officer responsible for carrying out the duties of the city council regarding public nuisance abatement procedures. The property owner shall have a right of appeal to the city council from any order of the code administrator. Such appeal shall be taken by filing written notice of appeal with the city clerk within ten days after the administrative order is rendered.

(Code 1974, § 17-20)

Chapters 47-49

RESERVED

Chapter 50

FIRE PREVENTION AND PROTECTION*

Article I. In General

Sec. 50-1. Manufacture, sale, discharge, etc., of fireworks.
Sec. 50-2. False fire alarms.
Sec. 50-3. Open flame roofing systems.
Secs. 50-4—50-25. Reserved.

Article II. Fire Department

Sec. 50-26. Established; function; chief.
Sec. 50-27. Establishment, supervision of bureau of fire prevention.
Sec. 50-28. Fire protection outside city limits—Mutual aid; fees.
Sec. 50-29. Fire department answering calls outside city limits.
Sec. 50-30. Firefighters working outside city limits; compensation; pension fund.
Sec. 50-31. Fire department answering calls outside corporate limits considered agent of state; liability for damages.
Sec. 50-32. Cost recovery.
Secs. 50-33—50-50. Reserved.

Article III. Fire Prevention Code

Sec. 50-51. Adopted.
Sec. 50-52. Definitions.
Sec. 50-53. Conflicts with other provisions of chapter.
Sec. 50-54. Enforcement.
Sec. 50-55. Modifications.
Sec. 50-56. Board of appeal created.
Sec. 50-57. Membership.
Sec. 50-58. Rules of procedure.
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Sec. 50-60. Appeals.
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Secs. 50-62—50-75. Reserved.

Article IV. Liquefied Petroleum Gas

Sec. 50-76. Definitions.
Sec. 50-77. Transportation, storage, dispensing, etc., generally.
Sec. 50-78. Places of business manufacturing, distributing, storing, etc., prohibited.
Sec. 50-79. Notice and approval of use systems.
Sec. 50-80. Records, inspection of installation of equipment.
Sec. 50-81. Vehicles used for transporting—Stopping, parking or storing.
Sec. 50-82. Same—Use for local deliveries.
Sec. 50-83. Same—Report of breakdown.
Sec. 50-84. Same—Maintenance and repair.

***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 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

*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.

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 he 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

Chapter 54

HEALTH AND SANITATION*

Article I. In General

Sec. 54-1. County-city cooperative health department and health officer.
Sec. 54-2. Open storage of abandoned or unattended vehicles, refrigerators, building material, etc.
Secs. 54-3—54-25. Reserved.

Article II. Food

Sec. 54-26. Decayed or unwholesome food a public nuisance.
Sec. 54-27. Sale from vehicles.
Secs. 54-28—54-44. Reserved.

Article III. Regulations for Smoking Inside Public Places and Workplaces

Sec. 54-45. Possession of tobacco product.
Sec. 54-46. Indoor workplace.
Sec. 54-47. State and county-owned buildings.
Sec. 54-48. City-owned or operated properties.
Sec. 54-49. Smoking rooms.
Sec. 54-50. Limits on smoking.
Sec. 54-51. Posting responsibility and fine.
Sec. 54-52. Definitions.
Secs. 54-53—54-75. Reserved.

***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 nonprofit 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

Chapter 58

HUMAN RELATIONS

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Article II. Discrimination

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ARTICLE I. IN GENERAL

Secs. 58-1-58-25. Reserved.

ARTICLE II. DISCRIMINATION*

DIVISION 1. GENERALLY

Sec. 58-26. 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:

Age means that period of time when a worker is at least 40 years old and less than 70 years old.

Commission means the community relations commission.

Commissioner means a member of the commission.

Discriminatory practice means the practice designated as discriminatory under this article.

Employer means a person who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, or a person who as a contractor or subcontractor is furnishing the material or performing work for the state or a governmental entity or agency of the state and includes an agent of such a person but does not include an Indian tribe or a bona fide membership club not organized for profit.

Employment agency means a person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person.

Handicapped person means a person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has a record of such an impairment or is regarded as having such an impairment.

.Cross reference-Businesses, ch. 22.

State law references-Discrimination, 25 O.S. § 1201 et seq.; local antidiscrimination ordinances, 25 O.S. § 1702.

Labor organization includes:

(1) An organization of any kind, an agency or employee representation committee, group, association, or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment.

(2) A conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

(3) An agent of a labor organization.

National origin includes the national origin of an ancestor.

Owner means the owner, co-owner, lessee, sublessee, mortgagee, assignee, manager, agent, employee or any other person having the right of ownership or possession or the authority to sell, rent or lease any dwelling unit, or any person having an equitable or security interest in any dwelling unit, including the city and its departments, boards, commissions and authorities.

Person means an individual, association, corporation, joint apprenticeship, committee, joint stock company, labor union, legal representative, mutual company, partnership, receiver, trust, trustee, trustee in bankruptcy, unincorporated organization, any other legal or commercial entity, the state, or any governmental entity or agency, including the city.

Place of public accommodation means any place, store or other establishment, either licensed or unlicensed, which supplies goods or services to the general public or which solicits or accepts the patronage or trade of the general public or which is supported directly or indirectly by government funds; except, that a private club is not a place of public accommodation, if its policies are determined by its members and its facilities or services are available only to its members and their bona fide guests. However, a place of public accommodation shall not include barbershops or beauty shops or privately owned resort or amusement establishments or an establishment located within

a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of the establishment as his residence.

Real estate broker means any person who for a fee or other valuable consideration manages, sells, purchases, exchanges or rents or negotiates, or offers or attempts to negotiate the sale, purchase, exchange or rental of, the real property of another, or holds itself out as engaged in the business of managing, selling, purchasing, exchanging or renting the real property of another, or collects rent for the use of the real property of another, and includes real estate salesmen or agents or any other person employed by a real estate broker to perform or to assist in the performance of his business.

(Code 1974, § 2-72)

Cross reference-Definitions generally, § 1-2.

State law reference-Similar provisions, 25 O.S. §§ 1201, 1301, 1401, 1451.

Secs. 58-27-58-35. Reserved.

DIVISION 2. COMMUNITY RELATIONS COMMISSION*

Sec. 58-36. Established.

There is hereby established a community relations commission of the city, consisting of five members, to be appointed by the mayor and city council, for terms of two years; provided, however, that for the first appointment under the provisions of this article, three members shall be appointed for a period of two years and two members shall be appointed for a period of one year. All appointments thereafter shall be for a term of two years. The mayor, or his designee, shall serve as an ex officio member.

(Code 1974, § 2-84)

State law reference-Commission authorized, 25 O.S. § 1703.

.Cross reference-Boards and commissions, § 2.166 et seq.

State law reference-Community relations commissions, 25 O.S. § 1703 et seq.

Sec. 58-37. Duties.

The community relations commission shall have the following duties to:

(1) Receive, investigate, and seek the satisfactory adjustment of complaints which charge discriminatory practices as set forth in this article.

(2) Study and investigate by means of public hearings or otherwise any condition having an adverse effect on intergroup relations in the city and study the problems of prejudice and intolerance, bigotry and discrimination as they affect the public safety and general welfare of the city.

(3) Institute and conduct educational and other programs to promote the equal rights and opportunities of all persons regardless of their race, color, religion, national origin, sex, political affiliation, age, marital status or handicap, and to promote understanding among persons, groups of different races, colors, religions, national origins, sex, political affiliations, ages, marital status or handicaps. In performance of this duty, the commission may cooperate with interested citizens, private agencies, and agencies of the federal, state and local government.

(4) Hold hearings, make findings of fact, adopt such rules and policies as may be necessary within the limits of this article, and otherwise carry out the purposes and provisions of this article.

(Code 1974, § 2-85)

State law reference-Additional powers, 25 O.S. § 1704.

Sec. 58.38. Procedures and powers.

(a) Any person aggrieved by discriminatory practices prohibited by this article may file with the community relations commission a complaint in writing, under oath. The complaint shall be signed by the person claiming to be aggrieved, and shall state the name and address of the person alleged to have violated the provisions of this article, and shall further set forth the particulars of the violation, and may include such other information as may be required by the commission. Complaints filed under this section shall be filed

within 60 days after the alleged violation, and failure to file within such time shall be considered a waiver of the application of this article. The commission may issue a complaint on its own initiative, at any time it has knowledge that a person has violated any of the provisions of this article.

(b) The commission shall investigate each complaint filed, and shall attempt an adjustment of the complaint by means of conference and conciliation. Sixty days shall be allowed for the purpose of investigation, conference and conciliation. Upon determination that a complaint is not well founded, the commission shall dismiss the complaint and notify the complainant and respondent in writing of such dismissal. If the commission takes no action within 90 days of the filing of the complaint, it shall be considered dismissed.

(c) If conference or conciliation does not result in compliance with this article, the commission shall cause to be issued and served in the name of the city a written notice together with a copy of the complaint, requiring the person named in the complaint, hereinafter referred to as the respondent, to answer charges of the complaint at a hearing before the commission at a time and place to be specified in the notice.

(d) At the hearing provided for in subsection (c) above, the complainant or person aggrieved may appear in person and/or by counsel, and the respondent may file a written answer to the complaint and may appear in person and/or by legal counsel. The commission, when conducting any hearing, pursuant to this section, may permit amendments to any complaint or answer, and the testimony taken at the hearing shall be under oath, and shall be transcribed at the request of either party, or at the direction of the commission. If the commission finds at the hearing that the respondent has engaged in any discriminatory practice or practices prohibited by this ar. ticle, it shall state its findings of fact, and shall so certify the matter to the city attorney for appropriate action. No prosecution shall be brought under this article except upon such certification. If the commission, upon hearing, finds that the respondent has not engaged in any discriminatory practice, it shall state its findings of fact, and shall issue and file an order dismissing the complaint. The commission shall establish rules and regulations to govern, expedite and effectuate the foregoing procedure, and shall maintain the files provided for herein.
(Code 1974, § 2-86)

Sec. 58-39. Service of notices.

All notices required under this article to be served upon any person may be served personally on such person, or by mailing a copy thereof by certified or registered mail, with return receipt requested, to the current business or residence address of such person.
(Code 1974, § 2-87)

Secs. 58-40-58-50. Reserved.

DIVISION 3. EMPLOYMENT*

Sec. 58-51. Employers.

(a) It is a discriminatory practice for an employer to:

(1) Failor refuse to hire, to discharge or otherwise to discriminate against an individual with respect to compensation or the terms, conditions, privileges or responsibilities of employment because of race, color, religion, national origin, sex, political affiliation, age, marital status or handicap.

(2) Limit, segregate or classify an employee in a way which would deprive or tend to de. prive him of employment opportunities or otherwise adversely affect his status because of race, color, religion, national or. igin, sex, political affiliation, age, marital status or handicap.

(b) This section shall not apply to the employment of an individual by his parents, spouse or child, or to employment in the domestic service of the employer.
(Code 1974, § 2-73)

State law reference-Similar provisions, 25 O.S. § 1302.

"Cross reference-Officers and employees, § 2.66 et seq.

State law reference-Employment discrimination, 25 O.S. § 1301 et seq.

Sec. 58-52. Employment agencies.

It is a discriminatory practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, an individual because of race, color, religion, national origin, sex, political affiliation, age, marital status or handicap, or to classify or refer to employment of an individual on the basis of race, color, religion, national origin, sex, political affiliation, age, marital status or handicap.
(Code 1974, § 2-74)

State law reference-Similar provisions, 25 0.8. § 1303.

Sec. 58-53. Labor organizations.

It is a discriminatory practice for a labor organization to:

(1) Exclude or to expel from membership, or otherwise to discriminate against, a member or applicant for membership because of race, color, religion, national origin, sex, political affiliation, age, marital status or handicap_

(2) Limit, segregate or classify membership, or to classify or to fail or refuse to refer for employment an individual in a way:

a. Which would deprive or tend to deprive an individual of employment opportunities; or

b. Which would limit employment opportunities or otherwise adversely affect the status of an employee or of an applicant for employment because of race, color, religion, national origin, sex, political affiliation, age, marital status or handicap.

(3) Cause or attempt to cause an employer to violate the provisions of this article.

(Code 1974, § 2-75)

State law reference-Similar provisions, 25 O.S. § 1304.

Sec. 58.54. Training programs.

It is a discriminatory practice for an employer, labor organization, or joint labor-management committee controlling apprenticeship, on-the-job, or other training or retraining program, to discriminate against an individual because of race, color, religion, national origin, sex, political affiliation, age, marital status or handicap in admission to, or employment in, a program established to provide apprenticeship or other training.
(Code 1974, § 2.76)

State law reference-Similar provisions, 25 O.S. § 1305.

Sec. 58-55. Other discriminatory practices.

It is a discriminatory practice for an employer, labor organization or employment agency to print or publish or cause to be printed or published a notice or advertisement relating to employment by the employer or membership in or a classification or referral for employment by the labor organization, or relating to a classification or referral for employment by the employment agency, indicating a preference, limitation, specification, or discrimination, based on race, color, religion, national origin, sex, political affiliation, age, marital status or handicap. However, a notice or advertisement may indicate a preference, limitation, specification or discrimination based on race, color, religion, national origin, sex, political affiliation, age, marital status or handicap when it is a bona fide occupational qualification for employment.
(Code 1974, § 2-80)

State law reference-Similar provisions, 25 O.S. § 1306.

Sec. 58-56. Exceptions.

It is not a discriminatory practice:

(1) For an employer to hire and employ an employee, or an employment agency to classify or refer for employment an individual, for a labor organization to classify its membership or to classify or refer for employment an individual, or for an employer, labor organization, or joint labor-management committee controlling an apprenticeship or other training or retraining program to admit or employ an individual in the program, on the basis of his race, color, religion, national origin, sex, political affiliation, age, marital status or handicap.

(2) For a school, college, university or other educational institution to hire and employ

an employee of a particular religion if the school, college, university or other educational institution is, in whole or substantial part owned, supported, controlled or managed by a particular religion or by a particular religious corporation, association or society, or if the curriculum of the school, college, university or other educational institution is directed toward the propagation of a particular religion.

(3) For an employer to apply different standards of compensation or different terms, conditions, privileges or responsibilities of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, if the differences are not the result of an intention to discriminate because of race, color, religion, national origin, sex, political affiliation, age, marital status or handicap.

(4) For an employer to give and to act upon the results of a professionally developed ability test if the test, its administration, or action upon the results is not designed, intended, or used to discriminate because of race, color, religion, national origin, sex, political affiliation, age, marital status or handicap.

(Code 1974, § 2-81)

State law reference-Similar provisions, 25 O.S. § 1308.

Sec. 58-57. Imbalance; number or percentage.

Nothing in this article requires an employer, employment agency, labor organization, or joint labor-management committee subject to this article to grant preferential treatment to an individual or group because of race, color, religion, national origin, sex, political affiliation, age, marital status or handicap of the individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, national origin, sex, political affiliation, age, marital status or handicap employed by an employer, referred or classified for employment by an employment agency or labor organization, admitted to membership or classified by a labor organization or admitted to, or employed in, an apprenticeship or other training or retraining program in comparison with the total number or percentage of persons of the race, color, religion, national origin, sex, political affiliation, age, marital status or handicap in the state or a community, section or other area. However, it is not a discriminatory practice for a person subject to this article to adopt and carry out a plan to eliminate or reduce imbalance with respect to race, color, religion, national origin, sex, political affiliation, age, marital status or handicap if the plan has been filed with the commission under regulations of the commission and the commission has not disapproved the plan.

(Code 1974, § 2-82)

State law reference-Similar provisions, 25 O.S. § 1310.

Sec. 58-58. Application of federal or state law.

Notwithstanding any other provisions of this article, it shall not be an unlawful employment practice or discrimination if the act is not prohibited by state or federal laws in regard to discrimination.

(Code 1974, § 2-83)

Secs. 58-59-58-70. Reserved.

DIVISION 4. PUBLIC ACCOMMODATIONS

Sec. 58-71. Discriminatory practice.

It is a discriminatory practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of a place of public accommodation because of age, sex, race, color, religion, handicap or national origin.

(Code 1974, § 2-77)

State law reference-Similar provisions, 25 O.S. § 1402.

Secs. 58-72-58-82. Reserved.

DIVISION 5. FAIR HOUSING*

Sec. 58-83. Policy.

It is the policy of the city to provide, within constitutional limitations, for fair housing throughout the city.
(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-84. Definitions.

Discriminatory housing practice means an act that is unlawful under sections 58-86, 58-87 and 58-88.

Dwelling means any building structure or portion thereof which is occupied as or designed or intended for occupation as a residence by one or more families and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

Family includes a single individual.

Person includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers and fiduciaries.

To rent includes to lease, to sublease, to let or otherwise to grant for a consideration the right to occupy premises owned by the occupant.
(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-85. Unlawful practices.

Subject to the provisions of subsection (2) and section 58-89, the prohibitions against discrimination in the sale or rental of housing set forth in section 58-85 shall apply to:

(1) All dwellings except as exempted by subsection (2).

(2) Nothing in section 58-86 shall apply to:

a. Any single-family house sold or rented by an owner, provided that such private individual owner does not own more than three single-family houses at anyone time; provided further that, in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any 24-month period; provided further that such bona fide private individual owners does not own any interest in, for is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at anyone time; provided further that the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented:

1. Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesman or of such facilities or services on any person in the business of selling or renting dwellings or of any employee or agent of any such facilities or services of any person in the business of selling or renting dwellings or of any employee or agent of any such broker, agent, salesman or person; and

2. Without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 58-86(3). However, nothing in this provision shall prohibit the

*Editor's note-Ord. No. 2123, § 1, adopted Nov. 14,2000, has been included herein as superseding the provisions of former Div. 5, §§ 58-81 and 58-82, relative to housing, which derived from Code 1974, §§ 2-78, 2-79.

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

State law reference-Discrimination in public housing, 25 O.S. § 1451 et seq.

use of attorneys, escrow agents, abstractors, title companies and other such professional assistance as is necessary to perfect or transfer the title; or

b. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(3) For the purposes of subsection (2), a person shall be deemed to be in the business of selling or renting dwellings if:

a. He has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;

b. He has, within the preceding 12 months, participated as an agent, other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or

c. He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-86. Discrimination in the sale or rental of housing.

AB made applicable by section 58-85 and except as exempted by sections 58-85(2) and 58-89, it shall be unlawful to:

(1) Refuse to sell or rent after the making of a bona fide offer or to refuse to negotiate for the sale or rental of or otherwise make unavailable or deny an dwelling to any person because of race, sex, color, religion, national origin, disability or familial status.

(2) Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith because of race, sex, color, religion, national origin, disability or familial status.

(3) Make, print or publish or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, sex, color, religion, national origin, disability or familial status or an intention to make any such preference, limitation or discrimination.

(4) Represent to any person because of race, sex, color, religion, national origin, disability or familial status that any dwelling is not available for inspection, sale or rental when such dwelling is, in fact, so available.

(5) Induce or attempt to induce any person to sell or rent any dwelling, for profit, by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, sex, color, religion, national origin, disability or familial status.

(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-87. Discrimination in financing or housing.

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling or to discriminate against him in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance because of race, sex, color, religion, national origin, disability or familial status of such person or of any person associated with him in connection with such loan or other

financial assistance or the purposes of such loan or other financial assistance or of the present or prospective owners, lessees, tenants or occupants of the dwelling or dwellings in the relation to which such loan or other financial assistance is to be made or given, provided that nothing contained in this section shall impair the scope or effectiveness of the exception contained in section 58-85(2).
(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-88. Discrimination in the provision of brokerage services.

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, rental or facility relating to the business of selling or renting dwellings or to discriminate against him in the terms or conditions of such access, membership or participation on account of race, sex, color, religion, national origin, disability or familial status.
(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-89. Exemption.

Nothing in this division shall prohibit a religious organization, association or society or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to such persons, unless membership in such religion is restricted on account of race, sex, color, national origin, disability or familial status. Nor shall anything in this division prohibit a private club not, in fact, open to the public which, as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.
(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-90. Administration.

(a) The authority and responsibility for administering the division shall be in the chief executive officer of the city.

(b) The chief executive officer may delegate any of these functions, duties and powers to employees ofthe city or to boards of such employees, including functions, duties and powers, with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business or matter under this division. The chief executive officer shall, by rule, prescribe such rights of appeal from the decisions of his hearing examiners to other hearing examiners or to other officers in the city, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(c) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner to affirmatively further the purposes of this division and shall cooperate with the chief executive officer to further such purposes.
(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-91. Education and conciliation.

Immediately after the enactment of this division, the chief executive officer shall commence such educational and conciliatory activities as will further the purposes of this division. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this division and his suggested means of implementing it and shall endeavor, with their advice, to work out programs of voluntary compliance and of enforcement.
(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-92. Enforcement.

(a) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the chief executive officer. Complaints shall be in writing and shall contain such information and be in such form, as the chief executive officer requires. Upon receipt of such a complaint, the chief executive officer shall furnish a copy of the same to the person or persons who allegedly committed or are about to commit the alleged discriminatory housing practice. Within

30 days after receiving a complaint or within 30 days after the expiration of any period of reference under subsection (c), the chief executive officer shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the chief executive officer decides to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation and persuasion, nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this division without the written consent of the persons concerned.

(b) A complaint under subsection (a) shall be filed within 180 days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file and answer to the complaint against him and, with the leave of the chief executive officer which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.

(c) If, within 30 days after a complaint is filed with the chief executive officer, the chief executive officer has been unable to obtain voluntary compliance with this division, the person aggrieved may, within 30 days thereafter, file a complaint with the secretary of the department of housing and urban development. The chief executive officer will assist in this filing.

(d) If the chief executive officer has been unable to obtain voluntary compliance within 30 days of the complaint, the person aggrieved may, within 30 days thereafter, commence a civil action in any appropriate court against the respondent named in the complaint to enforce the rights granted or protected by this division insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

(e) In any proceedings brought pursuant to this section, the burden of proof shall be on the complainant.

(f) Whenever an action by an individual shall come to trial, the chief executive officer shall immediately terminate all efforts to obtain voluntary compliance.
(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-93. Investigations, subpoenas, giving of evidence.

(a) In conducting an investigation, the chief executive officer shall have access at all reasonable time to premises, records, documents, individuals and other evidence or possible sources of evidence and may examine, record and copy such materials and take and record the testimony or statement of such persons as are reasonably necessary for the furtherance of the investigation; provided, however, that the chief executive officer first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The chief executive officer may issue subpoenas to compel his access to or the production of such materials or the appearance of such persons and may issue interrogatories to a respondent to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States District Court for the district in which the investigation is taking place. The chief executive officer may administer oaths.

(b) Upon written application to the chief executive officer, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the chief executive officer to the same extent and subject to the same limitations as subpoenas issued by the chief executive officer himself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

(c) Witnesses summoned by subpoena of the chief executive officer shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States District Courts. Fees payable to a witness summoned by a subpoena

issued at the request of a respondent shall be paid by him. Within five days after service of a subpoena upon any person, such person may petition the chief executive officer to revoke or modify the subpoena. The chief executive officer shall grant the petition if he finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous or for other good reason.

(d) In case of contumacy or refusal to obey a subpoena, the chief executive officer or other person at whose request it was issued may petition for its enforcement in the municipal or state court for the district in which the person to whom the subpoena was addressed resides, was served or transacts business.

(e) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents or other evidence, if in his power to do so, in obedience to the subpoena or lawful order of the chief executive officer shall be fined not more than $200.00. Any person who, with intent to mislead the chief executive officer, shall make or cause to be made any false entry or statement of fact in any report, account, record or other document submitted to the chief executive officer pursuant to his subpoena or other order or shall willfully neglect or fail to make or cause to be made full, true and correct entries in such reports, accounts, records or other documents or shall willfully mutilate, alter or by any other means falsify any documentary evidence shall be fined not more than $200.00.

(f) The city attorney shall conduct all litigation in which the chief executive officer participates as a party or as amicus pursuant to this division.
(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-94. Enforcement by private persons.

(a) The rights granted herein by sections 58-85, 58-86, 58-87 and 58-88 may be enforced by civil actions in state or local courts of general jurisdiction. A civil action shall be commenced within 180 days after the alleged discriminatory housing practice occurred; provided, however, that the court shall continue such civil case brought pursuant to this section or section 58-92(d) from time to time before bringing it to trial if the court believes that the conciliation efforts of the chief executive officer are likely to result in satisfactory settlement of the discriminatory housing practice complained of in the complaint made to the chief executive officer and which practice forms the basis for the action in court; and provided, however, that any sale, encumbrance or rental consummated prior to the issuance of any court order issued under the authority of this division and involving a bona fide purchaser, encumbrance or tenant, without actual notice of the existence of the filing of a complaint or civil action under the provisions of this division, shall not be affected.

(b) The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order or other order and may award to the plaintiff actual damages and not more than $1,000.00 punitive damages, together with court costs and reasonable attorney's fees in the case of a prevailing plaintiff, provided that the said plaintiff, in the opinion of the court, is not financially able to assume said attorney's fees.
(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-95. Interference, coercion or intimidation.

It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of or on account of his having exercised or enjoyed or on account of his having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by sections 58-85, 58-86, 58-87 or 58-93. This section may be enforced by appropriate civil action.
(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-96. Separability of provisions.

If any provision of this division or the application thereof to any person or circumstance is held invalid, the remainder of the division and the

application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.
(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-97. **Prevention** of intimidation **in fair housing** cases.

Whoever, whether or not acting under color of law, by force or threat of force, willfully injures, intimidates or interferes with or attempts to injure, intimidate or interfere with:

(1) Any person because of his race, sex, color, religion, national origin, disability or familial status and because he is or has been selling, purchasing, renting, financing, occupying or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling or applying for or participating in any service, organization or facility relating to the business of selling or renting dwellings; or

(2) Any person because he is or has been or in order to intimidate such person or any other person or class of persons from:

a. Participating without discrimination on account of race, sex, color, religion, national origin, disability orfamilial status in any ofthe activities, services, organizations or facilities described in subsection 58-97(1); or

b. Affording another person or class of persons opportunity or protection so to participate.

(3) Any citizen because he is or has been or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, sex, color, religion, national origin, disability or familial status, in any of the activities,services, organizations or facilities described in subsection 58-97(1) or from participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be fined not more than $200.00, and if bodily injury results, shall be fined not more than $200.00; and if death results, shall be subject to imprisonment for any term of years or for life.

(Ord. No. 2123, § 1, 11-14-00)

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ARTICLE I. IN GENERAL

Sec. 62-1. Comprehensive plan adopted: purpose.

(a) The Comprehensive Plan for the City of McAlester, Oklahoma, dated June 1978 as attached originally and on file in the city clerk's office and made a part of this chapter is hereby adopted.

(b) The comprehensive plan is hereby stated to be adopted for the purpose of providing orderly development of the community.
(Ord. No. 1871, § 1(21.1),8-27-91)

Sec. 62-2. Filling and excavating of land.

(a) *Permit required.* It shall be unlawful for any individual or organization to fill in land within the city unless a permit is issued by the city. An application for permit shall be filed with the city and shall specify the type of material, location, depth, compaction and cover material to be used in the fill.

(b) *Permissible fill material.* Fill material shall consist of natural soil, earth, clay, gravel, loam, stones, bricks, brickbats, plaster, Portland cement, glass, cinders, metal chips and other noncombustible waste material as specified in section 106-301.

(c) *Exceptions.* Exceptions to the above requirements of this section shall be:

(1) A fill less than one foot in depth, and placed on natural terrain, with a slope flatter than five horizontal to one vertical, or less than three feet in depth not intended to support structures, which does not exceed 50 cubic yards on anyone lot and does not obstruct a drainage course.

(2) An excavation which is less than two feet in depth, or which does not create a cut of greater than five feet in height and steeper than 1½ to one vertical.

(Code 1974, § 18-68)

Secs. 62-3-62-25. Reserved.

ARTICLE II. PLANNING COMMISSION*

Sec. 62-26. Created; purpose.

In order to direct the future development of the city and to encourage social and economic improvements in accordance with modem city planning principles, and to ensure the orderly, efficient and economic arrangement and development of future public works projects, there is hereby created a planning commission for the city.
(Ord. No. 1871, § 1(21.6), 8-27-91)

State law reference-Authority to create planning commission, 11 0.8. § 45-101.

Sec. 62-27. Composition; appointment, terms of members.

(a) The planning commission shall consist of 11 members who shall be nominated by the mayor and confirmed by the city council for a term of three years; provided in 2008 three members nominated and confirmed shall serve for a period of three years; in 2009 four members nominated and confirmed shall serve for a period of three years; in 2010 four members nominated and confirmed shall serve for a period of three years; and upon the expiration of their terms, respectively, successor members shall be nominated by the mayor and confirmed by the city council for terms of three years each. Appointments to fill vacancies shall be made by the mayor and confirmed by the council for the unexpired term only.

(b) In addition to the appointed members, the mayor and city engineer shall be ex-officio members of the planning commission.

(c) During the term of membership, any member who is absent for more than 50 percent of the meetings within a one-year period or three consecutive meetings, without good cause determined by the planning commission, shall automatically cease to be a member and a replacement shall be appointed by the mayor upon confirmation by the city council.
(Ord. No. 1871, § 1(21.7),8-27-91; Ord. No. 2285, 4-8-08)

State law reference-Planning commission membership, 11 O.S. § 45-102.

*Cross reference-Boards and commissions, § 2-166 et seq.

State law reference-Municipal planning commissions, 11 O.S. § 45-101 et seq.

Sec. 62-28. Qualifications of members.

The appointed members of the planning commission shall be residents of the city who are qualified by knowledge or experience to act upon matters pertaining to the physical, social and economic development of the city.
(Ord. No. 1871, § 1(21.8), 8-27-91)

State **law** reference-Residency requirement, 11 O.S. § 45-102.

Sec. 62-29. Removal of members; members shall serve without compensation.

Any appointed member of the planning commission may be removed by the mayor and city council at any time for due cause shown. All members shall serve without compensation.
(Ord. No. 1871, § 1(21.9), 8-27-91)

State **law** reference-Compensation of planning commission, 11 O.S. § 45-102.

Sec. 62-30. Election of officers; adoption of rules.

The planning commission shall elect from among its appointed members its own chairman, vice-chairman, secretary and treasurer, and may from time to time adopt such rules and regulations, not inconsistent with the laws ofthe state or with the charter or ordinances of the city, for its own organization and procedure as it may deem proper.
(Ord. No. 1871, § 1(21.10), 8-27-91)

Sec. 62-31. General duties.

(a) The duties of the planning commission shall be to prepare a comprehensive plan showing its ideas and recommendations for the physical development of the city; to provide programs, drawings, maps or plans covering the whole or any portion of the city and of any lands outside of the city, which, in the opinion of the commission, bears relation to the development or welfare of the city. Such plan shall show the commission's ideas and recommendation relative to:

(1) The location, width and arrangement of streets, alleys, bridges, grade separations, parking, parkways, playgrounds, schools, public institutions or other public grounds or improvements.

(2) The grouping of public buildings.

(3) The design and planning of any memorials or works of art.

(4) Transportation facilities, such as railroads railway or motor.

(5) Street appurtenances, including lighting standards, street name signs, poles and wires, projecting signs, and the like; zoning plan and ordinance for the classification and regulation of land uses and open spaces about buildings; and other matters pertaining to the physical, social and economic improvement of the city, or any portion thereof.

(b) The commission shall submit such plan to the mayor and city council.
(Ord. No. 1871, § 1(21.11),8-27-91)

State **law** reference-General powers of planning commission, 11 O.S. § 45-103.

Sec. 62-32. Recommendations as to subdivisions and closing of streets.

All plans and plats for the subdivision of land into streets or building lots, and all proposals for the closing of streets and alleys within the limits of the city or any additions thereto, shall be submitted to the planning commission for its recommendations before final acceptance or approval by the city. Such recommendations by the commission shall be made within 30 days of such submission and failure to do so shall constitute a waiver of its privilege to pass upon such plan, plat or closing.
(Ord. No. 1871, § 1(21.12),8-27-91)

State **law** reference-Recommendations as to subdivisions, 11 O.S. § 45-104.

Sec. 62-33. Duty with respect to public works program.

It shall be the duty of the planning commission to prepare and submit an annual public works program to the mayor and city council, on or before June 30 of each year. It shall be the duty of each city department or agency to furnish the commission, upon request, any data, plans, estimates or programs and to collaborate with the commis-

sion in the preparation of such public works program.
(Ord. No. 1871, § 1(21.13), 8-27-91)

Sec. 62-34. Preparation and recommenda. tion of proposed legislation.

It shall be the duty of the planning commission to prepare and recommend such municipal legislation as may be necessary to carry out the recommendations or suggestions of the commission.
(Ord. No. 1871, § 1(21.14), 8-27-91)

Sec. 62-35. Employment of planners, engineers, etc.

The planning commission may employ such planners, engineers, architects, clerks and other persons as may be necessary in the performance of its duties, subject to the approval of the city council. The salaries and compensation of such persons shall be fixed by the city council and appropriations be made therefor, if deemed necessary by the city council.
(Ord. No. 1871, § 1(21.15), 8-27-91)
State law reference-Similar provisions, 11 0.8. § 45-103.

Sec. 62-36. Reports to mayor and council.

The planning commission shall make an annual report to the mayor and city council covering its investigations, transactions and recommendations, and such other reports relative thereto as it may deem proper or as requested by the mayor or city council.
(Ord. No. 1871, § 1(21.16),8-27-91)

Secs. 62-37-62-55. Reserved.

ARTICLE III. CLOSING OF PUBLIC WAYS AND EASEMENTS*

Sec. 62-56. 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:

Close means an ordinance of the city council enacted in accordance with the requirements hereafter set forth, discontinuing the public use of a public way or easement without affecting title to real property.

Easement means rights in real property as defined in 60 O.S. § 49 as presently existing or as may be hereafter amended.

Public way means a street, avenue, boulevard, alley, lane or thoroughfare open or platted for public use.
(Ord. No. 1871, § 1(21.21), 8-27-91)
Cross reference-Definitions generally, § 1-2.

Sec. 62-57. Petition generally.

(a) A petition for the closing of any public way or easement within the city shall be filed with the planning commission by any owner of property abutting the way petitioned to be closed, or his duly authorized representative, on a standard form furnished by the planning commission. All petitions for closing of a public way or easement shall be accompanied by a sketch, plan or copy of a map of the area surrounding the street, way or easement to be closed, drawn to approximate scale, showing the land of all abutting property owners, their names and mailing addresses.

(b) The applicant shall be also required to secure from a bonded abstractor, a plat of the area involved, the names and addresses of the owners of record, all within 300 feet of the proposed change. Upon receipt by the building official of

*Cross reference-Streets, sidewalks and other public places, ch. 94.
State law references-Vacating plats and public ways, 11 O.S. § 42-101 et seq.; authority to close public ways, 11 0.8. § 42-110.

the plat, notice shall be sent by certified mail, return receipt requested, to all property owners of record within that 300 feet.
COrd. No. 1871, § 1(21.22), 8-27-91)

Sec. 62-58. Fees to be paid by petitioner.

(a) Upon the filing of petition for closing, the property owner, or his duly authorized representative, shall pay a filing fee to the planning commission. All fees collected by the planning commission shall be deposited with the city treasurer and credited to the general fund of the city. The fees and expenses for all public notices pursuant to such petition shall be paid by the petitioner or his duly authorized representation, in accordance with the following schedule:

Schedule of Fees Required for Filing Petition to Change the Zoning of Land or to Request a Use Permitted on Review:

Square feet of land area involved:

o to 19,000 sq. ft.	$105.00
20,000 to 39,000 sq. ft.	125.00
40,000 to 50,000 sq. ft.	150.00
51,000 to 60,000 sq. ft.	165.00
61,000 to 80,000 sq. ft.	175.00
81,000 to 100,000 sq. ft.	200.00

Allover 100,000 square feet shall be $175.00, plus $25.00 for each additional 100,000 square feet or fraction thereof.

Square feet of land in dedicated street and / or alley:

o to 10,000 sq. ft.	$ 90.00
11,000 to 20,000 sq. ft.	105.00
21,000 to 30,000 sq. ft.	125.00
31,000 to 40,000 sq. ft.	145.00
41,000 to 50,000 sq. ft.	165.00

All over 50,000 square feet shall be $175.00, plus $25.00 for each additional 20,000 square feet or fraction thereof.

(b) All fees collected by the planning department shall be deposited with the city treasurer and credited to the fund designated by the city.
COrd. No. 1871, § 1(21.23),8-27-91; Ord. No. 2166, § 1, 7-8-03)

Sec. 62-59. Hearing on petition.

The planning commission shall hold one or more public hearings upon a petition filed under this article, notice of which shall be given by the commission as follows:

(1) Where a petition is filed to close an alleyway, notice ofthe hearing before the planning commission shall be given by mail to all owners of property abutting the alleyway, except such property owners as may have signed the petition to close the alleyway, by certified mail not less than 15 days nor more than 30 days prior to the hearing; provided, that where the notice cannot for any reason be given by mail, notice shall be given by publication in a newspaper of general circulation in the city one time, not less than 15 days and not more than 30 days prior to such public hearing.

(2) Where a petition is filed to close a public street or easement, notice of the hearing shall be given by certified mail, return receipt requested, to all property owners owning property abutting upon the public street or easement in the area sought to be closed, and such other owners of record whose property is within 300 feet in any direction from the public way or easement sought to be closed, and by publication of the notice in a newspaper of general circulation in the city not less than 15 days and not more than 30 days prior to the public hearing.

(3) The planning commission shall give written notice of any proposed closing of a public way or easement to any holder of a franchise or others determined by the planning commission to have a special right or privilege granted by ordinance or legislative enactment to use the public way or easement at least 30 days prior to a public hearing held upon the petition for closing.

(Ord. No. 1871, § 1(21.24), 8-27-91)

Sec. 62-60. Limitations on effect of closing.

The closing of a public way or easement shall not affect the right to maintain, repair, recon-

struct, operate or remove utility, public service company or transmission company facilities or services therein, nor shall such closing affect private ways existing by operation of law, unless released in writing executed by the owners thereof.
(Ord. No. 1871, § 1(21.25), 8-27-91)

Sec. 62-61. Reopening.

The city hereby retains the absolute right to reopen a public way or easement which has been closed, without expense to the city, and the same may be reopened by:

(1) Resolution of the city council upon its own motion; or

(2) Upon application of the property owners owning more than one-half in area of the property abutting on the public way or easement previously closed.

(Ord. No. 1871, § 1(21.26),8-27-91)

Secs. 62-62-62-80. Reserved.

ARTICLE IV OPENING OF PUBLIC WAYS AND EASEMENTS*

Sec. 62-81. 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:

Easement means rights in real property as defined in 60 O.S. § 49, as presently existing or as may be hereafter amended.

Open means an ordinance of the city council enacted in accordance with the requirements hereafter set forth, designating for public use a public way or easement by dedication of such way or easement by property owner or owners desiring that such way be opened.

"Cross reference-Streets, sidewalks and other public places, ch. 94.

State law reference-Reopening public ways, 11 O.S. § 42-110.

Public way means a street, avenue, boulevard, alley, lane or thoroughfare open or platted for public use.
(Ord. No. 1871, § 1(21.31), 8-27-91)

Cross reference-Definitions generally, § 1-2.

Sec. 62-82. Filing of petitions; required information.

Petition for the opening of any public way or easement within the municipal limits of the city shall hereafter be filed with the planning commission by any owner of property dedicating the way petitioned to be opened or his duly authorized representative, on a standard form furnished by the commission. All petitions for opening of a public way or easement shall be accompanied by a sketch, plan or copy of a map ofthe area surrounding the street, way or easement to be opened, drawn to approximate scale showing the land of all abutting property owners, their names and mailing addresses.
(Ord. No. 1871, § 1(21.32), 8-27-91)

Sec. 62-83. Fees and expenses.

Upon the filing of petition for opening, the property owner or owners or his or their duly authorized representative shall pay the appropriately designated filing fee to the planning commission. All fees collected by the planning commission shall be deposited with the city treasurer and credited to the general fund of the city. In addition thereto, the fees and expenses for all public notices herein required pursuant to such petition shall be paid by the petitioner or his duly authorized representative.
(Ord. No. 1871, § 1(21.33), 8-27-91)

Sec. 62-84. Compliance with subdivision regulations.

A petition as filed under this article shall comply with and be governed by the subdivision standards and regulations in article VI of this chapter.
(Ord. No. 1871, § 1(21.34), 8-27-91)

Sec. 62-85. Closing.

The city hereby retains the absolute right to close the public way or easement without expense to the city and the same may be closed by:

(1) Resolution of the city council upon its own motion; or

(2) Upon application of the property owners owing more than one-half in area of the property abutting on the public way or easement and in accordance with article III of this chapter.

(Ord. No. 1871, § 1(21.35),8-27-91)

Secs. 62-86-62-105. Reserved.

ARTICLE V. ZONING*

DIVISION 1. GENERALLY

Sec. 62-106. Title.

This article is enacted in pursuance of the authority granted by the legislature of the state in 11 O.S. arts. XLII, XLIII, XLIV (11 O.S. §§ 43-101 et seq., 44-101 et seq., 45-101 et seq.), and shall be known as the "Zoning Ordinance of the City of McAlester," and shall be cited as such.
(Ord. No. 1843, § 1(art. I, § 1),2-14-89)

Sec. 62-107. 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:

Generally. For the purpose of these regulations certain terms and words are to be used and interpreted as defined hereinafter. Words used in the present tense shall include the future tenses; words in the singular number include the plural, and words in the plural number include the singular, except where the natural construction of the writing indicates otherwise. The word "shall" is mandatory and not directory.

*State law reference-Zoning generally, 11 O.S. § 43-101 et seq.

Accessory building means a building customarily incidental and subordinate to the main building and located on the same lot with the main building.

Accessory use means a use customarily incidental, appropriate and subordinate to the principal use of land or buildings located upon the same premises.

Advertising sign or structure means any cloth, card, paper, metal, painted glass, wooden, plastic, plaster, stone sign, flashing or illuminated portable sign, flags, tinsel, balloons, banners and other promotional types, or other statuary, placed for outdoor advertising purposes on the ground, or on any tree, wall, bush, rock, post, fence, building, pole, wire or other support, including structures. The term "placed" shall include erecting, constructing, posting, painting, printing, tacking, nailing, gluing, sticking, carving, suspending, flying or otherwise fastening, affixing or making visible in any manner whatsoever. The area of an advertising structure other than a sign shall be determined as the area of the largest cross section of such structure. Neither direction, warning nor other signs posted by public officials in the course of their public duties, nor merchandise or materials being offered for sale shall be construed as advertising signs for the purpose of this definition.

Agriculture means the use of land for agricultural purposes including farming, pasturage, horticulture, animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities and provided further, that the above uses shall not include the commercial feeding of garbage to swine or other animals.

Alley means a public passage or way affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

Automobile means a self-propelled mechanical vehicle designed for use on streets and highways for the conveyance of goods and people, including but not limited to the following: passenger cars, vans, trucks, buses, motor scooters and motorcycles.

Automotive wrecking yard means the use of any building, lot, portion of lot or tract of land for the storage, keeping, salvaging or dismantling of automobiles and/or related automotive vehicles and parts of equipment for the primary purpose of salvaging any part or parts or components thereof, including the processing of such salvaged or salvageable parts or components incidental to such use, and the processing of resultant scrap materials accessory to the above.

Base flood means the flood which has a one-percent chance of being equalled or exceeded in any given year (lOO-year flood).

Basement means a story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half of its height is above the average level of the adjoining ground or when subdivided and used for commercial or dwelling purposes by other than a janitor employed on the premises.

Building means any roofed structure, enclosed or not by walls, intended for shelter, housing, or enclosure of persons, animals or chattel. When separated by dividing walls without openings, each portion of such structure so separated, shall be deemed a separate structure.

Building height means the vertical distance from the average line of the highest and lowest points of that portion of the lot covered by the building to the highest point of coping of a flat roof, or the deckline of a mansard roof, or to the average height of the highest gable of a pitch or hip roof.

Building, main means a building in which is conducted the principal use of the lot on which it is situated. In any district, any dwelling shall be deemed to be a main building on the lot on which it is situated.

Child care center means any place, structure or institution licensed by the state which receives 13 or more children under the age of 18 years, and not of common parentage, for care apart from their natural parents, legal guardians or custodi-

ans, when received for regular periods of time for compensation; provided, however, this definition shall not include public or private schools organized, operated or approved under the state laws; custody of children fixed by a court of competent jurisdiction, children related by blood or marriage within the third degree to the custodial person or to churches or other religious or public institutions caring for children within the institutional building, while their parents or legal guardians are attending services, meetings, or classes, or engaged in church activities. Structures designated or classified as child care centers shall comply in all respects with division 3 of this article and meet licensing requirements of the state department of human services.

Child (day) care home means a family home or structure in a residential neighborhood that provides monetary compensated day care and protection for 12 or fewer children under the age of 18 years, for any part of a 24-hour day. A day care home shall not include informal arrangements which parents or guardians make independently with neighbors or relatives or friends, nor does it include caretakers in the child's own home. It is required to be licensed by the state and meet requirements of the state department of human services.

Clinic, veterinarian means a veterinarian practice designed to be restricted to the medical treatment of, or indoor boarding of, nonagricultural animals, or small animal household pets only. Restricted small animal clinics must also meet the following conditions in addition to screening requirements:

(1) These facilities shall not be permitted within 100 feet of residential districts on any side.

(2) Plans and specifications for proposed facilities shall detail provisions for soundproofing, avoidance of odors, and satisfactory sanitary services. These plans shall be submitted to the city planning and engineering offices for review.

(3) There will be no outside animal storage or runs. All animals will be kept indoors behind solid structured soundproofed walls.

(4) Such facilities shall be restricted to treatment of common household pets, further defined as animals that could be expected to live indoors in a residential dwelling.

Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

District means any section of the city for which regulations governing the use of buildings and premises or the height and area of buildings are uniform.

Dwelling means any building, or portion thereof, which is designated or used as living quarters for one or more families, but not including house trailers.

Dwelling, multiple means a dwelling designed for occupancy by three or more families living independently of each other, exclusive of auto or trailer courts or camps, hotels or resort-type hotels.

Dwelling, single-family means a dwelling designed to be occupied by one family.

Dwelling, two-family means a dwelling designed to be occupied by two families living independently of each other.

Family means one or more persons related by blood or marriage or adoption, or a group (not to exceed five persons) not all related by blood or marriage, occupying the premises and living as a single nonprofit housekeeping unit, as distinguished from a group occupying a boarding or lodging house, hotel, club or single dwelling for group use.

Fencing means screening as an opaque, solid ornamental fence or wall, designed and built to be in harmony and conformance to the surrounding buildings and uses within the district where it is located, displaying no advertising signs or letters and maintained in a proper state of repair.

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of

lakes, streams, rivers or any other inland waters; or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood hazard boundary map (FHBM) means an official map of a community issued by the U.S. Department of Housing and Urban Development Federal Insurance Administration, where the areas having special flood hazards have been designated as zone A.

Flood insurance rate map (FIRM) means an official map of a community, on which the U.S. Department of Housing and Urban Development Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floor area, gross means the sum of the gross horizontal areas of all of the floors of a building or buildings, measured from the exterior faces of exterior walls or from the centerline of walls separating two buildings, and including but not limited to, the following spaces:

(1) Basements.

(2) Elevator shafts and stairwells at each floor.

(3) Floor space for mechanical equipment with structural headroom of seven feet.

(4) Penthouses.

(5) Attic space providing headroom of seven feet or more.

(6) Interior balconies, mezzanines and enclosed covered porches and enclosed steps.

(7) Accessory uses in enclosed covered space, but not including space used for off-street parking.

Floor area, net means the total floor area within a building devoted to or intended to be devoted to a particular use, with structural headroom of seven feet or more, whether above or below the finished lot grade, excluding the following:

(1) Elevators, stairwells, hallways, walls and partitions.

(2) Floor space permanently devoted to a parking space or parking spaces, mechanical equipment, closets, washrooms, or other items permanently preventing the floor space from being occupied by persons while engaged in the use.

Garage, private means an accessory building or a part of a main building used only for storage purposes; for no more than four automobiles; or for a number of automobiles which does not exceed 1½ times the number of families occupying the dwelling unit to which such garage is accessory, whichever number is greater.

Garage, public means any garage other than a private garage, available to the public, used for the care, servicing, repair or equipping of automobiles or where such vehicles are parked or stored for remuneration, hire or sale.

Gasoline or filling station means any area of land, including structures thereon, that is used for the retail sale of gasoline or oil fuels, but not butane or propane fuels, or other automobile accessories, and which may or may not include facilities for lubricating, washing, cleaning, or otherwise servicing automobiles, but not including the painting thereof.

Habitable floor means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used for storage purposes only is not a habitable floor.

Home occupation means that occupation or profession which is carried on by the inhabitants residing at and inhabiting the dwelling; is clearly incidental and secondary to the primary use of the dwelling for dwelling purposes; does not change the character of the dwelling in any manner; and is conducted entirely within the main or preexisting accessory buildings, provided that the acces-

sory building shall have existed for at least one year previously; and provided that such occupation or profession does not:

(1) Offer for sale any items on the premises; does not involve any type of retail trade on the premises; and does not trade in merchandise other than that which is crafted within the building.

(2) Utilize any mechanical equipment which creates a disturbance such as noise, dust, odor or electrical disturbance, or emit noise, dust or odor outside the structure.

(3) Store outside the confines of the dwelling or accessory buildings, any material or equipment.

(4) Display any merchandise or advertising sign more than two feet square in area, which must be attached to the main or accessory building, and which must be nonilluminated.

(5) Exceed 30 percent of the gross area of the main building. Tearooms, restaurants, resthomes, ceramic or upholstery shops, clinics, doctor's or dentist's offices, barbershops or beauty shops, child care centers, tourist homes, cabinet, metal, gunsmith, taxidermy, or auto repair shops or any kind of shop or store, are specifically excluded from this definition.

Any violation of the foregoing restrictions shall be considered a violation of the city codes and punishable as an offence, and further shall be considered a nuisance subject to abatement procedures.

Hospital, veterinarian means a veterinarian practice designed to accept, treat, indoor or outdoor board, both large and small animals, including those animals most commonly associated with and for agricultural purposes.

Housing, specialized:

Apartment house or *multifamily dwelling* means a building designed for occupancy by three or more families living independently of each other as separate housekeeping units, including apartment houses, apartment hotels and flats, but not including auto or trailer courts or camps, hotels, or resort-type hotels.

Boardinghouse means a dwelling other than a hotel where, for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for three or more, but not exceeding 12 persons.

Condominium or *townhouse* means single-family dwelling units on platted lots, detached, semidetached or attached, at the side(s) in a structure of not less than four nor more than ten such dwelling units, each of which shall have a front and rear entrance, a private outdoor area, access to common open space, and is designed to be owned and occupied individually and separately.

Dependent life care facilities (convalescent—nursing—rest homes): These facilities are designed for older persons who need a wide range of health and support services, including personal nursing care, without having to leave the supportive environment. They generally include any place or institution, which makes provisions for bed care, or for chronic or convalescent care for one or more persons, exclusive of relatives, who by reason of illness or physical infirmity are unable to properly care for themselves. All dependent life care facilities shall be construed as a medical use.

Garage apartment means a dwelling unit for one family erected above or attached to a private garage within an appropriate residential district.

Group home means a number or collection of unrelated individuals forming a social unit by assembling together, having some unifying relationship, or regarded as an assemblage with a shared element in common, occupying an establishment or domicile that provides residence and/or special care on a 24-hour-per-day basis. Group homes shall be licensed by a state agency for the type of care or accommodations that are to be provided. The absence of such license by a group home shall be grounds for denial for location within a residential district.

All group homes will be subject to a use permitted after review hearing prior to establishment.

Hotel, motel or *transient residential* means a building or group of buildings under one ownership intended for transient use as sleeping accommodations with the primary compensation derived from providing this lodging. These structures shall consist of one or more sleeping rooms occupied, intended or designed primarily to be occupied as the more or less temporary abiding place of persons who are lodged with or without meals for compensation, but not including an auto or trailer court or camp, or any sanatorium, hospital, asylum, orphanage or building where persons are housed under restraint. All accessory residential uses incidental to commercial establishments are prohibited, including a night watchman or employee residing overnight on the premises.

House trailer means any portable or mobile vehicle used or designed to be used for living purposes and with its wheels, rollers or skids in place.

Independent living options (retirement centers; elderly complexes) means apartments of condominium developments or multifamily structures reserved for and primarily occupied by independent older persons; including design features making them fully accessible for elderly persons with physical handicaps, but who are considered to be independent. Such centers shall generally consist of individual apartments, community dining centers and common recreation areas. Older citizens living in such housing generally desire privacy and independence and only need limited support services. Independent housing facilities shall not be considered as a medical use.

Roominghouse means a building where lodging is provided for compensation for no more than five persons. All in excess of this number shall be defined as a hotel under the terms of this article.

Junk means used, broken, discarded or abandoned materials. This shall include wood, paper, glass, rags, rubber, metal, concrete, plastic, wood or other personal propertY7 whether of value or valueless. It shall also include automobiles or machines of any type and/or parts thereof, which are no longer in operable condition.

Junkyard operation means the sale, storage, display, dismantling, demolition of junk as defined in this section.

Kennel means any lot, premises, shelter, or establishment on which more than four dogs, cats or other animals older than 12 weeks are kept, even if the purpose is not for the breeding or boarding of said animals. Humane Society activities shall be construed as meeting the definition of a kennel.

Landscaping means the planting and maintenance of trees, shrubs, lawns, and other evergreen ground cover or material including accessory materials utilized to accent or complement vegetation within open spaces immediately contiguous to parking areas or streets.

Lodges and other service institutions means a building or group of buildings intended or designed to be used only for special or seasonal uses by persons with common association or interests, such as fraternities, Masonic lodges, Boy Scouts, Red Cross, etc.

Lot(s) means any plot of land occupied or intended to be occupied by one building, a group of buildings, and its accessory buildings, and uses, including such open spaces as required by this article and other laws or ordinances, and having its principal frontage on a street, and further defined as follows:

Area means the total area measured on a horizontal place [plane] included within lot lines.

Corner means a lot of which at least two adjacent sides abut for their full lengths on a street, provided that the interior angle at the intersection of such two sides is less than 135 degrees.

Depth means the average distance from the street line of the lot to its rear line, measured in the general direction of the side lines of the lot.

Double frontage means a lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.

Frontage means that dimension of a lot or portion of a lot abutting on a public dedicated street, excluding the side dimension of a corner lot and one end of a double frontage lot.

Interior means a lot other than a corner lot.

Lines means the lines bounding a lot as defined in this section.

Manufactured housing: Defined as "mobile homes."

Medical facilities:

Dental clinic or *medical clinic* means a facility for the examination and treatment of ill and affiicted human outpatients provided, however, that patients are not kept overnight except under emergency conditions. This definition shall include dental and/or doctor's offices.

Hospital means an institution providing health services primarily for human inpatient medical or surgical care of the sick and/or injured and including related facilities such as laboratories, outpatient department training facilities, central service facilities and staff offices which are an integral part of the facilities.

Public health center means a facility primarily utilized by a health unit for the provisions of public health services including related facilities such as laboratories, clinics and administrative offices operated in connection therewith.

Sanatorium means an institution providing health facilities for in-patient medical treatment or treatment and recuperation using natural therapeutic agents.

Mixed beverage establishments means a business or operation allowing mixed beverages as defined and permitted by the state alcohol control board.

Mobile home or *manufactured housing* means a structure, transportable in one or more sections, which is built on a permanent chassis, designed to be used with or without a permanent foundation when connected to the required facilities.

Mobile home court means a parcel of land under single ownership which has been planned and improved for a placement of mobile homes for nontransient use.

Mobile home lot means a parcel of land for the exclusive use of the occupants of a single mobile home.

Mobile home park or *mobile home subdivision* means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale, for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets).

Mobile home stand means the part of an individual lot which has been reserved for the placement of the mobile home.

Modular housing means structures designed to meet all city building codes and generally constructed at one location with standardized units or dimensions for flexibility and variety in use, containing all electrical and plumbing components, then transported to a different site for actual assembling.

Nonconforming use means a structure or land lawfully occupied by a use that does not conform to the regulations of the district in which it is situated.

Open porch means a porch which has no side or front walls, screens or other enclosures, except structural roof supports where a roof is provided.

Planned unit development means the planned unit development (PUD) overlay district which is a zoning district offering development of a unified design for housing, commercial, industrial and institutional uses in a combination of densities and varieties off unctions; which, by design, would intend to hold one developer responsible for all improvements and construction.

Professional office means the office of persons engaged in the practice of the following recog-

nized professions: law, accountancy, architecture, chiropody, chiropractic, dentistry, engineering, medicine (other than veterinary medicine), optometry, osteopath, healing arts, electrology, real estate broker, insurance and funeral homes.

Salvage yard means a place where waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled or handled or stored, including auto wrecking yards, house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment, but not including places where such uses are conducted entirely within a completely enclosed building.

Satellite dish (communication) antenna means a large, generally metallic device incorporating a reflective surface that is solid, open mesh, or bar configured; and is in the shape of a shallow concave round dish, cone, horn or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition is meant to include, but not be limited to, what are commonly referred to as satellite earth stations, TVRO's, and satellite microwave antennas.

Self-service laundry or *drycleaning establishment* means any attended or unattended place, building or portion thereof available to the general public for the purpose of washing, drying, extracting moisture from or drycleaning wearing apparel, cloth, fabrics and textiles of any kind by means of mechanical appliances which are operated primarily by the customers on the premises.

Start of construction means the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include the excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes, not within a mobile home park or mobile home subdivision, start of construction means the affixing of the mobile home parks or mobile home subdivision, and is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

Story means that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

Story, half means a space under a sloping roof which has the line of intersection of roof decking and will face not more than three feet above the top floor level, and in which space not more than two-thirds ofthe floor area is finished off for use. A half story containing independent apartment or living quarters shall be counted as a full story.

Street means any public or private thoroughfare which affords the principal means of access to abutting property.

Street, intersecting means any street which joins another street at an angle, whether or not it crosses the other.

Street, major means an arterial street which is designated on the major street plan and designed to carry intercity traffic and to relate the various neighborhoods within the city.

Structural alterations means any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls.

Structure means anything constructed or erected, the use of which requires location on the ground or attached to something having a location on the ground.

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started; or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The terms do not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

Travel trailer or *recreational vehicle court* means land or property which is used or intended to be used or rented for occupancy by one or more trailers or recreational vehicles which are intended as movable sleeping quarters.

Variance means a relaxation of the terms of this article, where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this article would result in unnecessary and undue hardship. A variance is authorized only for height, area and size of structure of yards and open spaces. Variances shall not be sought for the establishing or expansion of a use otherwise prohibited, nor shall a variance be granted because of the presence of nonconformities in the zoning district, or adjoining zoning district.

Yard(s) means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward except where otherwise specifically provided in this article that an accessory building may be located in a portion of a yard required for a main building. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line (or street right-of-way line) and the main building shall be used. Definitions are as follow:

Front means a yard located in front of the front elevation of a building and extended across a lot between the front property line and the main building or any projection thereof, other than steps.

Rear means a yard extending across the rear of a lot measured between the lot lines and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, unenclosed balconies or unenclosed porches. On corner lots, the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Side means a yard between the building and the side line of the lot and extending from the front lot line to the rear lot line and being the minimum horizontal distance between a side lot property line and the side of the main building or any projections other than steps.

(Ord. No. 1843, § 1(art. II, § 2), 2-14-89; Ord. No. 2155, § 1, 7-23-02)

Cross reference-Definitions generally, § 1-2.

Sec. 62-108. Violations and penalties.

A violation of this article shall be deemed a misdemeanor and shall be punishable by fine. Any person who violates or refuses to comply with any of the provisions of this article may be fined as provided for in section 1-8 of this Code. Each day that a violation is permitted to exist constitutes a separate offense.

(Ord. No. 1843, § l(art. VII, § 4), 2-14-89)

Sec. 62-109. Invalidity of a part; repeal of conflicting ordinances.

In case any portion of this article shall be held to be invalid or unconstitutional, the remainder

of the article shall not thereby be invalid, but shall remain in full force and effect. Any ordinance now in effect that conflicts with any provisions of this article is hereby repealed.
(Ord. No. 1843, § l(art. VII, § 8), 2-14-89)

Sec. 62-110. Article deemed continuation of prior ordinance.

The city's zoning ordinance was originally adopted on July 22, 1968 by Ord. No. 1243. Provisions in this article (this article being derived from Ord. No. 1843, adopted February 14, 1989, as amended) found in such original zoning ordinance are not to be construed as being amended or changed by either the adoption ofOrd. No. 1843 or an amendment thereto or the codification of such provisions in this article.
(Ord. No. 1843, 2-14-89)

Sec. 62-111. Purpose and necessity.

This article is enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity and general welfare of the present and future inhabitants of the city; and to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate provisions of adequate facilities for transportation, water, sewage, schools, parks and other public requirements; and promote a more homogeneous relationship of land use within the incorporated limits of the city; to protect property values; and to regulate the use of the land and to promote the orderly development of the community in accordance with the comprehensive plan as adopted by the planning commission and approved by the city council; and all other accepted purposes of zoning.
(Ord. No. 1843, § l(art. I, § 2), 2-14-89)

State law reference-Purpose of zoning ordinances, 11 O.S. § 43-103.

Sec. 62-112. Nature of zoning plan.

This article classifies and regulates the use of land, buildings, and structures within the city limits of the city as hereinafter set forth. The regulations contained herein are necessary to promote the health, safety, convenience and welfare of the inhabitants by dividing the city into zones and regulating therein the use of the land and the use and size of buildings as to height and number of stories, the coverage of the land by buildings, the size of yards and open spaces, density of population and location of buildings.
(Ord. No. 1843, § 1(art. I, § 3), 2-14-89)

Sec. 62-113. Conflicting provisions.

(a) As provided under 11 O.S. § 43-108, any provision or regulation of this article imposing higher standards than any other applicable statute, local ordinance or regulation shall govern.

(b) As concerns interpretation and application, the provisions of this article shall be held to be minimum requirements. Where this article imposes a greater restriction than is imposed or required by other provision of law, or by rules or regulations or ordinance, the provision of this article shall control.
(Ord. No. 1843, §§ 1(art. I, § 4), 2, 2-14-89)

Secs. 62-114-62.125. Reserved.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT

Subdivision 1. *General Provisions*

Sec. 62-126. Zoning clearance permit required.

(a) *Purpose.* The zoning clearance permit is a permit issued by the zoning administrator which states that a particular development meets all of the requirements of the zoning ordinance. It is not a building permit and does not authorize construction; it simply clears the land and structure in terms of zoning, and authorizes the building official to issue the building permit. This permit also provides a good check for the applicant, in that any irregularities can be eliminated before the detailed plans are prepared.

(b) *Existing buildings.* Any building, structure or use lawfully existing at the time of enactment of this article may be continued, even though such building, structure or use does not conform with the provisions of this article. However, no nonresidential building or other structure shall be erected, constructed, enlarged, altered, or repaired,

in such a manner as to prolong the life of the building; nor shall the use of any land or building or other structure be changed without a zoning clearance permit issued authorizing such construction, alteration, repair or use changes as being in compliance with the provisions of this article.

(c) *Application.* An application for a zoning clearance permit shall be made to the zoning administrator by the owner or proposed occupant of the building or land to be occupied or used, and said application shall state the location and legal description of said property and set out in detail the character and nature of the use to be conducted thereon. Within three days the zoning administrator shall grant or deny said zoning clearance permit in accordance with the terms of this article.

(d) *Accompanying material.* All applications for zoning clearance permits for new construction shall be accompanied by a plot plan, drawn to scale on suitable paper, showing the actual dimensions of the lot to be built upon, and the size and location of the building to be erected and such other information as may be necessary to satisfy the requirements of these regulations.

(e) *Required form.* The form to be used pursuant to this section is as follows:

DATE

PLAN REVIEW NO.

ZONING ORDINANCE

plan review

JURISDICTION

(City, County)

LOCATION

(Street address)

LOT NUMBER AND SUBDIVISION

(Legal description)

LOT AREA

ZONING DISTRICT

PROPOSED USE

ACCESSORY USES

YARDS, FRONT REAR SIDE

LOT COVERAGE ENCROACHMENTS

OFF-STREET PARKING SPACES, REQUIRED PROVIDED

LOADING SPACE

HEIGHT

SIGNS

PLANNING COMMISSION APPROVAL REQUIRED?

CORRECTION LIST

NO.	*DESCRIPTION*	*ORDINANCE SECTION*	*CHECK OFF*

(Ord. No. 1843, § Hart. VII, § 1), 2-14-89)

Sec. 62-127. Building permit or certificate of occupancy required.

This article shall be enforced by a building official, acting at the direction of the chief administrative officer. It shall be a violation of this article for any person to change or permit the change in the use of the land or buildings or structures, or to erect, alter, move, or improve any building or structure until a building permit has been obtained under the following conditions:

(1) Building permits. Every application for a building permit shall be accompanied by:

a. A plat drawn to scale, showing the plot, showing:

1. The exact size, shape and dimensions of the lot to be built upon;
2. The exact size and location on the lot of all existing buildings and structures, and the exact size and location on the lot of the structure or building proposed to be built, repaired, altered, erected or moved;
3. The size, arrangement, number of parking stalls, movement of vehicles and ingress and egress drives for all off-street parking and loading facilities, if such be for a business, commercial or industrial building.

b. A declaration of the existing use or intended use of each existing and proposed building or structure on the lot and the number of families and housekeeping units which each existing building accommodates and which each existing and proposed building is designed to accommodate.

c. A survey prepared by an engineer or surveyor, registered in the state, indicating the boundaries of the lot on which the improvement is proposed to be located, with permanent survey pins or monuments on all corners. All existing easements must be shown, as well as ground elevations, finished floor elevations and certifications concerning base flood elevations.

d. Any additional information relating to the proposed improvement needed to determine compliance with these regulations.

e. The building official shall be a person, who, in the judgement and opinion of the city manager, is competent by reason of building experience, to properly cause inspections to be made and to determine whether permits should be granted. The building official shall serve by appointment of the city manager and his term shall begin upon the

passage of this article and one year thereafter, and shall continue to serve unless removed by the city manager, who may remove without cause. All applications for building shall be filed with the building official.

(2) *Fee schedule.* Whenever any structure or building is to be improved, erected, moved, or structurally altered, a building permit shall be obtained from the building official. The fees for the permit required by this code shall be in accord with the following schedule:

a. The applicant for a permit to construct, remodel, repair or add to any residential building, shall pay a fee of $0.035 per square foot of total construction area covered by roof, with a minimum fee of $10.00.
b. The applicant for a permit to construct, remodel, repair, or add to any commercial or industrial building, shall pay a fee of $0.05 per square foot of total construction area covered by roof, with a minimum fee of $20.00.
c. All structures of more than 2,500 square feet of construction area covered by roof, requiring a detailed plan review by the engineering, code, and fire departments, may be charged $10.00 per hour per actual time for such plan examination, recommendation or approval.
d. The building inspector shall make the five normal and necessary inspections required for such fees: footing; slab/steel; framing; insulation; and final. Any additional inspections required shall be charged at the standard $5.00 per inspection as provided for in electrical and plumbing sections.
e. For the moving of any building or structure, the fee shall be as prescribed in section 18-348.
f. For the demolition of any building or structure, the fee shall be $10.00 for each issuance.

(3) *Certificate of occupancy.* No change shall be made in the use of any land or building or structure after the passage of this article until a certificate of occupancy is obtained from the building official certifying that all of the provisions of this article are complied with. Whenever a building permit is issued for the erection of a new building or structure, an occupancy permit shall not be required, except where the use of the building or structure is changed from that for which the permit is issued or where the intended use is not clearly stated on the building permit.

(Ord. No. 1843, § Hart. VII, § 2), 2-14-89)

Sec. 62-128. Procedure for authorizing uses permitted after review.

The uses listed under the various districts herein as uses permitted after review are so classified because they more intensely dominate the a;:ea in which they are located than do other uses permitted in the district; however, the nature of such uses makes it desirable that they be permitted to locate therein. The following procedure is established to integrate properly such uses permitted after review with the other land uses located in the district. These uses shall be reviewed and authorized or rejected under the following procedure:

(1) An application is to be filed with the city planning commission for review. The application shall show the location and intended use of the site, the names of all the property owners and existing land uses within a 300-foot radius of the exterior boundary of the subject property and any other material pertinent to the request which the planning commission may require.

(2) The planning commission shall hold one or more public hearings thereon.

(3) The planning commission shall within 45 days of the date of application, transmit to the city council its report as to the effect of such proposed building or use upon the character of the neighborhood, traffic conditions, public utilities, and other matters pertaining to the general welfare, and the recommendation of the planning commission concerning use thereon. Thereupon the city

council may authorize or deny the issuance of a building permit for the use of land or buildings as requested.

(Ord. No. 1843, § l(art. VII, § 3), 2-14-89)

Sec. 62-129. Amendments.

(a) The city council may, by ordinance, amend, change or repeal this article or any part thereof; provided, however, that before the city council shall amend, change or repeal this article or any part thereof, it shall request the planning commission to submit its recommendations on such proposed amendment, change or repeal. The planning commission recommendations shall be made after not less than one public hearing, thereon which hearing may be adjourned from time to time. *Mter* considering the commission's recommendations, at a public hearing for which proper public notice shall be given, the city council may approve the recommendations in whole or in part, or return the recommendations to the planning commission for further consideration.

(b) The planning commission may, upon its own initiative, hold at least one public hearing on a proposed amendment, change or repeal of this article or any part thereof; and, any recommendations therefrom shall be transmitted to the council. The city council shall consider and act upon such recommendation in the same manner as herein set forth for recommendations requested by the city council.

(c) Notice of public hearing as herein required shall include at least one publication notice in a newspaper of general circulation in the city, not less than 15 days, but not more than 30 days, prior to such hearing. If a proposed amendment is for the purpose of rezoning a lot, parcel or tract of land, public notice as herein required shall also incl ude the posting of at least one sign on such lot, parcel or tract of land and such sign shall remain there for a period of 15 successive days prior to the public hearing, including the day immediately preceding the day for which such public hearing is scheduled, and shall include notice, sent by certified mail, to all property owners within a 300-foot radius of the exterior boundary of the subject property. The notice, as herein referred to, shall state the nature of the proposed amendment, change or repeal of this article, or any part thereof, and the date, time and place of the public hearing.

(d) Petition for amendment to the zoning ordinance and zoning map shall henceforth be filed with the planning commission by the owner of the property concerned, or duly authorized representative thereof, on a standard form furnished by the commission. All petitions for amendment proposing a change in zoning district classification shall be accompanied by sketch plans of the area proposed to be rezoned, drawn to approximate scale and showing the boundaries and dimensions of the tract, the outline of existing and proposed buildings and structures, the size and location of off-street parking lots, the type of surfacing proposed for said lots, and the plan of structures and the drives proposed for ingress and egress. An area map showing land of all abutting property owners shall also be submitted unless such is shown on the tract sketch.

(e) If a protest against an amendment, change or repeal of this article or any part thereof is presented, duly signed and acknowledged by 20 percent of the interested property owners as defined by section 62-128(1), such amendment shall not be passed except by the favorable vote of three-fourths of the city council.

(f) Upon the filing of a petition of amendment to these regulations, the property owner or his duly authorized representative shall pay a filing fee which is hereby fixed and established according to the following schedules:

(1) Schedule of fees required for filing petitions to change the zoning of land and to amend the district boundaries:

Land area involved in rezoning request	*Fee*
Over 0 sq. ft. but not over 10,000 sq. ft..	$ 82.00
Over 10,000 sq. ft. but not over 20,000 sq. ft..	90.00
Over 20,000 sq. ft. but not over 30,000 sq. ft..	97.00
Over 30,000 sq. ft. but not over 40,000 sq. ft..	105.00

Over 40,000 sq. ft. but not over 50,000 sq. ft..	112.00
Over 50,000 sq. ft. but not over 60,000 sq. ft..	120.00
Over 60,000 sq. ft. but not over 70,000 sq. ftoo.	127.00
Over 70,000 sq. ft. but not over 80,000 sq. ft..	135.00
Over 80,000 sq. ft. but not over 90,000 sq. ftoo.	142.00
Over 90,000 sq. ft. but not over 100,000 sq. ft.	150.00
Over 100,000 sq. ft. but not over 120,000 sq. ft..	157.00
Over 120,000 sq. ft. but not over 140,000 sq. ft..	165.00
Over 140,000 sq. ft. but not over 160,000 sq. ft..	172.00
Over 160,000 sq. ft. but not over 180,000 sq. ft..	180.00
Over 180,000 sq. ft. but not over 200,000 sq. ft..	187.00
Over 200,000 sq. ft. but not over 220,000 sq. ft..	195.00
Over 220,000 sq. ft. but not over 240,000 sq. ft..	202.00
Over 240,000 sq. ft. but not over 260,000 sq. ft..	210.00
Over 260,000 sq. ft. but not over 280,000 sq. ft..	217.00
Over 280,000 sq. ft. but not over 300,000 sq. ft..	225.00

Allover 300,000 square feet is $225.00, plus $37.00 for each additional 100,000 square feet or fraction thereof.

(2) Schedule of fees required for filing petitions to vacate alleys.

Land area involved in dedicated alley	*Fee*
Over 0 sq. ft. but not over 10,000 sq. ft..	$ 82.00
Over 10,000 sq. ft. but not over 20,000 sq. ft..	90.00
Over 20,000 sq. ft. but not over 30,000 sq. ft..	97.00
Over 30,000 sq. ft. but not over 40,000 sq. ft..	105.00
Over 40,000 sq. ft. but not over 50,000 sq. ftoo.	112.00
Over 50,000 sq. ft. but not over 60,000 sq. ftoo.	120.00
Over 60,000 sq. ft. but not over 70,000 sq. ft..	127.00
Over 70,000 sq. ft. but not over 80,000 sq. ft..	135.00
Over 80,000 sq. ft. but not over 90,000 sq. ft..	142.00
Over 90,000 sq. ft. but not over 100,000 sq. ft.	150.00
Over 100,000 sq. ft. but not over 120,000 sq. ft..	157.00
Over 120,000 sq. ft. but not over 140,000 sq. ft..	165.00
Over 140,000 sq. ft. but not over 160,000 sq. ft..	172.00
Over 160,000 sq. ft. but not over 180,000 sq. ft..	180.00
Over 180,000 sq. ft. but not over 200,000 sq. ft..	187.00
Over 200,000 sq. ft. but not over 220,000 sq. ft..	195.00
Over 220,000 sq. ft. but not over 240,000 sq. ft..	202.00
Over 240,000 sq. ft. but not over 260,000 sq. ft..	210.00
Over 260,000 sq. ft. but not over 280,000 sq. ft..	217.00
Over 280,000 sq. ft. but not over 300,000 sq. ft..	225.00

Allover 300,000 square feet is $225.00, plus $37.00 for each additional 100,000 square feet or fraction thereof.

(3) Schedule of fees required for filing petitions to vacate streets.

Land area involved in dedicated street	*Fee*
Over 0 sq. ft. but not over 10,000 sq. ftoo.	$ 97.00
Over 10,000 sq. ft. but not aver 20,000 sq. ftoo.	112.00
Over 20,000 sq. ft. but not over 30,000 sq. ft..	127.00
Over 30,000 sq. ft. but not over 40,000 sq. ft..	142.00

Over 40,000 sq. ft. but not over 50,000 sq. ftoo.	157.00
Over 50,000 sq. ft. but not over 60,000 sq. ftoo.	172.00
Over 60,000 sq. ft. but not over 70,000 sq. ft..	187.00
Over 70,000 sq. ft. but not over 80,000 sq. ftoo.	202.00
Over 80,000 sq. ft. but not over 90,000 sq. ftoo.	217.00
Over 90,000 sq. ft. but not over 100,000 sq. ft.	232.00
Over 100,000 sq. ft. but not over 120,000 sq. ft..	247.00
Over 120,000 sq. ft. but not over 140,000 sq. ft.	262.00
Over 140,000 sq. ft. but not over 160,000 sq. ft..	277.00
Over 160,000 sq. ft. but not over 180,000 sq. ft..	292.00
Over 180,000 sq. ft. but not over 200,000 sq. ft..	307.00
Over 200,000 sq. ft. but not over 220,000 sq. ft...	322.00
Over 220,000 sq. ft. but not over 240,000 sq. ft..	337.00
Over 240,000 sq. ft. but not over 260,000 sq. ft..	352.00
Over 260,000 sq. ft. but not over 280,000 sq. ft..	267.00
Over 280,000 sq. ft. but not over 300,000 sq. ft..	382.00

Allover 300,000 square feet is $382.00, plus $50.00 for each additional 100,000 square feet or fraction thereof.

(4) All fees collected by the planning department shall be deposited with the city clerk and credited to the fund designated by the city.

(g) If the planning commission fails to set up a petition for amendment for public hearing within 30 days after its proper filing with the planning commission at a regular scheduled meeting; or if after public hearing, the planning commission fails to recommend that this article be amended in accordance with such petition for amendment, such failure shall be deemed the final determination and decision of the planning commission. The final determination of the planning commission may be appealed to the city council provided a written request for a hearing before the city council is served on the chairman of the planning commission within 15 days after the final determination of the planning commission.

(h) The planning commission shall supervise the official zoning map and shall keep same up to date with all changes and amendments.

(Ord. No. 1843, § l(art. VII, § 5), 2-14-89)

State law reference-Zoning ordinance amendments, 11 O.S. §§ 43-104-43.106.

Sec. 62-130. Notice requirements in zoning map changes.

Upon the filing of an application for a change in the zoning map of the city dated July 22, 1968, as filed with the city clerk, the applicant shall be required to secure from a bonded abstractor a plat of the area involved, the names and addresses of the owners of record, all within 300 feet of the proposed zone change. Upon receipt by the building official of the plat, notice shall be sent by certified mail, return receipt requested, to all property owners of record within 300 feet of the proposed zone change.

(Ord. No. 1843, § l(art. VII, § 7),2-14-89)

State law reference-Additional notice requirements, 11 O.S. § 43-106.

Secs. 62-131-62-140. Reserved.

*Subdivision II. Board of Adjustment**

Sec. 62-141. Created.

There is hereby created within and for the city a board of adjustment, with the powers and duties as set forth in this division.

(Ord. No. 1843, § Hart. VI, § 1), 2-14-89)

State law reference-Board of adjustment required, 11 0.8. § 44-101.

Sec. 62-142. Membership.

(a) The board of adjustment shall be composed of five members, citizens of the city, each appointed by the mayor with the approval of the

.Cross reference-Boards and commissions, § 2-166 et scq.
State law reference-Board of adjustment, 110.8. § 44.101 et seq.

council for aterm of three years; provided, however, that for the first appointment under the provisions of this article, one member shall be appointed for a term of one year; two members shall be appointed for a term of two years; and two members shall be appointed for a term of three years. Two alternate members shall be appointed for overlapping terms of two years. All appointments thereafter shall be for a term of three years.

(b) Not 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. 1843, § l(art. VI, § 2), 2-14-89)

State law reference-Membership ofboard of adjustment, 11 O.S. § 43-101.

Sec. 62-143. Rules of procedure.

The board of adjustment 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. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent, of failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the city clerk, and shall be a public record. 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 decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.

(Ord. No. 1843, § l(art. VI, § 3), 2-14-89)

State law references-Meetings and rules, 11 O.S. § 44-102; required vote, 11 0.8. § 44-105(B).

Sec. 62-144. Powers generally.

The board of adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the interpretation or enforcement of this article.

(2) Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, which condition is not generally prevalent in the area, the strict application of this article would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of such property, the board is hereby empowered to authorize upon an appeal relating to such property, a variation from such strict application so as to relieve such difficulties or hardship; but may establish such requirements relative to such property as would carry out the purpose and intent of this article.

(Ord. No. 1843, § Hart. VI, § 6),2-14-89)

State law references-Similar provisions, 11 O.S. § 44-104(1), (3); variances, 11 O.S. § 44-107.

Sec. 62-145. Powers relative to exceptions.

(a) Upon appeal, the board of adjustment is hereby empowered to permit the following exceptions:

(1) To permit the extension of a district where the boundary line of a district divides a lot in single ownership as shown of record.

(2) To interpret the provisions of this article where the street layout actually on the ground varies from the street layout as shown on the map fixing the several districts, which zoning map is attached to and made a part of this article.

(3) To grant exceptions to the off-street parking requirement when it is determined that the size and shape of the lot to be built on is such that off-street parking provisions could not be complied with, and that the proposed use will not create undue traffic congestion in the adjacent streets.

(4) To grant exceptions to the setback and area requirements herein established, where the slope of the land on 20 percent or more of the lot to be built on, exceeds ten percent, and where such slope interferes with the reasonable development of the property for the uses permitted in the district in which the lot is located; provided, however, that whenever exceptions are granted to setback or to area requirements, new setback and area requirements for the lot or lots covered by the exception shall be specifically set forth in a manner that will carry out the purpose and intent of these regulations.

(5) The board of adjustment, as established by the zoning codes of the city, is hereby authorized, upon appeal, to hear and approve variances to requirements on sign setbacks, area, height and size requirements where a strict application of these requirements would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner/occupant of such property, provided and assuming that all other applicable provisions of the sign ordinance have been complied with. The board is also authorized to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the interpretation or enforcement of this article.

(b) In exercising the abovementioned powers, the board of adjustment shall have the concurring vote of at least four of its members in order that it may, in conformance with the provisions of this article, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. In considering all appeals from rulings made under this article, the board shall, in making its findings on any specific case, determine the effect of the proposed change upon the supply of light and air to adjacent property, upon the congestion in the public streets, upon the public safety from fire and other hazards, upon the established property values within the surrounding area, and upon other factors relating to the public health, safety, comfort, morals and general welfare of the people of the city. Every ruling made upon any appeal to the board shall be accompanied by a written finding of fact based upon the testimony received at the hearing afforded by the board, and shall specify the reason for granting or denying the appeal.

(Ord. No. 1843, § 1(art. V, § 6), 2-14-89)

State law reference-Powers relative to special exceptions, 11 O.S. §§ 44-104(2), 44-107.

Sec. 62.146. Appeals.

(a) Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by any decision based on this article. Such appeal shall be taken within 30 days from the date of the decision by filing with the officer from whom the appeal is taken and with the city clerk a notice of appeal specifying the grounds thereof, and by paying a filing fee of $45.00 at the office of the city clerk, at the time the notice is filed. The officer from whom the appeal is taken, shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application and notice to the officer from whom the appeal is taken and on the case shown.

(b) The board of adjustment shall fix a reasonable time for the hearing of the appeal, 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.

(c) Notice of the public hearing before the board of adjustment, shall be given by publication in a newspaper of general circulation in the city, and

by mailing written notice by the city clerk to all property owners within a 300-foot radius of the exterior boundary of the subject property. The notice shall contain:

(1) Legal description of the property and the street address or approximate location in the city or town.

(2) Present zoning classification of the property and the nature of the variance or exception requested.

(3) Date, time and place of hearing.

(d) A copy of the published notice and written notice shall be published and mailed at least 14 days prior to the hearing.
(Ord. No. 1843, § l(art. VI, §§ 4, 5), 2-14-89)
State law reference-Appeals, 11 O.S. § 44-109.

Sec. 62-147. Appeal to district court.

(a) An appeal from any action, decision, ruling, judgement or order of the board of adjustment, may be taken by any person or persons, jointly or severally, or any taxpayer, or any officer, department, board or bureau of the city to the district court by filing notice of appeal with the city clerk, and with the board of adjustment within ten days from the filing of the decision of the board, which notice shall specify the grounds of such appeal. Upon filing of the notice of appeal as herein provided, the board shall forthwith transmit to the court clerk of the original or certified copy of all the papers constituting the record in the case, together with the order, decision or ruling in the case, together with the order, decision or ruling of the board.

(b) An appeal to the district court from the board of adjustment stays all proceedings in furtherance of the action appealed from, unless the chairman of the board of adjustment, from which the appeal is taken, certifies to the court clerk, after the notice of appeal shall have been filed, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the district court upon application or notice to the administrative officer in charge of the enforcement of the terms and provisions of this article, and upon notice to the chairman of the board of adjustment for which the appeal is taken, and upon due cause being shown, the court may reverse or affirm, wholly or partly, or modify the decision brought up for reVIew.
(Ord. No. 1843, § Hart. VI, § 7), 2-14-89)
State law reference-Appeals to district court, 11 O.S. § 44-110.

Secs. 62.148-62-160. Reserved.

*Subdivision III. Nonconforming Structures and Uses**

Sec. 62-161. Intent.

(a) Within the districts established by this article or amendments that may later be adopted, there exist lots, structures, and uses of lar.d and structures which were lawful before this article was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this article or future amendment.

(b) It is the intent of this article to permit these nonconformities to continue until they are removed, or cessation of use occurs, but not to encourage their survival. Such uses are declared by this article to be incompatible with permitted uses in the districts involved. It is further the intent of this article that nonconformities shall not be enlarged upon, altered, expanded or extended (in such a manner as to prolong the life of the building), nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

(c) A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this article.
(Ord. No. 1843, § Hart. III, § 1),2-14-89)

Sec. 62-162. Lots of record.

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this article, a single-family dwelling and customary accessory build-

.Statc law reference-Nonconforming uses, 11 O.S. § 44-107.1.

ings may be erected on any single lot of record at the effective date of adoption or amendment of this article. Such lot must be in separate ownership and not a continuous frontage with other lots in the same ownership. Variance of area, width and yard requirements shall be obtained only through action of the board of adjustment.
(Ord. No. 1843, § l(art. III, § 2), 2-14-89)

Sec. 62-163. Structures.

Where a lawful structure exists at the effective date of adoption or amendment of this article that could not be built under the terms of this article by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No such structure may be enlarged or altered in any way which increases its nonconformity, or in any manner which prolongs the life of the building.

(2) Should such structure be destroyed by any means, or deteriorated by age, neglect or obsolescence, to an extent of more than 50 percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this article.

(3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(Ord. No. 1843, § 1(art. **III,** § 3), 2-14-89)

Sec. 62-164. Uses of structures.

If a lawful use of a structure, or of a structure and premises in combination exists at the effective date of adoption or amendment of this article that would not be allowed in the district under the terms of this article, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No existing structure devoted to a use not permitted by this article in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located; except in the case of an existing nonconforming single-family dwelling, the existing dwelling may be enlarged or extended no more than 25 percent of its square footage of area at the effective date of this article.

(2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this article, but no such use shall be extended to occupy any land outside such building.

(3) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.

(4) When a nonconforming use of a structure, or structure and premises in combination is discontinued or abandoned, intentionally or unintentionally, for six consecutive months, the structure or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.

(5) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

(Ord. No. 1843, § Hart. III, § 4), 2-14-89)

Sec. **62-165. Uses of land.**

Where, at the effective date of adoption or amendment of this article, lawful uses of land exist that are no longer permissible under the terms of this article as enacted or amended, such uses may

be continued, so long as they remain otherwise lawful, subject to the following provisions:

(1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this article.

(2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this article.

(3) If any such nonconforming use of land ceases for any reason for a period of more than 30 days, any subsequent use of land shall conform to the regulations specified by this article for the district in which such land is located.

(Ord. No. 1843, § 1(art. III, § 5), 2-14-89)

Secs. 62-166-62-175. Reserved.

DIVISION 3. ZONING DISTRICTS AND DISTRICT REGULATIONS.

Subdivision 1. General Provisions

Sec. 62-176. Districts enumerated.

For the purpose of this article and the promotion of public health, safety and general welfare of the community, the following districts are hereby established and shall be designated as follows:

(1) Residential:

R-1A single-family district (rural subdivision)
R-1B single-family district
R-1C existing single-family district
R.2 two. family dwelling district
R-3 multiple-family dwelling district

(2) Commercial:

C-1 office district
C-2 neighborhood convenience district
C-3 general commercial district (central business)
C-4 restricted commercial district
C-5 highway commercial/recreation district

(3) PUD:

Planned unit development district

(4) Industrial:

I-I light industrial district
1-2 heavy industrial district

(5) Health/Medical:

H-1 health facilities district

(6) Agricultural:

A-I agricultural district

(7) Floodplain:

F.O flood hazard over lay

Specific district regulations are set forth in subdivision II of this division and division 4 of this article.

(Ord. No. 1843, § 1(art. II, § 1.2), 2-14-89)

Sec. 62-177. Official zoning map.

(a) As districts are designated, they shall be bounded and defined as shown on a map entitled "Zoning Map of the City of McAlester, Pittsburg County, State of Oklahoma." The zoning map, dated January 1981, or as hereafter amended and all of the explanatory materials thereon, is hereby made a part of this article.

(b) The city is divided into zones or districts, as shown on the official zoning map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this article with the same force and effect as if set out in full herein.

(c) The official zoning map shall be identified by the signature of the mayor, attested to by the clerk, and shall bear the seal of the city under the following words: "This is to certify that this is the Official Zoning Map of the City of McAlester," together with the date of February 14, 1989.

.State law reference-Districts and district regulations authorized, 11 O.S. § 43-102.

(d) If changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be made on the official zoning map promptly after the ordinance amendment has been approved by the city council together with an entry on the official zoning map as follows: "On (date), by official action of the City Council, the following change(s) were made in the Official Zoning Map: (brief description of nature of change)." Such entry shall be signed by the mayor and attested to by the clerk.

(e) No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this article, and in keeping with the language of the ordinance.

(f) Regardless of the existence of purported copies of the official zoning map, which may from time to time be made or published, the official zoning map, which shall be located in the office of the planning department, shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the city.

(g) If the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes or additions, the council may, by resolution, adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original zoning ordinance or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the mayor and attested to by the clerk and shall bear the seal of the city under the following words: "This is to certify that this Official Zoning Map has been adopted (date of adoption of map being replaced)."
(Ord. No. 1843, § Hart. II, §§ 1.1, 1.3, 1.4),2-14-89)

Sec. 62-178. Annexation clause.

All territory annexed to the corporate limits of the city subsequent to February 14, 1989, is within the jurisdiction of this article, and will, upon annexation, be zoned as R-1A single-family residential district, unless otherwise classified by the city council. Within six months after the effective date of such annexation, the city council shall in accordance with 11 O.S. §§ 43-101-45-104 and this article, rezone the annexed territory in keeping with the comprehensive plan.
(Ord. No. 1843, § Hart. IV, § 14), 2-14-89)

Sec. 62-179. Vacations of public easements.

Whenever any street, alley or other public easement is vacated, the district classifications of the property to which the vacated portions of land accrue shall become the classification of vacated land.
(Ord. No. 1843, § Hart. IV, § 16, art. VII, § 6), 2-14-89)

Sec. 62-180. Application of regulation to uses of more restricted district.

(a) Whenever the specific district regulations pertaining to one district permit the uses of a more restricted district, such uses shall be subject to the conditions set forth in the regulations of the more restricted district, unless otherwise specified.

(b) It is intended that these regulations be interpreted as not permitting a dwelling unit to be located on the same lot with or within a structure used or intended to be used primarily for nonresidential purposes.
(Ord. No. 1843, § l(art. IV, § 1), 2-14-89)

Sec. 62-181. Existing buildings and land use.

Except as herewith provided, no building or parcel of land shall be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified.
(Ord. No. 1843, § l(art. IV, § 2), 2-14-89)

Sec. 62-182. Height and density.

No building shall hereafter be erected or altered which will exceed the height limit nor shall any building or land be used or occupied hereafter in excess of the density regulations for that district; no building shall hereafter be erected or altered to accommodate a greater number of families than those specified for that district; no

building shall be erected or altered to exceed the specification of required lot size, maximum coverage, yard requirements, height limitations, or bulk limitation for that district as defined.
(Ord. No. 1843, § l(art. IV, § 3), 2-14.89)

Secs. 62-183-62-195. Reserved.

Subdivision II. Specific Districts

Sec. 62-196. R-1A single-family residential district (rural subdivision district).

(a) *General description.* This is the most restrictive residential district. The principal use of land is for single-family dwellings and related recreational, religious and educational facilities normally required to provide the basic elements of a balanced and attractive residential area. These areas are intended to be defined and protected from the encroachment of uses not performing a function necessary to the residential environment. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities and through consideration of the proper functional relationship of each element.

(b) *Uses permitted.*

(1) Single-family dwellings.

(2) Public parks or playgrounds.

(3) Accessory buildings, including private garages or part of the main building.

(4) Elementary, junior or senior high school; or other schools offering general education courses as generally offered in public schools, provided they have major street frontage as shown on the major street plan.

(5) Home occupations, as defined and regulated by this article.

(6) Church, provided it has major street frontage as shown on the major street plan, and meets the minimum lot area requirements in subsection (d).

(c) *Uses permitted after review.* The following uses may be permitted after review by the city planning commission in accordance with provisions in section 62-128.

(1) Lodges or other service institutions, provided they are located on a lot of at least one acre, and have major street frontage, as shown on the major street plan.

(2) Municipal uses; public building and public utilities, in conjunction with one of the other permitted uses, and subject to screening requirements in section 62-290.

(3) Plant nursery, provided no building or structure is maintained and no retailing is conducted in connection therewith.

(4) Golf course, provided it has major street frontage as shown on the major streev plan.

(5) Library, provided it has major street frontage, as shown on the major street plan.

(d) *Area regulations.* The following requirements shall apply to all permitted uses. All lots shall comply with the specific lot definition and specific yard (front, side, rear) definition found in section 62-107.

(1) Minimum lot area: Will be two acres; except as specifically required for churches, i.e., maximum percentage of possible building coverage, plus required off-street parking for that maximum building coverage, equals the minimum lot area required.

(2) Minimum lot frontage: At the front building line will be 100 feet for residential and 200 feet for all others.

(3) Maximum percentage of coverage:

a. Main and accessory buildings shall not cover more than 25 percent of the lot area on interior lots.
b. Not more than 30 percent of the lot area on corner lots.
c. Accessory buildings shall not cover more than 20 percent of the rear yard.
d. All other uses shall not cover more than 50 percent of the lot.

(4) *Maximum height:* Will be 35 feet or 21/2stories, provided that the height regulations set out in section 62-163 are not broached.

(5) *Front yard setback:* All buildings shall be set back from street right-of-way lines to comply with the following front yard requirements:

a. The minimum depth of the front yard shall be 30 feet for residential buildings, and 50 feet for all other buildings.

b. If 25 percent or more of the lots on one side of the street between two intersecting streets are improved with buildings, all of which have observed an average setback line of greater than 30 feet, and no building varies more than five feet from this average setback line, then no building shall be erected closer to the street line than the minimum setback already so established by the existing buildings. This regulation shall not require a front yard of greater depth than 40 feet.

(6) *Side yard setback:*

a. For buildings of more than one story, the minimum width of the side yard on all lots shall not be less than ten feet.

b. For dwelling and accessory buildings located on corner lots, there shall be a side yard setback from the intersecting street not less than 15 feet in case such lot is back-to-back with another corner lot, and 30 feet in every other case.

c. The interior side yard shall be the same as for dwellings and accessory buildings on an interior lot.

d. Churches and main and accessory buildings (other than dwellings and buildings accessory to dwellings), the lot area shall be adequate to provide the yard areas required by this section and the off-street parking areas required in division 6 of this article.

(7) *Rear yard setbacks:* Rear yard setbacks shall be 20 feet or 20 percent of the lot depth.

(Ord. No. 1843, § Hart. V, § 1), 2-14-89)

Sec. **62-197. R-1B single-family residential district.**

(a) *General description.* The R-IB single-family residential district is established as a district in which the use of land is for single-family dwellings, yet providing for a somewhat higher density with basic restrictions similar to the R-IA single-family residential district. The development and continued use of this land for residential dwellings is encouraged and the encroachment of commercial and industrial use or any other use which would substantially interfere with the development of or continuation of this district as residential is prohibited. Any use which would generate traffic or create congestion on neighborhood streets other than normal traffic which serves the residences on the street is discouraged. Encouraged are those uses, which, because of character or size would not create additional requirements and costs for public services, which are in excess of such requirements and costs if the district were developed solely for residential dwellings.

(b) *Uses permitted.*

(1) Single-family dwellings.

(2) Public parks or playgrounds.

(3) Accessory buildings, including private garages, and uses customarily incidental to the primary use.

(4) Elementary, junior or senior high school; or other schools, provided they have major street frontage as shown on the major street plan.

(5) Home occupations, as defined and regulated by this article.

(6) Church, provided it has major street frontage as shown on the major street plan, and meets the minimum lot area requirements found in subsection (d).

(c) *Uses permitted after review.* The following uses may be permitted after review by the planning commission in accordance with provisions in this article:

(1) Lodges or other service institutions, provided they are located on a lot of at least one acre, and have major street frontage, as shown on the major street plan.

(2) Municipal uses; public buildings and public utilities, in conjunction with one of the other permitted uses, subject to screening provisions in section 62-290.

(3) Plant nursery, provided no building or structure is maintained and no retailing is conducted in connection therewith.

(4) Golf course, provided it has major street frontage as shown on the major street plan.

(5) Library, provided it has major street frontage, as shown on the major street plan.

(6) Group homes (as defined), provided they are licensed/controlled by the appropriate state! federal agency.

(7) Bed and breakfast: For the purposes of these regulations on bed and breakfast[s, "bed and breakfast"] shall be defined as a use carried on in a structure designed for single-family occupancy which provides to the general public overnight accommodations and breakfast. Such use shall be permitted after review, subject to the following conditions:

a. Operator or host family must reside on the premises.

b. Bed and breakfast home may not have more than five units or host more than ten overnight guests at one time.

c. Guests must be within principal structure. Detached buildings and/or garage apartments may not be converted to guest quarters.

d. Provide one parking space per guest quarters plus two parking spaces per single-family dwelling unit. Parking requirements are not intended to destroy landscaping or damage the integrity of the dwelling, therefore, the planning commission may alter the parking space requirements if it is determined that sufficient parking can be provided to service the bed and breakfast.

e. Signs: One nonilluminated freestanding or wall-mounted sign not more than six square feet may be located on the site. Sign design, color and location shall not detract from the neighborhood and be in harmony with the neighborhood. The word "hotel" or "motel" shall not be allowed on sign. Any lighting for sign must be general or indirect lighting.

f. Guest may be provided breakfast by the host, but no other meal may be served. There will be no cooking in guest rooms.

(d) *Area regulations.* The following requirements shall apply to all permitted uses. All lots shall comply with the specific lot definition and specific yard (front, side, rear) definition found in section 62-107.

(1) *Minimum lot area:*

a. Minimum will be 6,000 square feet, except as specifically shown for churches; i.e., maximum percentage of possible building coverage, plus required off-street parking for that maximum building coverage, equals the minimum lot area required. No dwelling or use shall be constructed or commenced in an R-1B district which does not conform to the minimum lot size requirements.

b. For churches and main and accessory buildings, (other than dwellings and buildings accessory to dwellings), the lot areas must be adequate to provide yard areas required by this section, plus the off-street parking areas required in section 62-332.

(2) *Minimum lot frontage:*

a. At the front building line, the frontage will be 50 feet.

b. When a yard has a double frontage, the front yard requirements shall be provided on both streets.

c. The frontage of any wedge-shaped lot which meets the requirements of minimum lot size, may be a minimum of 45 feet at the street line.

d. A minimum lot width of 200 feet at the front building line for all churches,

main and accessory buildings (other than dwellings and buildings accessory to dwellings), will be required.

(3) *Maximum percentage of coverage:* Maximum by all buildings shall not be greater than 35 percent.

(4) *Maximum height:* Maximum height will be no greater than 35 feet.

(5) *Front yard setback:* Front yard setback will be no less than 25 feet from the street right-of-way line.

(6) *Side yard setback:*

a. For dwellings of one story located on interior lots there shall be a side yard on each side of the main building of no less than five feet for dwellings of more than one story, except as provided in section 62-164. For unattached buildings of accessory use, there shall be a side yard of not less than five feet; provided, however, that unattached one-story buildings of accessory use shall not be required to set back more than four feet from an interior side lot line when all parts of the accessory building are located not more than 50 feet from the rear property line.

b. For dwelling and accessory buildings located on corner lots there shall be a s:de yard setback from the intersecting street side property line no less than 15 feet in case such lot is back-to-back with another corner lot, and 25 feet in every other case. The interior side yard shall be the same as for dwellings and accessory buildings on an interior lot.

c. Churches and main and accessory buildings (other than dwellings and buildings accessory to dwellings), shall set back from all exterior and interior side lot lines a distance of no less than 30 feet.

(7) *Rear yard setback:*

a. Rear yard setback will be no less than 20 feet.

b. For buildings more than two stories in height, the minimum rear yard required hereby shall be increased by five feet for each additional story or fraction thereof.

c. There shall be a rear yard for a main building of no less than 20 feet or 20 percent of the depth of the lot, whichever amount is smaller. Unattached buildings of accessory use may be located in the rear yard of a main build-mg.

(Ord. No. 1843, § Hart. v, §§ 2.1-2.4), 2-14-89; Ord. No. 2022, § 1, 9-13-94)

Sec. 62-198. R-1C existing single-family residential district.

(a) *General description.* This is the least restrictive single-family residential district which is in a transition from residential to commercial. This district is designed as commercial or industrial on the comprehensive plan, but is not quite ready for commercial or industrial development. These R-1C districts shall consist of each and all of the single-family dwellings which were existing in the districts designated as commercial or industrial as the zoning ordinance came to be approved in July 1968.

Once a dwelling is removed from a lot in this R-1C district, or the use of such structure or property ceases to be that of residential, the property shall have a zoning classification as designated on the zoning map of the city. Such property shall not be used for residential purposes again unless the property owner follows outlined procedures for amendment to the official zoning map and obtains proper approval.

Note: Previously conforming dwelling units destroyed by fire or any act of God may be rebuilt, provided that all aspects of the R-1B area regulations are met.

(Ord. No. 1843, § Hart. V, § 2.5), 2-14-89)

Sec. 62-199. R-2 two-family dwelling (duplex) district.

(a) *General description.* This is a residential district to provide for a slightly higher population density, but with basic restrictions similar to the

R-1A and R-1B districts. The principal use of land is for single-family and two family dwellings and related recreational, religious and educational facilities normally required to provide a balanced and attractive residential area. These areas are intended to be defined and protected from the encroachment of uses not performing a function necessary to the residential environment. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities and through the consideration of the proper functional relationship and arrangement of each element.

(b) *Uses permitted.*

(1) Single-family dwellings.

(2) Two-family (duplex) residential dwellings.

(3) Public parks or playgrounds.

(4) Accessory buildings, including private garages, and uses customarily incidental to the primary use.

(5) Elementary, junior or senior high school; or other schools offering general education courses as generally offered in public schools, provided they have major street frontage as shown on the major street plan.

(6) Home occupations, as defined and regulated by this article.

(7) Church, provided it has major street frontage as shown on the major street plan, and meets the minimum lot area requirements found in subsection (d).

(c) *Uses permitted after review.* The following uses may be permitted after review by the city planning commission in accordance with provisions in this article:

(1) Lodges or other service institutions, provided they are located on a lot of at least one acre, and have major street frontage, as shown on the major street plan.

(2) Municipal uses; public buildings and public utilities, in conjunction with one of the other permitted uses, subject to screening provisions found in section 62-290.

(3) Plant nursery, provided no building or structure is maintained and no retailing is conducted in connection therewith.

(4) Golf course, provided it has major street frontage, as shown on the major street plan.

(5) Group homes (as defined), provided they are licensed/controlled by the appropriate state or federal agency.

(6) Child or day care homes, only as defined in section 62-107.

(7) Bed and breakfast. (Regulations as outlined in subsection 62-197(c)(7).)

(d) *Area regulations.*

(1) *Minimum lot area and use intensity:* The following requirements shall apply:

a. For each single-family dwelling and accessory building, there shall be a lot area of no less than 6,000 square feet.

b. For each two-family dwelling (duplex) and accessory building, there shall be a lot area of no less than 8,000 square feet.

c. A garage apartment located on the same lot with a single-family dwelling shall have the same area requirements as a two-family dwelling. In all other cases, a garage apartment shall be provided with the same lot area required by a single-family dwelling.

d. Where a lot has less area than herein required, and all boundary lines ofthat lot touch lands under other ownership on the effective date ofthis article, that lot may be used for any use permitted in the R-1A and R-1B single-family districts, except churches.

e. For churches and main and accessory buildings (other than dwellings and buildings accessory to dwellings), the lot areas shall be adequate to provide the yard areas required in the R-1B district under churches and the off-street parking areas required in section 62-332.

(2) *Minimum lot frontage:* The following requirements shall apply:

a. For single-family dwellings, or single-family dwellings and garage apartments, there shall be a minimum lot width of no less than 60 feet at the front building line. The lot shall abut on a street for a distance no less than 35 feet.

b. For two-family dwellings (duplexes), the minimum lot width shall be no less than 60 feet at the front building line. The lot shall abut on a street for a distance of no less than 45 feet.

c. All other uses shall have a minimum lot width of no less than 200 feet.

(3) *Maximum percentage of coverage:* The following requirements apply:

a. Main and accessory buildings shall not cover more than 30 percent of the lot area.

b. Accessory buildings shall not cover more than 20 percent of the rear yard.

c. All other uses shall not cover more than 50 percent of the lot area.

(4) *Maximum height:* No building shall exceed 21/2 stories or 35 feet in height, except as provided in section 62-163.

(5) *Front yard setback:* All buildings shall be set back from the street right-of-way lines to comply with the following front yard requirements:

a. The minimum depth of the front yard shall be 25 feet for residential uses. All other uses shall have a minimum depth of the front yard of 50 feet.

b. If 25 percent or more of the lots on one side of the street between two intersecting streets are improved with buildings, all of which have observed an average setback line of greater than 25 feet, and no building varies more than five feet from this average setback line, then no building shall be erected closer to the street line than the minimum setback so established by the existing buildings; but this regulation shall not require a front yard of any greater depth than 40 feet.

c. When a yard has a double frontage, the front yard requirements shall be provided on both streets.

(6) *Side yard setback:* The following requirements apply:

a. *Interior:*

1. For dwellings of one story, located on interior lots, there shall be a side yard on each side of the main building of no less than five feet. For dwellings of more than one story, and for garage apartments, except as heretofore provided in section 62-162, the setback shall be no less than eight feet.

2. For unattached buildings of accessory use, there shall be a side yard of no less than five feet; provided, however, that unattached one-story buildings of accessory use shall not be required to set back more than three feet from an interior side lot line, when all parts of the accessory building are located no more than 50 feet from the rear property line.

b. *Corner:* For dwellings and accessory buildings located on comer lots, there shall be a side yard setback from the intersecting street of no less than 15 feet in case such lot is back-to-back with another corner lot, and 25 feet in every other case. The interior side yard shall be the same as for dwellings and accessory buildings as for an interior lot.

c. *Church:* Churches and main and accessory buildings, other than dwellings and buildings accessory to dwellings, shall set back from all exterior and interior side lot lines a distance of no less than 25 feet.

(7) *Rear yard setback:* The following requirements apply:

a. For main buildings, other than garage apartments, there shall be a rear yard

of no less than 20 feet or 20 percent of the depth of the lot, whichever is smaller.

b. Garage apartments may be located in the rear yard of a single-family dwelling, but shall not be located closer than ten feet to the rear lot line.

c. Unattached buildings of accessory use may be located in the rear yard of a main building.

(Ord. No. 1843, § lCart. V, § 3), 2-14-89; Ord. No. 2022, § 1, 9-13-94)

Sec. 62-200. R-3 multiple-family dwelling district.

(a) *General description.* This is a residential district designed to provide for medium and high population density. The principal use ofland can range from single-family to multiple-family and garden apartment uses. Certain uses which are functionally more compatible with intensive residential uses than with commercial uses are permitted, as are recreational, religious, and educational facilities normally required to provide the basic elements of a balanced and attractive residential area. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities and through consideration of the proper functional relationship of each element.

(b) *Uses permitted.*

(1) Single-family dwellings.

(2) '!\vo-family (duplex) residential dwellings, including garage apartments.

(3) Roominghouses or boardinghouses.

(4) Multifamily dwellings, including condominiums, townhouses or apartments.

(5) Accessory buildings, including private garages, and uses customarily incidental to the primary use.

(6) Elementary, junior or senior high school; or other schools offering general education courses as generally offered in public schools, provided they have major street frontage as shown on the major street plan.

(7) Public parks or playgrounds.

(8) Home occupations, as defined and regulated by this article.

(9) Church, provided it has major street frontage as shown on the major street plan, and meets the minimum lot area requirements found in subsection (d).

(c) *Uses permitted after review.* The following uses may be permitted after review by the city planning commission in accordance with provisions in section 62-128.

(1) Lodges or other service institutions, provided they are located on a lot of at least one acre, and have major street frontage, as shown on the major street plan.

(2) Municipal uses; public buildings and public utilities, in conjunction with one ofthe other permitted uses, subject to screening provisions found in section 62-290.

(3) Plant nursery, provided no building or structure is maintained and no retailing is conducted in connection therewith.

(4) Golf course, provided it has major street frontage, as shown on the major street plan.

(5) Library, provided it has major street frontage, as shown on the major street plan.

(6) Group homes (as defined), provided they are licensed/controlled by the appropriate state or federal agency.

(7) Child/day care homes (as defined in section 62-107).

(8) Mobile home/trailer court, allowed only if found to be in compliance with the requirements in subsection (e) of this section.

(d) *Area regulations.* The following requirements shall apply to all permitted uses. All lots shall comply with the specific lot definition and yard definition found in section 62-107.

(1) Minimum lot area and use intensity: The following requirements shall apply:

a. There shall be a lot area of not less than 6,000 square feet for a single-family dwelling, no less than 8,000 square feet for a two-family dwelling,

and no less than 8,000 square feet plus an additional area of no less than 2,000 square feet for each family that is more than two, occupying a dwelling.

b. There shall be a lot area of no less than 8,000 square feet where a garage apartment is located on the same lot with a single-family dwelling. When a garage apartment is located on the same lot with a two-family or multiple-family dwelling, the lot area shall provide no less than 2,000 square feet more than is required for the two-family or multiple-family dwelling.

c. Where a lot has less area than herein required, and all boundary lines of that lot touch lands under other ownership on February 14, 1989, that lot may be used for any use, except churches, permitted in the R-1A and R-1A single-family dwelling district.

d. For churches and main and accessory buildings, other than dwellings and building accessory to dwellings, the lot areas shall be adequate to provide the yard areas required in the R-1B district under churches and the off-street parking areas required in section 62-332.

(2) *Minimum lot frontage:* The following requirements apply:

a. For single-family dwellings, or single-family dwellings and garage apartments, there shall be a minimum lot

width of no less than 50 feet at the front building line. The lot shall abut on an open street a distance of no less than 35 feet.

b. For two-family dwellings (duplexes), the minimum lot width shall be no less than 60 feet at the front building line. The lot shall abut on an open street a distance of no less than 45 feet.

c. Multifamily residential uses shall have a minimum lot width of 60 feet, plus an additional ten feet at the building line for each additional dwelling unit other than two. The lot width at the front building line shall not be required to be greater than 200 feet.

d. All other nonresidential allowed uses shall have a minimum lot width of not less than 100 feet.

(3) Maximum percentage of coverage: The following requirements shall apply:

a. Main and accessory buildings shall not cover more than 50 percent of the lot area.

b. Accessory buildings shall not cover more than 20 percent of the rear yard.

(4) Maximum height: No building shall exceed 21/2 stories or 35 feet in height, except as provided in section 62-163. There is no limit on multifamily dwellings.

(5) Front yard setback: All buildings shall be set back from the street right-of-way lines to comply with the following front yard requirements:

a. The minimum depth of the residential front yard shall be 25 feet. All other allowed uses shall be 35 feet.

b. If 25 percent or more of the lots on one side of the street between two intersecting streets are improved with buildings, all of which have observed an average setback line of greater than 25 feet, and no building varies more than five feet from this average setback line, then no building shall be erected closer to the street line than the minimum setback already so established by the existing buildings. This regulation shall not require a front yard of greater depth than 40 feet.

c. When a yard has double frontage, the front yard requirements shall be provided on both streets.

(6) Side yard setback: All buildings shall be set back from street right-of-way lines to comply with the following side yard requirements:

a. *Interior:*

1. For dwellings located on an interior lot, a side yard of no less than five feet shall be provided on both sides of the main dwelling for the first story, and an additional three feet of side yard shall be provided for each additional story or part thereof.

2. For unattached buildings of accessory use, there shall be a side yard of no less than five feet; provided, however, that unattached one-story buildings of accessory use shall not be required to set back more than three feet from an interior side lot line when all parts of the accessory building are located not more than 50 feet from the rear property line.

b. *Corner:* For dwellings and accessory buildings located on corner lots there shall be a side yard setback from the intersecting street right-of-way line of no less than 15 feet, in case the lot is back-to-back with another corner lot; and 25 feet in every other case. The interior side yard shall be the same as for dwellings and accessory buildings on an interior lot.

c. *Church:* Churches and main and accessory buildings, other than dwellings and buildings accessory to dwellings and trailers, shall set back from all exterior and interior side lot lines a distance of not less than 35 feet.

(7) Rear yard setback: The following requirements apply: For main buildings, other than

garage apartments, there shall be a rear yard of no less than 20 feet or 20 percent of the depth of the lot, whichever is smaller.

(e) *Specific mobile home (trailer) court regulations.*

(1) The applicant, upon making application for a zoning clearance permit, must submit a detailed site plan locating all mobilt home stands, screening or fencing, and plans and specifications for the proposed park in a form suitable for making tht determinations required herein.

(2) The proposed site shall be a minimum of 21/2 acres in size and shall contain no more than 12 mobile home stands per acre. The proposed site shall have a minimum frontage of 200 feet on a street designated as a major street or collector street in the major street plan. All access or egress by automobile will be on such streets. The proposed site shall be a minimum of 200 feet in depth.

(3) It shall be the intention of the proposed plan for the mobile home park to accommodate primarily permanent occupants with no more than ten percent of the mobile home stands devoted to purely transient purposes. These purely transient stands are to be located in one area of the park so they will in no way interfere with the permanent residents.

(4) The proposed site shall have a front yard of not less than 20 feet from the corner or line of any mobile home stand to the street boundary of the park. The site shall have side and rear yards of ten feet from any solid fencing, screen planting or wall of six feet in height.

(5) The proposed site shall be screened or buff. ered on all sides with a solid wall fence six feet in height, or a screen planting which will attain at least a six feet to eight feet height at maturity.

(6) The proposed site shall provide one off-street parking space for each mobile home stand, plus one additional off-street parking space for each two mobile home stands.

(7) The proposed site shall provide a connection for each mobile home stand to all public utilities, i.e., water, sewer, and other facilities necessary for the health, safety and general welfare of the public.

(8) All public utilities shall be underground in all courts.

(9) Trailer courts shall be planned in such a manner that no trailer, or related. building, shall be located any closer than 15 feet to any side lot line.

(Ord. No. 1843, § Hart. V, § 4), 2-14-89)

Sec. 62-201. C.I office district.

(a) *General description.* This commercIal district is for the conduct of retail trade and to provide personal services to meet the regula- needs and for the convenience of the people of adjacent residential areas. Because these shops and stores may be an integral part of the neighborhood closely associated with residential, religious, recreational and educational elements, more restric. tive requirements for light, air, open space and. off-street parking are made than are provided for in other commercial areas.

(b) *Uses permitted.* Property/buildings in an office commercial district shall be used only for the following purposes:

(1)
a. Barbershop and/or beauty shop.
b. Business college.
c. Cleaning/dyeing works.
d. Fraternal organizations.
e. Independent living options (retirement centers/elderly complexes).
f. Lodge halls.
g. Medical and/or dental clinics.
h. Museums.
I. Music conservatory.
J. Pharmacy.
k. Professional offices.
1. Public uses, i.e., fire station; community building; utility building; library; auditorium; municipal building.

(2) Nameplate and sign relating only to the use of the store and premises or to products sold on the premises.

(3) Accessory buildings and uses customarily incidental to the above uses.

(4) Any building used for any of the above enumerated uses may not have more than 40 percent of its floor area devoted to purposes incidental to the primary use. No material or goods offered for sale or stored in connection with the uses enumerated in subsections (1) through (3) above shall be stored or displayed outside of a building.

(5) Churches, provided they have major street frontage as shown on the major street plan, and meet the minimum lot area requirements as shown heretofore in section 62-201(d)(1)d.

(c) *Uses permitted after review (UPAR).* The following uses may be permitted after review by the city planning commission in accordance with the provisions contained in section 63-163.

(1) Child care centers (with stipulations); any child care center authorized under this UP AR shall comply with the following provisions:

a. Child care centers are not to be located in single-family dwellings which are the permanent residence (domicile) of the operator.

b. The child care center shall provide a minimum indoor space available for child care, of no less than 35 square feet per child exclusive of hallways, bathrooms, kitchen and space occupied by furniture not intended for children's use.

c. The child care center shall provide a minimum outdoor space of 75 feet per child which shall be enclosed by an opaque ornamental fence not less than 42 inches in height or said fencing shall be in accordance with the appropriate screening requirements of the particular zoning district. This area must be hazard free and keep children away from traffic, water and other dangers.

d. The child care center shall meet city-county-state health requirements as to safety, design, facilities, equipment and licensing of the features. All child care centers shall be inspected by the state department of human services, city fire marshal, building inspectors, and the city planner, or their designees, prior to licensing, and reinspections may occur during the licensing period. The interior and exterior of all buildings shall comply with the city building codes.

e. The child care center shall be operated in a manner that will not adversely affect property and other uses in the area. Parking for the leaving and picking up of children shall be required, so as not to interfere with the normal flow of traffic. Off-street hard surface parking areas shall be required.

f. A license shall be obtained from the state department of human services and all requirements relative to their standards must be adhered to.

(d) *Area regulations.* The following requirements shall apply to all uses permitted. All lots shall comply with the specific lot definition and yard definition found'in section 62-107.

(1) *Minimum lot area and use intensity:* The following requirements shall apply:

a. The minimum lot area for this district shall be no less than 12,000 square feet.

b. The minimum lot area for rezoning to a C-1 (office commercial district) shall not be less than 50,000 square feet.

c. For churches and main and accessory buildings, other than dwellings and buildings accessory to dwellings, the lot areas shall be adequate to provide the yard area required in the R-lB district under churches and the off-street parking areas required in section 62-332.

(2) *Minimum lot frontage:* The following requirements apply: The minimum lot frontage for this district shall be no less than 100 feet.

(3) *Maximum percentage of coverage:* The following requirements shall apply: Main and accessory buildings shall not cover more than 50 percent of the lot area.

(4) *Maximum height:* The following requirements apply: No building shall exceed 21/2 stories or 35 feet in height, except as provided in section 63-163 and section 63-165.

(5) *Front yard setback:* The following requirements apply: All buildings shall set back from the street right-of-way line to provide a front yard setback of no less than 25 feet in depth.

(6) *Side yard setback:* The following requirements apply:

a. On a side of a lot adjoining 8. reddential dwelling district only, there shall be a side yard setback of no less than one foot per each one foot of height, or 35 feet.
b. On a side of a lot adjoining the same commercial district only, there shall be no side yard setback required.
c. For those uses specified in section 62-165(3), those setback requirements will apply; i.e., one foot of side setback and rear setback for each two feet of height above 35 feet.

(7) *Rear yard setback:* There shall be *no* rear yard setback requirements except in the following cases:

a. Where a commercial building is to be serviced from the rear, there shall be provided an unobstructed alleyway, service court, rear yard or combination thereof of no less than 20 feet.
b. For those uses specified in section 62-165(3), those setback requirements will apply; i.e., one foot of rear setback and side yard setback for each two feet of height above 35 feet.

(e) *Screening requirements.*

(1) In this district, a screening shall be required between any adjacent ur adjoining residential district and any area of storage, parking, shipping or receiving of goods; or any other business activity other than pedestrian traffic, as long as the screening does not interfere with the sight triangle clearance requirements at intersections.

(2) Where a service area for a building is adjacent to a street, screening shall be required between any area of storage, shipping or receiving of goods or refuse and the adjacent street.

(3) Screening shall consist of an opaque (solid) fence or wall no less than five feet high and no more than eight feet high. It shall be maintained in good condition along said lot line. The materials used in the construction of the screening shall be greatly compatible with the same materials used in the construction of the structure itself. Although the material is not required to be identical, the similarity should extend to color, proportion, style, texture, ztc.) suffi. ciently so as to be aesthetically compatible in nature.

(f) *Parking requirements.* Parking requirements shall follow those regulations set out in division 6 of this article.

(Ord. No. 1843, § Hart. V, § 5), 2-14-89)

Sec. 62-202. C-2 neighborhood convenience district.

(a) *General description.* This commercial district is intended for a unified grouping, in one or more buildings, of retail shops and stores that provide for the regular needs and are for the convenience of the people residing in the adjacent residential neighborhoods. It is intended that the suburban convenience center be developed as Ii unit with adequate off-street parking space for customers and employees, and with appropriate landscaping and screening.

(b) *Uses permitted.* All buildings or uses hereafter established or enlarged shall comply with the conditions and restrictions enumerated below:

(1) Any of the following uses shall be permitted:

a. Artist supplies and hobby shop.
b. Bakery shop.
c. Barbershop and beauty shop.
d. Bookstore.
e. Cleaning and dyeing works.
f. Clothing and wearing apparel shop.
g. Drugstore.
h. Financial institution.

1. Florist shop.
J. Gift shop.
k. Grocery store.
1. Jewelry store.
m. Laundry and dry cleaning pickup station.
n. Liquor store.
o. Medical and dental clinics.
p. Motor fuel sales only (not intended for service station operations).
q. Pharmacy.
r. Professional offices (not including animal clinics/hospitals, and only in specified zones).
s. Public uses; i.e., fire station, community building, utility building, library, auditorium, municipal building.
t. Self-service laundries.
u. Shoe repair shop.
v. Stockbroker.
w. Variety store.

(2) Accessory buildings and uses customarily incidental to the above uses.

(3) Churches, provided they have major street frontage as shown on the major street plan, and meet the minimum lot area requirements as shown heretofore in section 62-200(d)(1)d.

(c) *Uses permitted after review (UPAR).* The following uses may be permitted after review by the city planning commission in accordance with the provisions contained in section 62-128:

(1) Child care centers (with stipulations). Any child care center authorized under this UP AR shall comply with the following provisions:

a. Child care centers are not to be located in single-family dwellings which are the permanent residence (domicile) of the operator.
b. The child care center shall provide a minimum indoor space available for child care, of no less than 35 square feet per child exclusive of hallways, bathrooms, kitchen, and space occupied by furniture not intended for children's use.
c. The child care center shall provide a minimum outdoor space of 75 feet per child which shall be enclosed by an opaque ornamental fence not less than 42 inches in height or said fencing shall be in accordance with the appropriate screening requirements of the particular zoning district. This area must be hazard free and keep children away from traffic, water and other dangers.
d. The child care center shall meet city-county-state health requirements as to safety, design, facilities, equipment and licensing of the features. All child care centers shall be inspected by the state department of human services, city fire marshal, building inspectors, and the city planner, or their designees, prior to licensing, and reinspections may occur during the licensing period. The interior and exterior of all buildings shall comply with the city building codes.
e. The child care center shall be operated in a manner that will not adversely affect property and other uses in the area. Parking for the leaving and picking up of children shall be required, so as not to interfere with the normal flow of traffic. Off-street hard surface parking areas shall be required.
f. A license shall be obtained from the state department of human services and all requirements relative to their standards must be adhered to.

(d) *Area regulations.* The following requirements shall apply to all uses permitted. All lots shall comply with the specific lot definition and yard definition found in section 62-107.

(1) *Minimum lot area and use intensity:* The following requirements shall apply.

a. The minimum lot area for this district shall be no less than 12,000 square feet.
b. The minimum lot area for rezoning to a C.2 (neighborhood convenience district) shall not be less than 50,000 square feet.
c. For churches and main and accessory buildings, other than dwellings and

buildings accessory to dwellings, the lot areas shall be adequate to provide the yard area required in the R-1B district under churches and the off-street parking areas required in section 62-332.

d. It is intended that the grouping of buildings and parking areas be designated to protect, insofar as possible, adjacent residential areas. In no case shall the design of any shopping area provide less than the following standards.

(2) *Minimum lot frontage:* The following requirements apply: The minimum lot frontage for this district shall be no less than 100 feet.

(3) *Maximum percentage of coverage:* The following requirements shall apply: Main and accessory buildings shall not cover more than 50 percent of the lot area.

(4) *Maximum height:* The following requirements apply: No building shall exceed 21/2 stories or 35 feet in height, except as provided in section 62-163 and section 62-165.

(5) *Front yard setback:* The following requirements apply.

a. All buildings shall set back from all street right-of-way lines to provide a front yard setback no less than 25 feet in depth.

b. If and when motor fuel is sold in this district, fuel pumps may not be placed closer than 11 feet to any property line, nor closer than 15 feet to any building.

(6) *Side yard setback:* The following requirements apply.

a. On a side of a lot adjoining a residential dwelling district only, there shall be a side yard setback of no less than one foot per each foot of height, or a minimum of ten feet.

b. On a side of a lot adjoining the same commercial district or another commercial district, there shall be no side yard setback required.

c. If and when motor fuel is sold in this district, fuel pumps may not be placed closer than 11 feet to any property line, nor closer than 15 feet to any building.

(7) *Rear yard setback:* There shall be no rear yard setback requirements except in the following cases: Where a commercial building is to be serviced from the rear, there shall be provided an unobstructed alleyway, service court, rear yard or combination thereof of no less than 20 feet.

(e) *Screening requirements.*

(1) In this district, a screening shall be required between any adjacent or adjoining residential district and any area of storage, parking, shipping or receiving of goods; or any other business activity other than pedestrian traffic, as long as said scre~ning does not interfere with the sight triangle clearance requirements at intersections.

(2) Where a service area for a building is adjacent to a street, screening shall be required between any area of storage, shipping or receiving of goods or refuse and the adjacent street.

(3) Screening shall.consist of an opaque (solid) fence or wall, no less than five feet high and no more than eight feet high. It shall be maintained in good condition along the lot line. The materials used in the construction of the screening shall be greatly compatible with the same materials used in the construction of the structure itself. Although the material is not required to be identical, the similarity should extend to color, proportion, style, texture, etc., sufficiently so as to be aesthetically compatible in nature.

(fJ *Bulk limitations: Floor area ratio.* In no instance shall the total floor space of the structures in a C-2 district exceed the relationship of 1:1; i.e., there must be provided one square foot of open space to each square foot of floor space in the structure.

(g) *Parking requirements.* Parking requirements shall follow those regulations set out in division 6 of this article.

(Ord. No. 1843, § Hart. V, § 6), 2-14-89)

Sec. 62-203. C-3 general commercial district.

(a) *General description.* This commercial district is designed for the conduct of personal and business services and the general retail trade of the community. It is designed to accommodate a wide variety of commercial uses in the central business district, or areas of mixed business enterprises. It will not normally be applied in the case of any new commercial areas.

(b) *Uses permitted.* Property and buildings in a C-3 general commercial district, may be used for the following purposes:

(1) a. Artist supplies and hobby shop.
b. Auditorium.
c. Bakery.
d. Bank.
e. Barbershops and beauty shops.
f. Bookstore.
g. Business college.
h. Bus terminal.
i. Child care centers (provided stipulations in subsection (c)(1) are met).
j. Cleaning and dyeing works.
k. Clothing and apparel stores.
l. Commercial school or hall.
m. Communications.
n. Dance hall.
o. Department store.
p. Electrical repair shop.
q. Financial institutions.
r. Florist shop.
s. Fraternal organizations.
t. Frozen food locker.
u. Furniture store—repair and/or upholstery.
v. Funeral parlor or mortuary.
w. General offices.
x. Gift shop.
y. Grocery.
z. Hotel.
aa. Interior decorating store.
bb. Jewelry store.
cc. Key shop.
dd. Laundry/drycleaning pickup stations.
ee. Leather goods shop.
ff. Liquor store.
gg. Lodge halls.
hh. Medical/dental clinics/facilities.
ii. Messenger and telegraph service.
jj. Motel and motor inns.
kk. Motor fuel sales only (not intended for service station or mechanic operations).
ll. Museums.
mm. Music conservatory.
nn. Music, radio or television shop/repair.
oo. Reserved.
pp. Nightclub.
qq. Nursery or garden supply store.
rr. Office supply.
ss. Pawn shop.
tt. Pet shop (not including veterinarian clinic/hospital).
uu. Pharmacy.
vv. Printing and stationery store.
ww. Professional offices.
xx. Research laboratories.
yy. Restaurant.
zz. Self-service laundry.
aaa. Sewing machine repair.
bbb. Shoe repair shop.
ccc. Sign printing shop.
ddd. Sporting goods store.
eee. Stock and bond broker.
fff. Tavern.
ggg. Telephone and telegraph offices.
hhh. Theatre.
iii. Toy store.

jjj. Variety store.

kkk. Youth recreation center.

(2) Any public buildings or uses, including fire stations, community buildings, utility buildings, library or municipal building.

(3) Accessory buildings, structures and accessory uses customarily incidental to any of the above uses, provided that there shall be no manufacturing of products other than such as are customarily incidental to retail establishments.

(4) Churches, provided they have major street frontage as shown on the major street plan, and meet the minimum lot area requirements as shown heretofore in subsection 62-200(d)(1)d.

(c) *Uses permitted after review.* The following uses may be permitted after review by the city planning commission in accordance with the provisions contained in section 62-128:

(1) New and/or used automobile sales and/or service.

(d) *Area regulations.* The following requirements shall apply to all uses permitted. All lots shall comply with the specific lot definition and yard definition found in section 62-107.

(1) *Minimum lot area and use intensity:*

a. There are no minimum lot area requirements.

b. The minimum lot area for rezoning to a C-3 (general commercial district) shall be no less than 50,000 square feet.

c. For churches and main and accessory buildings, other than dwellings and buildings accessory to dwellings, the lot areas shall be adequate to provide the yard area required in the R-1B district under churches and the off-street parking areas required in division 6 of this article.

(2) *Minimum lot frontage:* There are no minimum lot frontage requirements.

(3) *Maximum percentage coverage:* Main and accessory buildings shall not cover more than 90 percent of the lot area.

(4) *Maximum height:* There are no maximum height requirements.

(5) *Front yard setback:* There are no front yard setback requirements; provided, however, that if and when motor fuel is sold in this district, fuel pumps may not be placed closer than 11 feet to any property line, nor closer than 15 feet to any building.

(6) *Side yard setback:* There are no side yard setback requirements; provided, however, that if and when motor fuel is sold in this district, fuel pumps may not be placed closer than 11 feet to any property line, nor closer than 15 feet to any building.

(7) *Rear yard setback:* There are no rear yard setback requirements in this district, except where a commercial building is to be serviced from the rear, there shall be provided an unobstructed alleyway, service court, rear yard or combination thereof of no less than 20 feet.

(e) *Screening requirements.*

(1) In this district, a screening shall be required between any adjacent or adjoining residential district and any area of storage, parking, shipping or receiving of goods; or any other business activity other than pedestrian traffic, as long as the screening does not interfere with the sight triangle clearance requirements at intersections.

(2) Where a service area for a building is adjacent to a street, screening shall be required between any area of storage, shipping or receiving of goods or refuse and the adjacent street.

(3) Screening shall consist of an opaque (solid) fence or wall no less than five feet high and no more than eight feet high. It shall be maintained in good condition along said lot line. The materials used in the construction of said screening shall be greatly compatible with the same materials used in the construction of the structure itself. Great care should also be ex-

ercised to provide for aesthetic compatibility of any adjacent businesses in the district. Although the material is not required to be identical, the similarity should extend to color, proportion, style, texture, etc., sufficiently so as to be aesthetically compatible in nature.

(f) *Parking requirements.* Parking requirements shall follow those regulations set out in division 6 of this article.
(Ord. No. 1843, § 1(art. V, § 7), 2-14-89; Ord. No. 2530, § 1, 2-10-15)

Sec. 62-204. C-4 restricted commercial district.

(a) *General description.* This commercial district is established for a high grade restricted commercial district removed from the central business district, along a thoroughfare, provided with adequate open space and parking.

(b) *Uses permitted.* All buildings or uses hereafter established or enlarged shall comply with the conditions and restrictions enumerated below. It is intended that the grouping of buildings and parking areas be designed, insofar as possible, next to adjacent residential areas. In no case shall the permitted uses provide less than the standards outlined within.

(1) a. Artist supplies and hobby shop.
b. Bakery.
c. Barbershop and beauty shop.
d. Bookstore.
e. Business college.
f. Car wash.
g. Child care center (with stipulations as shown).
h. Cleaning and dyeing works.
i. Clothing and wearing apparel shops.
j. Dairy products store.
k. Delicatessen.
l. Department store.
m. Drugstore.
n. Financial institutions.
o. Florist shop.
p. Fraternal organizations.
q. Funeral parlor/mortuary.
r. Gasoline or filling station.
s. General offices.
t. Gift shop.
u. Grocery store.
v. Hardware store.
w. Health spa.
x. Independent living options (retirement centers/elderly complexes).
y. Jewelry store.
z. Key shop.
aa. Lawn mower repair shop.
bb. Laundry/dry cleaners pickup stations.
cc. Liquor store.
dd. Lodge halls.
ee. Medical/dental clinics.
ff. Museums.
gg. Music conservatory.
hh. New and/or used automobile sales and/or service.
ii. Pet stores.
jj. Professional offices.
kk. Restaurants.
ll. Retail furniture store.
mm. Self-service laundry.
nn. Sign printing shop.
oo. Shoe repair shop.
pp. Small engine repair.
qq. Sporting goods store.
rr. Stockbroker.
ss. Tailor shop.
tt. Variety store.
uu. Veterinarian clinic.
vv. Ambulance operations, office and garage (no mechanical work).

(2) Accessory buildings and uses customarily incidental to the above uses.

(3) Any public buildings or uses, including: fire stations, community buildings, utility buildings, library, auditorium or municipal building.

(4) Churches, provided they have major street frontage as shown on the major street plan, and meet the minimum lot area requirements as shown in subsection 62-200(d)(1)d.

(c) *Uses permitted after review.* No current uses are listed as requiring review.

(d) *Area regulations.* The following requirements shall apply to all uses permitted. All lots shall comply with the specific lot definition and yard definition found in section 62-107.

(1) *Minimum lot area and use intensity:*

a. The minimum lot area for this district shall be no less than 12,000 square feet.

b. The minimum lot area for rezoning to a C-4 (restricted commercial district) shall not be less than 50,000 square feet.

c. For churches and main and accessory buildings, other than dwellings and buildings accessory to dwellings, the lot areas shall be adequate to provide the yard area required in the R-1B district under churches, and the off-street parking areas required in section 62-332.

(2) *Minimum lot frontage:* The following requirements apply: The minimum lot frontage for this district shall be no less than 100 feet.

(3) *Maximum percentage of coverage:* The following requirement applies: Main and accessory buildings shall not cover more than 50 percent of the lot area.

(4) *Maximum height:* The following requirement applies: No building shall exceed 2½ stories or 35 feet in height, except as provided in section 62-163 and section 62-165.

(5) *Front yard setback:* The following requirements apply:

a. All buildings shall set back from all street right-of-way lines to provide front yard setback no less than 25 feet in depth.

b. If and when motor fuel is sold in this district, fuel pumps may not be placed closer than 11 feet to any property line, nor closer than 15 feet to any building.

(6) *Side yard setback:* The following requirements apply:

a. On a side of a lot adjoining a residential dwelling district only, there shall be a side yard setback of no less than one foot per each foot of height, or a minimum of ten feet.

b. On a side of a lot adjoining the same commercial district or another commercial district, there shall be no side yard setback required.

c. If and when motor fuel is sold in this district, fuel pumps may not be placed closer than 11 feet to any property line, nor closer than 15 feet to any building.

(7) *Rear yard setback:* There shall be no rear yard setback requirements except in the following cases: Where a commercial building is to be serviced from the rear, there shall be provided an unobstructed alleyway, rear yard, or combination thereof of no less than 20 feet.

(e) *Screening requirements.*

(1) In this district, a screening shall be required between any adjacent or adjoining residential district and any area of storage, parking, shipping or receiving of goods; or any other business activity other than pedestrian traffic, as long as said screen-

ing does not interfere with the sight triangle clearance requirements at intersections.

(2) Where a service area for a building is adjacent to a street, screening shall be required between any area of storage, shipping or receiving of goods or refuse and said adjacent street.

(3) Screening shall consist of an opaque (solid) fence or wall no less than five feet high and no more than eight feet high. It shall be maintained in good condition along the lot line. The materials used in the construction of the screening shall be greatly compatible with the same materials used in the construction of the structure itself. Although the material is not required to be identical, the similarity should extend to color, proportion, style, texture, etc., sufficiently so as to be aesthetically compatible in nature.

(f) *Bulk limitations; floor area ratio.* In no instance shall the total floor space of the structure in a C-4 district exceed the relationship of 1:1; i.e., there must be provided one square foot of open space to each square foot of floor space in the structure.

(g) *Parking requirements.* Parking requirements shall follow those regulations set out in division 6 of this article.
(Ord. No. 1843, § 1(art. V, § 8), 2-14-89; Ord. No. 2080, § 1, 3-24-98; Ord. No. 2530, § 1, 2-10-15)

Sec. 62-205. C-5 highway commercial and commercial recreation district.

(a) *General description.* This general commercial district is established as a district in which the principal use of land is for establishments offering accommodations, supplies or services to motorists, and for certain specialized uses such as retail outlets, extensive commercial amusements and service establishments which may serve the entire community but do not and should not locate in the central business district or the neighborhood convenience district.

(b) *Uses permitted.*

(1) Any use permitted in the C-1, C-2, C-3 or C-4 commercial districts.

(2) Additional uses include:

a. Ambulance service, office and garage.

b. Amusement enterprises.

c. Automobile service station.

d. Boat sales.

e. Bowling alleys.

f. Building material store—Retail and wholesale.

g. Bus terminal.

h. Drive-in theatre or restaurant, standard theatre.

i. Feed and fuel store.

j. Food stores.

k. Frozen food locker.

l. Furniture repair and upholstery.

m. Garden centers/stores.

n. Golf course, miniature or practice range.

o. Heating/plumbing sales and service.

p. Humane Society animal shelter.

q. Ice plant.

r. Key shop.

s. Kennels.

t. Motels or motor inns.

u. New and/or used automobile/truck sales and/or service.

v. New and used machinery sales and service.

w. Nightclubs.

x. Novelty shop.

y. Pawn shop.

z. Recreation center—Private.

aa. Research laboratories.

bb. Roller skating rink.

cc. Storage warehouse.

dd. Tavern.

ee. Travel trailer park and sales.

ff. Veterinarian clinic and/or hospital.

gg. Wholesale distributing center.

(3) Buildings, structures, and accessory uses customarily incidental to any of the above uses, provided that there shall be no manufacturing of products other than such as are customarily incidental to retail establishments.

(4) Any other store or shop for retail trade or for rendering personal, professional or business service which does not produce more noise, odor, dust, vibration or traffic than those above.

(5) Churches, provided they have major street frontage as shown on the major street plan, and meet the minimum lot area requirements as shown heretofore in subsection 62-200(d)(1)d.

(6) Mobile home courts—In compliance with the following requirements:

a. The applicant, upon making application for a zoning clearance permit, must submit a detailed site plan locating all mobile home stands, screening or fencing, and plans and specifications for the proposed park in a form suitable for making the determinations required herein.

b. The proposed site shall be a minimum of 2½ acres in size and shall contain no more than 15 mobile home stands per acre. The proposed site shall have a minimum frontage of 200 feet on a street designated as a major street or collector street in the major street plan. All access or egress by automobile will be on such streets. The proposed site shall be a minimum of 200 feet in depth.

c. It shall be the intention of the proposed plan for the mobile home park to accommodate primarily permanent occupants with no more than ten percent of the mobile home stands devoted to purely transient purposes. These purely transient stands are to be located in one area of the park so they will in no way interfere with the permanent residents.

d. The proposed site shall have a front yard of not less than 20 feet from the corner or line of any mobile home stand to the street boundary of the park. The site shall have side and rear yards of ten feet solid fencing, screen planting or wall of six feet in height.

e. The proposed site shall be screened or buffered on all sides with a solid wall fence six feet in height or a screen planting which will attain at least six feet in height.

f. The proposed site shall provide one off-street parking space for each mobile home stand, plus one additional off-street parking space for each two mobile home stands.

g. The proposed site shall provide a connection for each mobile home stand to all public utilities, i.e., sewer, water, and other facilities necessary for the health, safety, and general welfare of the public.

(c) *Uses permitted after review.* No current uses are listed as requiring review.

(d) *Area regulations.* The following requirement shall apply to all uses permitted. All lots shall comply with the specific lot definition and yard definition found in section 62-107.

(1) *Minimum lot area and use intensity.*

a. The minimum lot area for this district shall be no less than 10,000 square feet.

b. The minimum lot area for rezoning to a C-5 (highway commercial district) shall not be less than 50,000 square feet.

c. For churches and main and accessory buildings, other than dwellings and buildings accessory to dwell-

ings, the lot area shall be adequate to provide the yard area required in the R-1B district under churches and the off-street parking areas required in section 62-332.

(2) *Minimum lot frontage:* The following requirement applies: The minimum lot frontage for this district shall be no less than 100 feet.

(3) *Maximum percentage of coverage:* The following requirement applies: Main and accessory buildings shall not cover more than 70 percent of the lot area.

(4) *Maximum height:* There is no current maximum height requirement for this district.

(5) *Front yard setback:* The following requirement applies: All buildings shall set back from all property lines no less than 50 feet to provide front yard setback.

(6) *Side yard setback:* The following requirement applies: On a side of a lot adjoining a residential dwelling district, there shall be a side yard setback of no less than one foot per each foot of height.

(7) *Rear yard setback:* There shall be no rear yard setback requirements except in the following case: Where a commercial building is to be serviced from the rear, there shall be provided an unobstructed alleyway, service court, rear yard or combination thereof of no less than 20 feet.

(e) *Screening requirements.*

(1) In this district, a screening shall be required between any adjacent or adjoining residential district and any area of storage, parking, shipping or receiving of goods; or any other business activity other than pedestrian traffic, as long as said screening does not interfere with the sight triangle intersection clearance requirements.

(2) Where a service area for a building is adjacent to a street, screening shall be required between any area of storage, shipping or receiving of goods or refuse and the adjacent street.

(3) Screening shall consist of an opaque (solid) fence or wall no less than five feet high and no more than eight feet high. It shall be maintained in good condition along the lot line. The materials used in the construction of the screening shall be greatly compatible with the same materials used in the construction of the structure itself. Although the material is not required to be identical, the similarity should extend to color, proportion, style, texture, etc., sufficiently so as to be aesthetically compatible in nature.

(f) *Parking requirements.* Parking requirements shall follow those regulations set out in division 6 of this article.
(Ord. No. 1843, § 1(art. V, § 9), 2-14-89; Ord. No. 2530, § 1, 2-10-15)

Sec. 62-206. Planned unit development.

(a) Planned unit development shall be permitted when, in the opinion of the planning commission, the following objectives are achieved:

(1) To promote a flexible but unitary site development plan for residential development.

(2) To permit a clustering of dwelling units at appropriate gross densities for the preservation of existing landscape features and to promote the most efficient possible use of open space.

(3) To combine and coordinate building forms and building relationships within the planned unit developments.

(4) To encourage innovative development of smaller parcels of land that have been passed over.

(5) To ensure a quality of construction and public improvements commensurate with other quality development within the city.

(6) To provide a choice in the types of ownership, and community facilities available to existing and potential residents.

(7) To give the developer reasonable assurance of ultimate approval before investing in complete design development while pro-

viding the city with assurances that the project will retain the character envisioned at the time of approval.

(b) The minimum area required to qualify for a planned unit development shall be one contiguous acre of land.

(c) Planned unit development shall be subject to the following area regulations:

*Requirements**	*R-1B District*	*R-2 District*	*R-3 District*	*C-1 District*
Individual lot, square feet	3,250	3,250	1,500	1,500
Minimum area in PUD per individual platted lot, square feet	6,000	4,000	1,500	1,500
Lot width, minimum, feet	20	20	20	20
Yards, minimum	None	None	None	None
Floor area ratio, maximum				
PUD	0.30	0.30	0.40	0.80
Individual lot	0.40	0.50	0.60	1.20
Maximum coverage of individual lot, percent	40	40	50	50

*These requirements apply to interior yards of a planned unit development only. All perimeter yards (yards that abut property not included in the development plat) are subject to area regulations of the base zoning district.

(d) Before being placed on the planning commission agenda, the proposed planned unit development shall be reviewed by the planning department no less than 30 days prior to the date of the planning commission meeting. Such a review, or pre-application conference, shall be for the purpose of informing the city of the development concept and to familiarize the developer with the planned unit development process. At the conference, the developer shall submit a concept plan that clearly shows the following:

(1) The general outlines of the interior roadway system and all existing rights-of-way and easements.

(2) The general extent, size and composition in terms of the total number of dwelling units and the approximate percentage allocation by dwelling unit type.

(3) A calculation of the residential density in dwelling units per gross acre including interior roadways.

(4) The interior open space system.

(5) Proposed treatment of the perimeter of the PUD.

(e) The review by the planning department will include written comments to the applicant no later than two weeks after the pre-application conference. Planning department review will concern the following elements in the order that they are presented below:

(1) The design must first provide for certain external factors of community-wide concern. This includes adherence to the general plan in relationship to major streets, designated open spaces, parkways and major drainage channels.

(2) The proposal shall meet the objectives as expressed in subsection (a) of this section.

(3) The design must be properly related to proposed and existing land uses of adjacent properties.

(4) The design shall give proper attention to internal detailing, including layout of streets, lots, and blocks that, at a minimum, reflect urban design principles of the city subdivision regulations.

(f) The following materials shall be submitted with an application for a use permissible on review:

(1) *Site development plan and supporting maps:*

a. The existing site conditions including contours at two-foot intervals, floodplains, watercourse, and existing vegetation.

b. Proposed lot lines and building lines.

c. The location and maximum floor area size of all existing and proposed buildings, structures, and other improvements including maximum height, density and types of dwelling units.

d. Existing and proposed pedestrian circulation system, including its interrelationships with the vehicular circulation system.

e. A general landscape plan indicating the treatment of materials used for private and common open spaces.

f. Proposed treatment of the perimeter of the planned unit development, including materials and techniques used such as screens, fences and walls.

(2) *Written documents:*

a. A statement of specific planning objectives to be achieved by the planned unit development through the approach proposed by the applicant. Staff recommendations will, in part, reflect whether or not the proposed design effectively meets the stated planning objectives.

b. Quantitative data for the following: total number and type of dwelling units; parcel size; proposed lot coverage of buildings and structure; total amount of open space; and total amount of nonresidential construction.

(3) *Preliminary plat:* The preliminary plat shall, at a minimum, incorporate urban design principles, and shall be presented separate from the required site development plan and supporting maps.

(g) All plats and building plans submitted subsequent to the approval of a PUD shall be in substantial conformity to the approved site development plan. A plat or building plan shall be deemed in substantial compliance so long as the plat or plan does not involve a change of one or more of the following:

(1) Violate any provision of this article.

(2) Vary any lot area as indicated on the preliminary plat by more than ten percent.

(3) Increase the ground area covered by buildings on any lot as depicted by the site development plan by more than five percent.

(4) Realign any street, sidewalk, or bicycle path.

(5) Change the 10C?tion of any building or structure by more than ten feet in any direction.

(h) Preliminary plats and approved site development plans for planned unit development shall become null and void if no final plat has been submitted for approval within 12 months after the date of enactment by the city council of the request for the use permissible on review.

(i) If no development has occurred pursuant to the adopted final plat within 12 months after approval, the approved site development plan shall become null and void and approval of a new site development plan shall be required.

(Ord. No. 1843, § Hart. V, § 10), 2-14-89)

State law reference-Planned unit developments, 11 O.S. § 43-110 et seq.

Sec. **62-207.** 1-1 light **industrial district.**

(a) *General description.* The purpose of the 1-1 light industrial district is to provide a location for industries which do not by their nature create nuisances. The intent is to preserve this land for industry in a location beneficial to industries and to prohibit nonindustrial uses. Because of the traffic generated and other objectionable influences created in this district, it is necessary to provide a buffer or setback area between this district and any other zoning district except 1-2.

(b) *Uses permitted.*

(1) Bottling works.

(2) Building materials manufacturing, storage, distribution and pole yards.

(3) Commercial trade and television transmitting antenna towers and other electronic equipment requiring outdoor towers, including antenna towers for the dispatching of private messages.

(4) Compounding, processing and blending chemical products, but not including any materials which decompose by detonation.

(5) Dairy products, products and distribution.

(6) General and administrative offices incidental to permitted uses.

(7) Machine shops and metal products manufacture and tool and dye shops, provided they do not include any of the following equipment: automatic screw machines, drop forges or riveting machines.

(8) Mail order houses.

(9) Manufacturing and assembling (or any combination of such processes), products from wood, cork, glass, leather, fur, plastic, felt and other textiles, but not including, as a principal operation, the processing of any raw materials.

(10) Manufacturing and assembling electrical and electronic products and equipment.

(11) Manufacturing, fabricating, assembling, repairing, storing and cleaning, servicing or testing any of the following materials, goods or merchandise; apparel, clothing, jewelry, or optical goods:

(12) Printing and binding plants.

(13) Public utility distribution centers.

(14) Research laboratories.

(15) Warehouses and storage facilities.

(16) Water filtration plants, pumping stations, reservoirs, and lift stations.

(17) Any other manufacturing process or establishment which can operate in compliance with the aforementioned requirements.

(18) Accessory uses incidental to and on the same zoning lots as a principal use.

(c) *Required development standards.*

(1) No building shall be used for residential purposes except that a watchman may reside on the premises.

(2) No retail sales or services shall be permitted except as incidental to or accessory to or associated with a permitted use.

(3) No noise from any operation conducted on the premises, other than that emanating from vehicular traffic, either continuous or intermittent, shall be detectable at any boundary line of the I-I district.

(4) No toxic matter, noxious matter, smoke, gas, or odorous or particulate matter shall be emitted that is detectable beyond the lot lines of the zoning lot on which the use is located.

(5) No vibrations shall be detectable beyond the lot lines of the zoning lot on which the use is located.

(6) Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon property located in any residential district.

(7) The manufacture of flammable materials which produce explosive vapors or gases is prohibited.

(8) Any operation that produces intense glare or heat shall be performed within a completely enclosed building, and exposed sources of light shall be screened so as not to be detectable beyond the lot lines.

(9) No storage, manufacture or assembly of goods shall be conducted outside of a building unless the nearest point of said activity is more than 200 feet from the boundary of any nonindustrial use district, and unless such storage shall be so screened by ornamental fencing or evergreen planting so that it cannot be seen by a person standing on ground level in the adjacent district; provided, however, that screening shall not be required in excess of seven feet in height. All planting shall be kept neatly trimmed and maintained in good condition at all times.

(10) No activities involving storage, utilization, or manufacture of materials or products which decompose by detonation shall be permitted.

(d) *Uses permitted after review (UPAR).* The following use may be permitted after review by the city planning commission in accordance with the provisions contained in section 62-128:

(1) Child care centers (with stipulations): Any child care center authorized under the UP AR shall comply with the following provisions:

a. Child care centers are not to be located in single-family dwellings which are the permanent residence (domicile) of the operator.

b. The child care center shall provide a minimum indoor space available for child care of no less than 35 square feet per child, exclusive of hallways, bathrooms, kitchens and space occupied by furniture not intended for children's use.

c. The child care center shall provide a minimum outdoor space of 75 feet per child which shall be enclosed by an opaque ornamental fence not less than 42 inches in height, or the fencing shall be in accordance with the appropriate screening requirements of the particular zoning district. This area must be hazard-free and keep children away from traffic, water and other dangers.

d. The child care center shall meet city-county-state health requirements as to safety, design, facilities, equipment and licensing of the features. All child care centers shall be inspected by the state department of human services, city fire marshal, building inspectors, and the city planner, or their designees, prior to licensing, and other inspections may occur during the licensing period. The interior and exterior of all buildings

shall comply with the city building codes.

e. The child care center shall be operated in a manner that will not adversely affect property and other uses in the area. Parking for the leaving and picking up of children shall be required, so as not to interfere with the normal flow of traffic. Off-street hard-surface parking areas shall be required.

f. A license shall be obtained from the state department of human services and all requirements relative to their standards must be adhered to.

(e) *Area regulations.* All buildings and uses hereafter established or enlarged shall comply with the following requirements:

(1) Minimum lot area and use intensity: There are no current minimum lot area requirements.

(2) Minimum lot frontage: There are no current minimum frontage requirements.

(3) *Maximum percentage of coverage:* Main and accessory buildings shall not cover more than 60 percent of the lot area.

(4) *Maximum height:* There are no current maximum height requirements.

(5) Front yard setback: All buildings shall set back from all property lines no less than 35 feet.

(6) Side yard setback:

a. When abutting another industrial district zoned lot, the side yard setback shall be no less than 25 feet.

b. On a side of a lot adjoining a residential dwelling district, there shall be a side yard setback of no less than one foot per each foot of height.

(7) Rear yard setback: There are no current rear yard setback requirements.

(fJ *Parking requirements.* Wholesale, manufacturing and industrial plants, including warehouses and storage buildings and yards; public utility buildings; contractor's equipment and lumber yards; research laboratories; business service establishments, such as blueprinting and printing and engraving; binding, publishing and issuing newspapers or other reading matter; soft drink bottling establishments; laundry and dry cleaning plants; fabricating plants; and all other structures devoted to similar mercantile or industrial pursuits and not otherwise specifically classified shall be provided with two parking spaces for each three employees or one space for each 500 square feet of floor space, whichever requires the greater number of spaces.

(Ord. No. 1843, § 1(art. V, § 11),2-14-89; Ord. No. 1876, § 1, 2-25-92)

Sec. 62-208. 1-2 heavy industrial district.

(a) *General description.* The purpose of the 1-2 heavy industrial district is to provide a location for industries, which, by their nature, may create nuisances. The intent is to preserve this land especially for industry, in locations with access to major streets as designated on the major street plan, as well as locations generally accessible to railroad transportation. Because of the nuisances or other objectionable influences that may be created in this district, it is necessary to provide a buffer or setback strip between this district and other zoning districts, except I-I.

(b) *Uses permitted.* All buildings or uses hereafter established or enlarged shall comply with the following conditions or restrictions:

(1) Any use permitted in the 1-1 light industrial district, including:

a. Automobile wrecking and junkyards, provided they are enclosed throughout the entire perimeter by a solid fence not less than eight feet in height.

b. Blacksmiths, tinsmiths and sheet metal shops.

c. Bulk fuel sales and storage.

d. Canning or preserving factories.

e. Coal storage plants.

f. Heavy machinery rental, sales and service.

g. Machine/welding shops.

(2) Manufacturing, fabricating, assembling, repairing, storing, cleaning, servicing or testing any of the following materials, goods or merchandise:

a. Beverages (nonalcoholic), processmg and bottling.

b. Building materials specialties.
c. Compounding or processing, blending, packaging or storing of chemical products, but not including any products which decompose by detonation.
d. Cosmetics and toiletries.
e. Drugs and pharmaceutical products.
f. Electrical and acoustic products and components.
g. Food products (except fish, sauerkraut, vinegar and yeast).
h. Furniture.
1. Glass products.
j. Ice, dry and natural.
k. Medical laboratory supplies, equipment and specialties.
1. Metal products and utensils.
m. M1.lsical instruments.
n. Paper products, including boxes and containers.
o. Radio, phonograph recorder and television sets and parts.
p. Textiles.
q. Toys and children's vehicles.
r. Trailers and carts.
s. Wood products, including boxes and containers.

(3) Monument stone cutting.

(4) Motor freight terminals.

(5) Pattern shops.

(6) Printing plants.

(7) Processing of meat and vegetable products, including animal slaughter.

(8) Soldering and welding shops.

(9) Sign painting.

(10) Spray painting and mixing.

(11) Railroad yards and switching areas, including loading and sleeping facilities for transient railroad labor.

(12) Any other industrial use provided it meets the standards in subsection (c) of this section.

(c) *Required development standards.* Any use constructed, established, altered, or enlarged in the 1-2 heavy industrial district after February 14, 1989, shall be so operated as to comply with the following standards. No use already established on February 14, 1989 shall be so altered or modified as to conflict with, or further conflict with, the applicable standards established hereinafter for the 1-2 heavy industrial district.

(1) No building shall be used for residential purposes, except that a watchman may reside on the premises.

(2) No storage, manufacture, or assembly of goods shall be conducted outside of a building unless the nearest point of said activity is more than 200 feet from the boundary of any nonindustrial use district, and unless such storage shall be so scr8ened by ornamental fencing or evergreen planting that it cannot be seen by a person standing on ground level in the adjacent district, provided, however, that screening shall not be required in excess of seven feet in height. All planting shall be kept neatly trimmed and maintained in good condition at all times.

(3) Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon property located in any residential district.

(4) All manufacturing, fabricating, assembly, disassembly, repairing, storing, cleaning, servicing, and testing of goods, water, and merchandise, shall be carried on in such a manner as not to be injurious or offensive by reason of the emission or creation of noise, vibration, smoke, dust or other particulate matter, toxic or noxious matter, odorous, glare, heat, fire or explosive hazards.

(5) No activities involving storage, utilization, or manufacture of materials or products which decompose by detonation shall be permitted.

(d) *Uses permitted after review.* No current uses are listed as requiring review.

(e) *Area regulations.* All buildings and uses hereafter established or enlarged shall comply with the following requirements:

(1) Minimum lot area and use intensity: There are no current lot area minimum requirements.

(2) Minimum lot frontage: There are no current minimum frontage requirements.

(3) Maximum percentage of coverage: Main and accessory buildings shall not cover more than 60 percent of the lot area.

(4) Maximum height: There is no current maximum height requirement.

(5) Front yard setback: All buildings shall set back from all property lines no less than 35 feet to provide front yard setback.

(6) Side yard setback:

a. When abutting another industrial district zoned lot, the side yard setback shall be no less than 25 feet.
b. On a side of a lot adjoining a residential dwelling district, there shall be a side yard setback of no less than one foot per each foot of height.

(7) Rear yard setback: There are no current rear yard setback requirements.

(D *Parking requirements.* Wholesale, manufacturing and industrial plants, including warehouses and storage buildings and yards; public utility buildings; contractor's equipment and lumber yards; research laboratories; business service establishments, such as blueprinting and printing and engraving; binding, publishing and issuing newspapers or other reading matter; soft drink bottling establishments; laundry and dry cleaning plants; fabricating plants; and all other structures devoted to similar mercantile or industrial pursuits and not otherwise specifically classified shall be provided with two parking spaces for each 500 square feet of floor space, whichever requires the greater number of spaces.
(Ord. No. 1843, § Hart. V, § 12), 2-14-89)

Sec. 62-209. H.l health facilities district.

(a) *General description.* The purpose of the H-l health facilities district shall be to provide a separate location exclusively for medical and health facilities and related uses thereof.

(b) *Uses permitted.* Property and buildings located in an H-1 health facilities district shall be used only for the following purposes:

(1) Dependent life care facilities (convalescent; nursing; rest homes).
(2) Hospital.
(3) Public health center.
(4) Sanatorium.
(5) Accessory buildings and uses customarily incidental to the above uses.

(c) *Uses permitted after review.* Supporting facilities, necessary in conjunction with the existing health facility, may be permitted only after review by the city planning commission, as follows:

(1) Ambulance service.
(2) Artificial limbs and braces; sales and service.
(3) Barbershop and beauty shop.
(4) Dental laboratory or supply house.
(5) Drugstores.
(6) Hotel and motel.
(7) Medical clinic or dental clinic.
(8) Orthopedic appliance sales.
(9) Pharmacy.
(10) Restaurant.
(11) Nameplate or sign relating only to the use of the store and premises, or to products sold on the premises.
(12) Accessory buildings and uses customarily incidental to the above uses.

Any building used primarily for the above enu. merated uses shall not have more than 40 percent of the floor area devoted to purposes incidental to the primary use. Stores, shops and businesses permitted under this section shall be retail establish. ments exclusively and shall be conducted entirely within an enclosed building.

(d) *Area regulations.* All buildings and uses hereafter established or enlarged shall comply with the following requirements:

(1) Minimum lot area and use intensity: Min. imum lot area for an H-l health facilities district shall not be less than 50,000 square feet.

(2) Minimum lot frontage: There are no current requirements for minimum lot frontage.

(3) Maximum percentage coverage:

a. No more than 40 percent of floor space may be devoted to incidental uses.
b. There are no current other maximum coverage percentage requirements.

(4) Maximum height: There shall be no limit, except as heretofore provided in section 62-163 and section 62-165; and with the exception of one foot of setback per each two feet of height above 25 feet for the front, side and rear yards.

(5) Front yard setback: All buildings shall set back from all street right-of-way lines no less than 25 feet to provide front yard setback.

(6) Side yard setback:

a. When abutting another health facilities district zoned lot, the side yard setback shall be no less than one foot setback for each one foot in height.
b. On a side of a lot adjoining a residential dwelling district, there shall be a side yard setback of no less than one foot per each foot of height.

(7) Rear yard setback: There are no current rear yard setback requirements except as follows: Where a health facility building is to be serviced from the rear, there shall be provided an unobstructed alleyway, service court, rear yard or combination thereof, of not less than 20 feet.

(e) *Parking requirements.*

(1) Hospitals shall be provided with one parking space for each three patient beds, exclusive of bassinets, plus one space for each professional staff member, plus one space for each two employees (including nurses), plus adequate off-street space for loading and unloading emergency vehicles.

(2) Convalescent or nursing homes, sanitariums, asylums, orphanages and all other similar institutions shall be provided with one parking space for each six patient beds, plus one space for each staff or visiting doctor, plus one space for each two em. ployees, including nurses, plus adequate off-street space for loading and unloading emergency vehicles.

(Ord. No. 1843, § Hart. V, § 13), 2-14-89)

Sec. 62-210. A-I agricultural district.

(a) *General description.* The Al agricultur'll district shall be established for several purposes: to provide for the continued use of land for predominantly agricultural purposes; to preserve undeveloped areas until they can feasibly be developed at urban standards but with adequate public safeguards of health, safety, etc.

(b) *Uses permitted.* No buildings or uses here. after shall be established or enlarged within the A-I agricultural district, except as a building or use devoted to one of the following purposes:

(1) Agriculture, as defined in this article.

(2) Single-family dwellings.

(3) Churches and temples.

(4) Elementary schools and high schools.

(5) Golf courses, but not including golf driving ranges, pitch and putt courses or miniature golf courses.

(6) Parks and forest preserves, operated not. for-profit.

(7) Temporary buildings and uses for construction purposes only, and not for dwelling purposes nor for a period that exceeds the completion of the construction.

(8) Accessory buildings or uses incidental to the foregoing principal uses.

(9) Municipal or community recreation centers.

(10) Police or fire stations.

(11) Public buildings or buildings operated in the public interest by a not-for-profit corporation, including art galleries, post offices, libraries or museums.

(12) Public or not-for-profit auditoriums, stadiums, arenas, armories or sanitoriums.

(13) Public or private schools or colleges.

(14) Public utility and service uses, including electric substations, gas regulator stations, electric, gas, telegraph, telephone and water transmission metering and distribution equipment and structures, microwave relay towers, water reservoirs or pumping stations, and other similar facilities, subject to screening provisions in section 62-290.

(c) *Uses permitted after review.* No current uses are listed as requiring review.

(d) *Area regulations.* The following requirement shall apply to all uses permitted. All lots shall comply with the specific lot definition and yard definition found in section 62-107.

(1) *Minimum lot area and use intensity:*

a. The minimum lot area for this district shall be no less than two acres.

b. For churches and main and accessory buildings, other than dwellings and buildings accessory to dwellings, the lot areas shall be adequate to provide the yard area required in the R-1B district under churches, and the off-street parking areas required in section 62-332.

(2) Minimum lot frontage: The minimum lot frontage for this district shall be no less than 100 feet.

(3) Maximum percentage of coverage: Main and accessory buildings shall not cover more than 30 percent of the lot area.

(4) Maximum height: No buildings shall exceed 21/2 stories or 35 feet in height, except as provided in sections 62-163 and 62-165.

(5) Front yard setback: All buildings shall set back from all property lines no less than 60 feet to provide front yard setback.

(6) Side yard setback:

a. *Corner:* For dwellings and accessory buildings located on corner lots, there shall be a side yard setback from the intersecting street of not less than 30 feet in case such lot fronts the same as its adjacent lot.

b. *Interior:* The interior side yard setback shall be no less than 20 feet.

c. *Other:* The side yard setback shall be no less than 60 feet in every other case.

(7) Rear yard setback:

a. For main buildings, other than garage apartments, there shall be a rear yard of no less than 20 feet or 20 percent of the depth ofthe lot, whichever is smaller.

b. Garage apartments may be located in the rear yard of a single-family dwelling, but shall not be located closer than ten feet to the rear lot line.

c. Unattached buildings of accessory use may be located in the rear yard.

(Ord. No. 1843, § Hart. V, § 14),2-14-89)

Sec. 62-211. Specific district regulations.

(a) *General provisions.* This section establishes specific regulations which have limited application within the city in order to assure additional considerations for areas of special interest, development sensitivity or particular value.

(b) *Intent and purpose.* The purposes of this section are to:

(1) Provide a framework for the creation of special regulations.

(2) Provide categorization of all special regulations which may be adopted as a result of the enabling legislation provided herein.

(3) Provide guidelines for the application of all special regulations created to assure conformity with the objectives of good planning and zoning practices.

(c) *Application.* Special regulations may be adopted within this article and applied to designated areas within the city when the planning commission and city council find conditions or purposes within such areas merit special consideration in order to protect the health, safety and general welfare.

(d) *Special area regulations.* Modification or changes to the regulations specified within the special regulations shall be subject to the provisions of the amendment procedure for the city zoning ordinance contained in section 62-128.
(Ord. No. 2026, § 1, 10-25-94)

Sec. 62-212. Wyandotte Avenue Corridor development.

(a) *Creation.* There is hereby created the Wyandotte Avenue Corridor development ("WA").

(b) *Purpose.* The planning commission and city council find conditions and purposes within the Wyandotte Avenue Corridor that merit special consideration in order to protect the health, safety, and general welfare of the city. It shall be the purpose of these regulations to provide guidelines for the application of special regulations created to assure conformity with the objectives of good planning and zoning practices.

Further, by adoption of these regulations the city council makes specific findings that special regulations are necessary to secure safety from fire, panic, traffic and other dangers, and for the protection ofthe public from overcrowding ofland, to avoid undue concentration of population, to promote a more homogeneous relationship and transition between land uses, to protect property values and to regulate the use of land in accordance with the comprehensive plan.

The provisions of the Wyandotte Avenue Corridor Development District are further intended to protect and stabilize adjacent areas, provide safe and efficient traffic flows, and promote the efficient use of urban land and previous public investments.

(c) *General provisions and description.* The WA district and its regulations may be applied to property located within one and one-half blocks either side of Wyandotte Avenue (north and south) between Sixth Street and Strong Boulevard. More particularly, this area as described in the following platted blocks of the original plat of the city:

Lots south of the EastJWest alley in blocks 399, 400, 401, 402 and 403.

All of blocks 420, 421, 422, 423, 424, 449, 450, 451, 452, 453.

The north half of blocks 470, 471, 472, 473 and 474.

The WA district and its regulations may be applied to the described properties even though, and at the same time, the property is under the regulations of the R-1B, single-family residential district, and C-3, general commercial district.

The WA district is intended to be an overlay zoning district and the regulations imposed by such district shall be in addition to the regulations of the underlying zoning district applicable to the subject property(ies) when developed in the underlying property zoning classifications.

(d) *Zoning districts allowed.* The following zoning district developments may be constructed without review:

R-1B and R-2 zoning districts

Zoning districts allowed on portions of the WA district having frontage on Wyandotte Avenue:

R-1B, R-2, C-1, C-2, C-3, and C-4

The authorization of the underlying zoning districts shall be upon approval by the planning commission and the city council in accordance with the procedures for authorizing uses permitted after review in section 62-128. The provisions of the underlying R-1B, R-2, C-1, C-2, C-3 and C-4 zoning districts may be modified by the further stipulations of the WA development district.

(e) *Access allowance.*

(1) Land not having frontage on Wyandotte Avenue. The residentially zoned lots and land not having frontage on Wyandotte Avenue shall have individual access to the public streets and alleys upon which they border as elsewhere provided in the zoning ordinance and any other applicable regulations of the city.

(2) *Land having frontage on Wyandotte Avenue.* In accordance with the purpose of the WA district, provisions are made for access to lots and land having frontage onto Wyandotte Avenue, as follows: All lots developed as C-1, C-2, C-3 or C-4 shall have access designed to eliminate cross lane movement in either direction.

(f) *Request for closure of streets.* The closure of north/south streets may contribute to order in the traffic movements on Wyandotte Avenue through the lessening of the number of points of turning movements. To accomplish these purposes of the WA district either the city may close north/south streets in the WA district either permanently or temporarily. Such street closings may be accomplished at the request of private parties, or the planning commission after they have made a study of the traffic land use and other merits. In any closing of such streets, which shall involve a vacation of right-of-way the city may reserve an easement for various public purposes.

(g) *Landscaping requirements.* The landscaping requirements as outlined in this land development code are intended to be a part of the development plan for any commercial district proposed and shall be a part of the site plan as submitted for uses permitted after review.
(Ord. No. 2026, § 1, 10-25-94)

Sec. 62-213. Wade Watts Corridor Development.

(a) *Creation.* There is hereby created the Wade Watts Avenue Corridor Development district ("WW district").

(b) *Purpose.* The planning commission and city council find conditions and purposes within the Wade Watts Avenue corridor that merit special consideration in order to protect the health, safety, and general welfare of the city. It shall be the purpose of these regulations to provide guidelines for the application of a special regulation created to assure conformity with objectives of good planning and zoning practices.

Further, by adoption of these regulations the city council makes specific findings that special regulations are necessary to secure safety from fire, panic, traffic and other dangers and for the protection of the public from overcrowding of land, to avoid undue concentration of population, to promote a more homogeneous relationship and transition between land uses, to protect property values and to regulate the use of land in accordance with the comprehensive plan.

The provisions of the Wade Watts Avenue Corridor Development district are further intended to protect and stabilize adjacent areas, provide safe and efficient traffic flows, and promote the efficient use of urban land and previous public investments.

(c) *General provisions and descriptions.* The WW district and its regulations may be applied to property located within one block north of Wade Watts Avenue and one block south of Wade Watts Avenue between Strong Boulevard and George Nigh Expressway (Highway 69). More particularly, this area as described in the following platted blocks of the original plat of the city:

- All of Blocks 412, 413, 414, 415, 416, 417, 418, 419, 457, 458, 459, 460 and 461.

The WW district and its regulations may be applied to the described properties even though, and at the same time, the property is under the regulations of the R-1B (Single-Family Residential) district, and C-2 (Neighborhood Convenience Commercial) district.

(d) *Uses permitted.*

(1) R-1B Single-Family Residential;

(2) C-2 Neighborhood Convenience Commercial.

(e) *Uses permitted after review.*

(1) a. Barber and/or beauty shop;

b. Medical and/or dental clinics;

c. Pharmacy;

d. Professional offices;

e. Public uses;

f. Financial institute [institution];

g. Florist/gift shops;

h. Grocery store;

i. Motor fuel sales only (no service station);

j. Variety store;

k. Pet shop (not including veterinarian clinics);

l. Restaurant;

m. Self-service and/or full-service laundry;

n. Car wash;

o. Funeral facilities.

(2) Accessory buildings or uses customarily incidental to the allowed uses.

(3) Any public building or use.

(4) Churches, provided they have major street frontage as shown on the major street plan and meets requirement for off-street parking.

(f) *Area regulations.* The following requirements shall apply to all uses permitted. All lots shall comply with specific lot definition and definition found in section 62-107.

(1) *Minimum lot area and use intensity.* The minimum lot area for this district shall not be less than 12,000 square feet. (The 50,000 square-foot requirement does not apply to this WW district.)

(2) *Minimum lot frontage.* Not less than 75 feet.

(3) *Maximum percentage coverage.* Main and accessory building shall not cover more than 75 percent of lot.

(4) *Maximum height.* Two and one-half stories.

(5) *Front yard setback.*

a. All buildings shall set back from the street right-of-way lines not less than 25 feet.

b. When motor fuel is sold in this district, fuel pumps shall be no closer than 11 feet to any property line, nor closer than 15 feet to any building.

(6) *Side yard.*

a. On any side, the lot adjoining a residential district, the side yard shall be a minimum of ten feet.

b. On any side that is adjoining this district or another commercial district there shall be no side yard setback required.

(7) *Rear yard.* When building will be serviced from the rear, a minimum of 20-foot setback shall be provided. Where no rear service, there will be no rear setback required.

(g) *Exterior standards/visual appeal.* This development area has as its goal to permute [promote] a visual appealing environment. To accomplish this goal the following objectives are established and shall apply to all structures:

(1) To implement quality building design and construction throughout this district, various exterior wall finishes will be considered by the planning commission and city council. Brick, vinyl, stucco, stone, wood and cosmetically equivalent exterior siding, etc., except no metal exterior walls may be visible from any street.

(2) To correct deteriorating areas and structures through their revitalization, redevelopment and/or screening.

(3) To develop signage that compliments to visual appeal of this district.

(h) *Access allowance.*

(1) *Land not having frontage on Wade Watts Avenue.* The residentially zoned lots and land not having frontage on Wade Watts Avenue shall have individual access to the public streets and alleys upon which they border as elsewhere provided in the zoning ordinance and any other applicable regulations of the city.

(2) *Land having frontage on Wade Watts Avenue.* In accordance with the purpose of the Wade Watts Avenue district, provisions are made for access to lots and land having frontage onto Wade Watts Avenue,

as follows: The entrance and exit shall be so designed to discourage cross traffic on Wade Watts Avenue.

(i) *Landscaping and screening.*

(1) *Purpose.* To provide a visually appealing and ecologically sound district and assure the purpose of the "WW" corridor is accomplished.

(2) *[Plan.]* A landscape plan shall accompany any application within this district. The plan shall show the location, size, spacing and quality of all existing and proposed materials.

(3) *[Buffer.]* A landscape buffer will be provided between Wade Watts Avenue and all parking. The buffer shall be a minimum of four feet wide with grass and/or shrubs. All corner lots will maintain a 30-foot site triangle with no plant over two feet in height.

(4) *[Screening.]* Screening shall be required between any development that abuts any existing residential structure. The screen shall be constructed in such a way to be compatible with the proposed development and the abutting residential. Screening shall also be required to screen dumpsters and other trash receptacles from public streets and adjoining residential properties.

(Ord. No. 2195, § 1, 6-28-05; Ord. No. 2218, § 1, 12-13-05; Ord. No. 2350, § 1, 3-9-10)

Sec. 62-214. Downtown and old town loft apartment overlay district.

(a) *Creation.* There is hereby created the "downtown and old town loft apartment overlay district" ("loft district").

(b) *Purpose.*

(1) The planning commission and city council find conditions and purposes within the downtown and old town loft apartment overlay district that merit special consideration in order to protect the health, safety and general welfare of the city. It shall be the purpose of these regulations to provide guidelines for the application of a special regulation created to assure conformity with objectives of good planning and zoning practices.

(2) Further, by adoption of these regulations the city council makes specific findings pursuant to chapter 34, Existing Structures of the 2009 International Building Code; and chapter 62, the Land Development Code of the McAlester City Code of Ordinances, that special regulations are necessary to secure safety from fire, panic, traffic and other dangers; and for the protection of the public from overcrowding of land to avoid undue concentration of population; to promote a more homogeneous relationship and transition between land uses; to protect property values; and to regulate the use of land in accordance with the comprehensive plan.

(3) The provisions of the downtown and old town loft apartment overlay district are further intended to protect and stabilize adjacent areas, provide safe and efficient traffic flows, and promote the efficient use of urban land and previous public investments.

(c) *General provisions and descriptions.*

(1) The loft district and its regulations may be applied to property located within the general boundaries of the district as described below:

a. The downtown loft district area includes the area defined by: West side of Main Street from Chickasaw to Carl Albert, north side of Carl Albert from Main St to 5th St., east side of 5th St. to Choctaw, south side of Choctaw from 5th St. to 3rd St., east side of 3rd St. from Choctaw to Chickasaw, south side of Chickasaw from 3rd St. to West side of Main Street.

b. Old town loft district area includes the area defined by: East and west side of Main Street from 2600 North Main to the south side of East Smith Avenue.

(2) More particularly, this area as described:

a. The downtown loft district area includes the following platted lots and blocks of the original plat of the city:

1. Lots south of the east/west alley in Blocks 318, 319, 321 and lots 5, 6 and 7 in Block 320.

2. Lots 4 and 5 in Block 344; lots 1 through 7 in Block 345; lots 7 through 11 in Block 346; and all of Blocks 347, 348, 349, 350, 359, 360, 361, 362 and 363.

3. All of Blocks 378, 379 and 380, lots 1, 2 and 3 in Block 393; lots 1, 2, S1, S2, S3, S4, B1, B2, B3 and B4 in Block 394; and lots 1, 2, 3 and 4 in Block 395.

b. The old town loft district area includes the following platted lots and blocks in North McAlester:

1. Lots 9, 10, 11, 12 and 13 in Block 101; lots 7, 8, 9, 10 and 11 in Block 85A; and lots 13, 14, 15, 16, 17, 18, 19, 20 and 21 in Block 118A; and lots 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 in Block 119.

(3) The loft district regulations and permitted uses may be applied to the above-described properties even though, and at the same time, the property is under the regulations of the C-3, general commercial district (R-3, multiple-family dwelling district for lots 4 and 5 in Block 348).

(4) The loft district is intended to be an overlay zoning district and the regulations imposed by such district shall be in addition to the regulations and permitted uses of the underlying zoning district applicable to the subject property(s) when developed in the underlying property zoning classifications.

(d) *Uses permitted.*

(1) C-3, general commercial district;

(2) R-3, multiple-family dwelling district for lots 4 and 5 in Block 348 only; and

(3) Single, two-family and multifamily residential dwellings on the upper stories of existing buildings.

(e) *Uses permitted after review.* Single-, two-family and multifamily residential dwellings on the ground floor or basement of existing buildings are allowed as a use permitted after review. The procedure for authorizing the uses permitted after review are set forth in section 62-128. (Ord. No. 2529, § 1, 2-10-15)

Secs. 62-215—62-220. Reserved.

DIVISION 4. FLOOD HAZARD OVERLAY DISTRICT AND FLOOD DAMAGE PREVENTION

Subdivision I. General Provisions

Sec. 62-221. Definitions.

Unless specifically defined below, words or phrases used in this division shall be interpreted to give them the meaning they have in common usage and to give this division its most reasonable application.

Accessory structure means a structure which is on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Examples of accessory structures include, but are not limited to, garages and storage sheds.

Area of special flood hazard is the land in the floodplain within the city subject to a one-percent or greater chance of flooding in any given year.

Base flood means the flood having a one-percent chance of being equaled or exceeded in any given year.

Base flood elevation means the elevation in feet above mean sea level of the base flood or one-percent chance flood.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

BFE means base flood elevation.

CFR means Code of Federal Regulations.

Critical feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Development means any manmade change in improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Development permit means a permit issued by the city floodplain administrator which authorizes development in a special flood hazard area in accordance with this division.

Elevated building means a nonbasement building built, in the case of a building in zones AE, A, and X, to have the top of the elevated floor adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In the case of zones AE, A, and X, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.

Existing construction means, for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before August 4, 1972.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA means the Federal Emergency Management Agency.

FIRM means flood insurance rate map.

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters, or

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood insurance rate map means an official map of the city on which FEMA has delineated both the areas of special flood hazards and the risk premium zones applicable to the city.

Flood insurance study is the official report provided by FEMA for the city which contains flood profiles, water surface elevation of the base flood, as well as the floodway width, section area and mean velocity.

Flood protection system means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within city subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Floodplain administrator means a person accredited by the OWRB and designated by the City Council of the City of McAlester to administer and implement laws, ordinances and regulations relating to the management of floodplains.

Floodplain or *flood-prone area* means any land area susceptible to being inundated by water from any source (see definition of flood).

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including,

but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations means zoning codes and ordinances, subdivision regulations, building codes, health regulations, special purpose regulations and ordinances (such as floodplain, grading and erosion control regulations and ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. A floodway is located within areas of special flood hazard established in article III, section B. A floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles.

Functionally dependent use means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water.

The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include longterm storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

a. By an approved state program as determined by the Secretary of the Interior, or

b. Directly by the Secretary of the Interior in states without approved programs.

Levee means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee or levees and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirement of section 60.3 of title 44 CFR.

Manufactured home means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on the city's flood insurance rate map are referenced.

New construction means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the City of McAlester City Council and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are

to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the city floodplain board.

OWRB means the Oklahoma Water Resources Board.

Recreational vehicle means a vehicle which is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projections;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Public Law 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures that have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions, or

(2) Any alteration of a "historic structure" provided that the alteration would not preclude the structure's continued designation as a "historic structure."

Variance is a grant of relief by the City of McAlester City Council to a person from the terms of this division when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this division. (For full requirements see section 60.6 of title 44 CFR.)

Violation means the failure of a structure or other development to be fully compliant with this city flood damage prevention ordinance.

Water surface elevation means the height, in relation to the North American Vertical Datum

(NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
(Ord. No. 1843, § 1(art. VIII, div. 2, § 1), 2-14-89; Ord. No. 2177, § 1, 8-10-04; Ord. No. 2355, § 1, 5-11-10)

Cross reference—Definitions generally, § 1-2.

Sec. 62-222. Statutory authorization.

The Legislature of the State of Oklahoma has in 11 O.S. §§ 41—47, as amended, delegated the responsibility to local governmental units to adopt ordinances designed to minimize flood losses. Therefore, the City of McAlester, Oklahoma, ordains the following, to be effective on and after July 22, 2010:
(Ord. No. 1843, § 1(art. VIII, div. 1, § 1), 2-14-89; Ord. No. 2355, § 2, 5-11-10)

Sec. 62-223. Enforcement; violations, penalties.

Although recognized that the flood damage prevention ordinance is a legally enforceable document, specific enforcement measures and related penalties to be imposed for failure to comply with the provisions of this division are hereby included, as minimum requirements for participation in the National Flood Insurance Program. Any person who shall violate a provision of this division or fail to comply therewith any of the requirements thereof, or who shall erect, construct, alter, repair or move, or causes construction, erection, alteration, repair or fill in violation thereof, shall be guilty of a misdemeanor, and upon conviction, shall be fined as prescribed by section 1-8 of this Code. Each day upon which an offense continues shall be deemed a separate offense.
(Ord. No. 1843, § 1(art. VIII, div. 5, § 6), 2-14-89)

Sec. 62-224. Findings of fact.

(a) The flood hazard areas of the state are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.
(Ord. No. 1843, § 1(art. VIII, div. 1, § 2), 2-14-89)

Sec. 62-225. Statement of purpose.

It is the purpose of this division to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas, by provisions designed to:

(1) Protect human life and health.

(2) Minimize expenditure of public money for costly flood control projects.

(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

(4) Minimize prolonged business interruptions.

(5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains.

(6) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas.

(7) Ensure that potential buyers are notified that property is in a flood area.

(8) Ensure that all other specific district regulations of the zoning ordinance continue to apply to all sites and construction allowed within a special flood hazard district.

(Ord. No. 1843, § 1(art. VIII, div. 1, § 4), 2-14-89)

Sec. 62-226. Methods of reducing flood losses.

In order to accomplish its purposes, this division uses the following methods:

(1) Restricts or prohibits uses that are dangerous to health, safety or property in times of flood, or that cause excessive increases in flood heights or velocities.

(2) Requires that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

(3) Controls the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters.

(4) Controls filling, grading, dredging and other development which may increase flood damage.

(5) Prevents or regulates the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Ord. No. 1843, § 1(art. VIII, div. 1, § 5), 2-14-89)

Sec. 62-227. Interpretation.

In the interpretation and application of this division, all provisions shall be: considered as minimum requirements; liberally construed in favor of the governing body; and deemed neither to limit or repeal any other powers granted under state statutes.

(Ord. No. 1843, § 1(art. VIII, div. 3, § 6), 2-14-89)

Sec. 62-228. Abrogation and greater restrictions.

This division is not intended to repeal, abrogate or impair any existing easement, covenant or deed restriction. However, where this division and another provision conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. No. 1843, § 1(art. VIII, div. 3, § 7), 2-14-89)

Sec. 62-229. Warning and disclaimer of liability.

The degree of flood protection required by this division is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by manmade or natural causes. This division does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This division shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this division or any administrative decision lawfully made thereunder.

(Ord. No. 1843, § 1(art. VIII, div. 1, § 3), 2-14-89)

Sec. 62-230. Lands to which this division applies.

This flood damage prevention ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of McAlester, Oklahoma.

(a) *Basis for establishing the areas of special flood hazard.* The areas of special flood hazard identified by FEMA in a scientific and engineering report titled "The Flood Insurance Study for Pittsburg County, Oklahoma, and Incorporated Areas" dated July 22, 2010, with the accompanying flood insurance rate map (FIRM) are hereby adopted by reference and declared to be a part of this division. This division shall go into effect immediately per the emergency clause; however, this division shall continue to administer and enforce said regulations based on the current city flood insurance rate map. Then on July 22, 2010, this division shall be administered and enforced based on the July 22, 2010, Pittsburg County Flood Insurance Study and FIRM as indicated above.

(b) *Establishment of development permit.* A development permit shall be required to ensure conformance with the provisions of this floodplain management division.

(Ord. No. 1843, § 1(art. VIII, div. 3, § 1), 2-14-89; Ord. No. 2197, § 1, 7-26-05; Ord. No. 2355, § 3, 5-11-10)

Sec. 62-231. Compliance.

No structure or land shall hereafter be located, altered or have its use changed without full compliance with the terms of this division and other applicable regulations.
(Ord. No. 1843, § 1(art. VIII, div. 3, § 6), 2-14-89)

Sec. 62-232. General description of flood hazard district.

The flood hazard district is intended to comprise those areas which are subject to periodic or occasional flooding during the base flood (having a one percent or greater chance of flooding in any given year), which results in special hazards to life and property, in the disruption of commerce and governmental services and poses a direct threat to the public health, safety and general welfare. These regulations are designed to regulate and control uses within the flood hazard district to protect human life and health, to minimize damage to public and private property, to minimize surface water and groundwater pollution, to prevent the encroachment of buildings and improvements in floodway areas which will impede runoff and contribute to flooding in other areas, and to protect natural scenic areas and provide for the conservation of natural resources.
(Ord. No. 1843, § 1(art. VIII, div. 3, § 2), 2-14-89)

Sec. 62-233. Application as combining (overlay) regulations.

The boundaries of the flood hazard district, which is identified by the Federal Emergency Management Administration on its flood hazard boundary map, may cut across and overlay the boundaries of other zoning districts. The regulations applicable to the flood hazard district shall be interpreted as being in addition to the requirements of other district regulations, and wherever a conflict in requirement results, the regulations of the flood hazard district shall supersede all other regulations.
(Ord. No. 1843, § 1(art. VIII, div. 3, § 3), 2-14-89)

Sec. 62-234. Uses permitted.

The following uses are permitted in the flood hazard district:

(1) Agricultural uses including the growing of crops and the use of land for pasture and grazing where farm animals are otherwise permitted by the district provisions of this article.

(2) Private and public recreational uses not otherwise prohibited, such as natural scenic areas, golf courses, swimming and picnic areas, game farms, hiking and horseback riding trails and similar uses.

(3) Lawns, gardens and recreational uses which are accessory to residential uses.

(4) Residential uses designed for human occupancy which have the lowest floor elevation, including basement, not less than one foot above the highest elevation of the base flood. A registered professional engineer, architect, or land surveyor shall submit certification to the floodplain administrator that this subsection is satisfied. All residential uses must conform to the area requirements as set out in division 3 of this article.

(5) All commercial, industrial or other nonresidential structures which either have the lowest floor elevation, including basement, not less than one foot above the highest elevation of the base flood, or together with attendant utility and sanitary facilities, must be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this subsection are satisfied. All commercial, industrial and nonresidential uses must be designated a specific district that allows that use, and thus must conform to those area regulations.

(6) No manufactured homes (mobile homes) shall be placed in any flood hazard district.

(7) No uses shall be permitted which shall encourage, or induce encroachments, in-

cluding fill; new commercial or residential construction; substantial improvements; and other development within the adopted regulatory floodway that would result in any increase in flood levels within the community during the occurrence of the base flood discharge as shown on the latest flood boundary and floodway map.

(Ord. No. 1843, § 1(art. VIII, div. 3, § 4), 2-14-89)

Secs. 62-235—62-245. Reserved.

Subdivision II. Administration and Enforcement

Sec. 62-246. Designation of floodplain administrator.

The City Council of the City of McAlester designates John C. Modzelewski, P.E., CFM, as the McAlester Floodplain Administrator to administer and implement the provisions of this division and other appropriate sections of National Flood Insurance Program regulations in Title 44 CFR pertaining to floodplain management.

(Ord. No. 1843, § 1(art. VIII, div. 4, § 1), 2-14-89; Ord. No. 2176, § 1, 6-22-04; Ord. No. 2355, § 4, 5-11-10; Ord. No. 2472, § 1, 7-9-13)

Sec. 62-247. Duties, responsibilities of floodplain administrator.

Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

(1) Become accredited by the OWRB in accordance with 82 O.S. §§ 1601—1618, as amended.

(2) Review permit applications to determine whether the proposed building sites, including the placement of manufactured homes, will be reasonably safe from flooding.

(3) Review, approve or deny all applications for development permits required by this division.

(4) Review proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval are required.

(5) Make the necessary interpretation where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

(6) Notify, in riverine situations, adjacent communities and the OWRB prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the FEMA.

(7) Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

(8) Shall require the developer/applicant to provide and/or determine the base flood elevation data and other information on a certified FEMA elevation certificate in order to administer the provisions of this division.

(9) When a floodway has not been designated, the floodplain administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within zone AE as delineated on the Pittsburg County FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the city.

(10) After a disaster or other type of damage occurrence to structures in the city, determine if the residential and nonresidential structures and manufactured homes have been substantially damaged, and enforce the substantial improvement requirement.

(11) Maintain a record of all actions involving an appeal from a decision of the city council.

(12) Maintain and hold open for public inspection all records pertaining to the provisions of this division.

(Ord. No. 1843, § 1(art. VIII, div. 4, § 2), 2-14-89; Ord. No. 2355, § 5, 5-11-10)

Sec. 62-248. Development permit—Establishment.

A development permit shall be required to ensure conformance with the provisions of this division.

(Ord. No. 1843, § 1(art. VIII, div. 3, § 5), (art. VIII, div. 4, § 1) 2-14-89)

Sec. 62-249. Permit procedures.

(a) An application for a development permit shall be presented to the floodplain administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

(1) Elevation in relation to mean sea level of the lowest floor (including basement) of all new and substantially improved structures; and

(2) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

(b) Approval or denial of a development permit by the floodplain administrator shall be based on all of the provisions of this division and the following relevant factors:

(1) The danger to life and property due to flooding or erosion damage;

(2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(3) The danger that materials may be swept onto other lands to the injury of others;

(4) The compatibility of the proposed use with existing and anticipated development;

(5) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(6) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;

(7) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

(8) The necessity to the facility of a waterfront location, where applicable;

(9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and

(10) The relationship of the proposed use to the comprehensive plan for that area.

(c) The floodplain administrator or city council, as applicable, may approve certain development in zones A or AE delineated on the Pittsburg County FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the applicant for the development permit in that case first complies with 44 CFR section 65.12.

(Ord. No. 1843, § 1(art. VIII, div. 4, § 3), 2-14-89; Ord. No. 2355, § 6, 5-11-10)

Sec. 62-250. Variances.

(a) *General provisions.*

(1) The City Council of the City of McAlester may grant variances for uses which do not satisfy the requirements of the Oklahoma Floodplain Management Act or this division, if the applicant for the variance presents adequate proof that:

a. Compliance with this division will result in an arbitrary and unreason-

able taking of property without sufficient benefit or advantage to the people; and

b. Satisfies the pertinent provisions of this section. However, no variance shall be granted where the effect of the variance will be to permit the continuance of a condition which unreasonably creates flooding hazards.

(2) Any variance so granted shall not be construed as to relieve any person who receives it from any liability imposed by the Oklahoma Floodplain Management Act or by other laws of the state.

(3) In no case shall variances be effective for a period longer than 20 years.

(4) Any person seeking a variance shall file a petition with the city council, accompanied by a filing fee of $25.00.

(5) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C(2) and provisions of Section D of this division have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(6) Any person seeking a variance to build a structure below the base flood elevation will be issued a notice signed by the mayor of the city council which states that:

a. The cost of flood insurance will be commensurate with the increased risk resulting from permitting the structure to be built lower than the base flood elevation, and

b. Such construction below the base flood level increases risks to life and property.

(7) At such time as the city council deems the petition ready for notification to the public, the city council shall schedule a hearing and direct the applicant to publish notice thereof in a newspaper of general circulation in Pittsburg County at least 30 days prior to the hearing.

(8) The city council shall conduct the hearing and make determinations in accordance with the applicable provisions of this section. The city council shall exercise wide discretion in weighing the equities involved and the advantages and disadvantages to the applicant and to the public at large when determining whether the variance shall be granted.

(9) Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant;

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws, regulations or ordinances; and

d. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(10) Upon consideration of the factors stated in this section D and the intent of this division, the city council may attach such conditions to the granting of a variance as it deems necessary to further the purposes and objectives stated in article I, section C.

(11) The floodplain administrator shall maintain a record of all variance actions, including justification for their issuance; and a copy of any variance issued by the floodplain board shall be sent by the floodplain administrator to the OWRB and FEMA within 15 days after issuance of the variance.

(b) *Special provisions.*

(1) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this division.

(2) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(3) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(4) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

a. The criteria of subsections D(1)(e), D(1)(i), D(2)(b); and D(2)(c) of this division are met, and

b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(Ord. No. 1843, § 1(art. VIII, div. 4, § 4), 2-14-89; Ord. No. 2355, § 7, 5-11-10)

Secs. 62-251—62-260. Reserved.

Subdivision III. Provisions for Flood Hazard Reduction

Sec. 62-261. General standards for all areas of special flood hazard.

In all areas of special flood hazards, the following provisions are required for all new construction and substantial improvements:

(1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

(3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage.

(4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters.

(7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Ord. No. 1843, § 1(art. VIII, div. 5, § 1), 2-14-89)

Sec. 62-262. Specific standards.

In all areas of special flood hazards where base flood elevations have been provided or are otherwise determined as set forth in article III section B, article IV section B(8), or article V section C(1), the following provisions are required:

(1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated at least one (1) foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall

submit a certification to the floodplain administrator that the standard of this subsection is satisfied.

(2) *Nonresidential construction.* New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall have the lowest floor (including basement) elevated at least one foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection is satisfied.

(3) *Enclosures.* New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

b. The bottom of all openings shall be no higher than one foot above grade; and

c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(4) *Manufactured homes.*

a. Require that all manufactured homes to be placed within zone A on the Pittsburg County FIRM shall be installed using methods and practices that minimize flood damage and have the bottom of the I-beam elevated at least 36 inches above grade or at least at or above the base flood elevation. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. The home shall be installed by a licensed installer according to Oklahoma state law and compliance herewith shall be certified in writing to the floodplain administrator by said installer prior to habitation of the manufactured home.

b. Require that manufactured homes that are placed or substantially improved within zone AE on the Pittsburg County FIRM on sites:

1. Outside of a manufactured home park or subdivision,

2. In a new manufactured home park or subdivision,

3. In an expansion to an existing manufactured home park or subdivision, or

4. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood,

be elevated on a permanent foundation such that the bottom of the I-beam for the manufactured home is elevated at least one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. A licensed installer shall install the home in accordance with state law and compliance herewith shall be certified in writing to the floodplain administrator by said installer prior to habitation of the manufactured home.

(5) *Recreational vehicles.* Require that recreational vehicles placed on sites within zones A and AE on the Pittsburg County FIRM either:

a. Be on the site for fewer than 180 consecutive days,

b. Be fully licensed and ready for highway use, or

c. Meet the permit requirements of article IV, section C, and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(6) *Accessory structure.* Accessory structures to be placed on sites within zones A and AE on the Pittsburg County FIRM shall comply with the following:

a. The structure shall be unfinished on the interior;

b. The structure shall be used only for parking and limited storage;

c. The structure shall not be used for human habitation. Prohibited activities or uses include but are not limited to working, sleeping, living, cooking, or restroom use;

d. Service facilities such as electrical and heating equipment must be elevated to or above the BFE;

e. The structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

f. The structure shall be designed to have low flood damage potential and constructed with flood resistant materials;

g. The structure shall be firmly anchored to prevent flotation, collapse, and lateral movement;

h. Floodway requirements must be met in the construction of the structure;

i. Openings to relieve hydrostatic pressure during a flood shall be provided below the BFE; and

j. The structure shall be located so as not to cause damage to adjacent and nearby structures.

(Ord. No. 1843, § 1(art. VIII, div. 5, § 2), 2-14-89; Ord. No. 2355, § 8, 5-11-10)

Sec. 62-263. Standards for subdivisions.

(a) The applicant for a development permit for any subdivision located in zones A and AE which is 51 or more lots or greater than five acres shall generate the base flood elevation data for that subdivision.

(b) All subdivisions including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(c) All subdivisions including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(Ord. No. 1843, § 1(art. VIII, div. 5, § 3), 2-14-89; Ord. No. 2355, § 9, 5-11-10)

Sec. 62-264. Standards for areas of shallow flooding (AO/AH zones).

Located within the established areas of special flood hazard are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions shall apply:

(1) All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth num-

ber specified in feet on the city's FIRM (at least two feet if no depth number is specified).

(2) All new construction and substantial improvements of nonresidential structures shall have:

a. The lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least two feet if no depth number is specified);

b. Together with attendant utility and sanitary facilities be designed so that below the base flood level, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; or

c. A registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section are satisfied.

(3) Require within zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures. For areas outside the identified flood hazard areas which have experienced temporary flooding in periods of brief, heavy rainfall or where development is occurring, an elevation of one foot above the base flood elevation is required to compensate for the loss of stormwater or drainage areas. Distances shall be determined by the topography of the specific area through a registered surveyor.

(Ord. No. 1843, § 1(art. VIII, div. 5, § 4), 2-14-89)

Sec. 62-265. Floodways.

The following provisions shall apply to floodways:

(1) Encroachments, including but not limited to fill, new construction, substantial improvements and other development are prohibited within the adopted floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the city during the occurrence of the base flood discharge.

(2) If article V, section D.1 above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of article V.

(3) The city may permit encroachments within the adopted floodway that would result in an increase in base flood elevations, provided that the applicant for the development permit complies with all of 44 CFR section 65.12.

(Ord. No. 1843, § 1(art. VIII, div. 5, § 5), 2-14-89; Ord. No. 2355, § 9, 5-11-10)

Sec. 62-266. Floodplain management fee schedule.

(a) The McAlester City Council may impose the following fee schedule not to exceed $500.00 for any one service at their discretion:

(1)	Notice of intent fee, maximum	$ 25.00
(2)	Floodplain development permit application review	100.00
(3)	Floodplain development permit fee	50.00
(4)	Inspection fee, per inspection	50.00.

(b) *Penalties for noncompliance.* No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this division and other applicable regulations. A structure or other development without the elevation certificate or other certifications required in this division is presumed to be in violation until such time as that documentation is provided. Violation of the provisions of this division by failure to comply with any

of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this division or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $500.00 for each violation, and in addition shall pay all costs and expenses involved in each case. Nothing herein contained shall prevent the City Council of the City of McAlester or its city attorney from taking such other lawful action as is necessary to prevent or remedy any violation.

(c) *Certification.* It is hereby found and declared by the City Council of the City of McAlester that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program, and in order to effectively remedy the situation described herein, it is necessary that this ordinance become effective immediately.

This division goes into effect immediately and after this date supersedes any previous floodplain management regulations or ordinance(s) applicable to the City of McAlester. However, the current flood map for the city shall be used until July 22, 2010, when at this time the new FIS and FIRM dated July 22, 2010, shall be used.
(Ord. No. 2355, § 10, 5-11-10)

Secs. 62-267—62-275. Reserved

DIVISION 5. SUPPLEMENTAL DISTRICT REGULATIONS

Sec. 62-276. Open space.

(a) No open space or lot area required for a building or structure shall during its life be occupied by, or counted as open space for any other building or structure.

(b) Open eaves, cornices, window sills, and belt courses may project into any required yard a distance not to exceed two feet. Open porches may project into a front or rear yard a distance not to exceed four feet.

(c) Where the dedicated street right-of-way on which the main building front is less than 50 feet, the depth of the front yard shall be measured starting at a point 25 feet from the centerline of the street easement.

(d) No dwelling shall be erected on a lot which does not abut on at least one open street for at least 35 feet and have a width of at least 50 feet at the building line. A street shall form the direct and primary means of ingress and egress for all dwelling units. Alleys, where they exist, shall form only a secondary means of ingress and egress, as shall driveways. A garage apartment may be built to the rear of a main dwelling if all other provisions of these regulations are complied with.

(e) No minimum lot sizes and open spaces are prescribed for industrial uses. It is the intent of this article that lots of sufficient size be used by any industry to provide adequate parking and loading and unloading space required for operation of the enterprise.

(f) On any corner lot on which a front and side yard are required, no wall, fence, sign, structure or any plant growth having a height in excess of three feet above the elevation of the lowest point of the crown of the adjacent roadway shall be maintained in a triangle formed by measuring from the point of intersection of the front and exterior side lot lines, a distance of 30 feet along the front and side lot lines and connecting the points so established, to form a sight triangle on the area of the lot adjacent to the street intersection.

(g) An attached or detached private garage which faces on a street shall not be located closer than 25 feet to the street easement line.

(h) A private garage located in an R zone shall not be used for storage of more than one commercial vehicle which does not exceed 1½ tons rated capacity, per family living on the premises.

(i) Private swimming pools may be constructed as an accessory use, but shall be enclosed by a permanent solid wall or fence no less than four feet high, with gate latches that prevent entry by small children. A building permit, with requisite inspections, and construction compliance with applicable building codes, is mandatory.

(j) The architectural design and material used for the construction of fences shall harmonize with the main building to which said fence is accessory. Proper building materials of good quality, compatible aesthetically with the neighborhood character and design, and construction in a workmanlike manner shall be required.
(Ord. No. 1843, § 1(art. IV, § 4), 2-14-89)

Sec. 62-277. Height.

The following regulations set forth in this section qualify or supplement, as the case may be, the specific district regulations appearing in division 3:

(1) In measuring heights, a habitable basement or attic shall be counted as a story, except that a story in a sloping roof the area of which story does not exceed two-thirds of the floor area of the story immediately below it, and which does not contain an independent apartment, and no greater than four feet above the floor shall be counted as a half story.

(2) Chimneys, elevators, poles, spires, tanks, towers and other projections not used for human occupancy may extend above the height limit. Satellite communication an-t~nnas shall not be affected by this provi-SIOn.

(3) Churches, schools, hospitals, sanatoriums and other public and semipublic buildings may exceed the height limitations of the district if the minimum depth of rear yards and the minimum width of the side yards required in the district are increased one foot for each two feet by which the height of such public or semipublic structure exceeds the prescribed height limit.

(4) No building or land shall be used or occupied hereafter in excess of the density regulations for that district.

(Ord. No. 1843, § l(art. IV, § 5), 2-14-89)

Sec. 62-278. Placement of buildings.

Any building hereafter erected or structurally altered shall be located on one lot except as provided herein; and there shall be no more than one principal building and the customary accessory buildings may not be erected or placed in the front and side yard areas as required in the separate districts.

(Ord. No. 1843, § 1(art. IV, § 6), 2-14-89)

Sec. 62-279. Street access.

No principal building shall be constructed on a lot which does not abut an open public dedicated street. The public street must be officially open to traffic and meet minimum city street specifications as set out in chapter 62, article VI, table 1.

(Ord. No. 1843, § 1(art. IV, § 7), 2-14-89)

Sec. 62-280. Storage and parking of trailers and commercial vehicles.

(a) Commercial vehicles and trailers of all types, including travel, camping and hauling, and mobile or manufactured homes, shall not be parked or stored on any lot occupied by a dwelling or on any lot in any residential district, except in accordance with the following provisions:

(1) No more than one commercial vehicle, which does not exceed one and one-half tons rated capacity, per family living on the premises, shall be permitted; and in no case shall a commercial vehicle used for hauling explosives, gasoline or liquefied petroleum products be permitted.

(2) No more than one camping or travel trailer or hauling trailer per family living on the premises shall be permitted and said trailer shall not exceed 24 feet in length, or eight feet in width; and further provided that the trailer shall not be parked or stored for more than 48 hours unless it is located behind the front yard building line. A camping or travel trailer shall not be occupied either temporarily or permanently while it is parked or stored in any area within the incorporated limits except in a trailer court authorized under the ordinances of the city.

(3) A mobile or manufactured home shall be stored or parked only in a trailer court or mobile home park which is in conformity with the ordinances of the city.

(b) No vehicle or trailer of any kind shall be parked on any corner property or right-of-way in such a position as to interfere with the vehicle's driver's vision as he approaches within the sight triangle concept area.

(Ord. No. 1843, § 1(art. IV, § 8), 2-14-89)

Sec. 62-281. Group housing projects.

In case of a housing project consisting of a group of two or more buildings to be constructed on a

plot of ground of at least two acres not subdivided into the customary streets and lots, and which will not be so subdivided, or where the existing or contemplated street and lot layout make it impracticable to apply the requirements of this article to the individual buildings in such housing project, the application of such requirements to such housing project shall be done by the city council, upon recommendation of the planning commission, in a manner that will be in harmony with the character of the neighborhood, will ensure a density of land use no higher and a standard of open space at least as high as required by this article in the district in which the proposed project is to be located. In no case shall a use or building height or density of population be permitted which is less than the requirement of the district in which the housing project is to be located.
(Ord. No. 1843, § l(art. IV, § 9), 2-14-89)

Sec. 62-282. Development time limits; reo zoning application.

Construction should be started within two years of the effective date of approval of the rezoning of any parcel in any district by the city council. Failure to begin the construction within two years could be grounds for that parcel to revert back to its original zoning district. Upon written request received by the planning commission, prior to the expiration of the two-year period, an extension shall be granted by the planning commission at no extra fee. The extension is not to exceed one year. Timely reports concerning the status of rezoned parcels and development activities shall be made at least annually to the planning commission by the department of planning.
(Ord. No. 1843, § Hart. IV, § 10), 2-14-89)

Sec. 62-283. Existing lots of record.

In any district where single-family residences are permitted, a single-family detached dwelling may be erected on any lot which is of official record on February 14, 1989, subject to the following restrictions:

(1) There must be provided a mInImUm lot width of 50 feet.

(2) There must be provided a minimum of ten feet in side yards with five feet on anyone side.

(3) The front and rear yards must comply with the requirements set forth for the zoning district within which the lot of record is located.

(Ord. No. 1843, § l(art. IV, § 11), 2-14-89)

Sec. 62-284. Storage of liquefied petroleum gases.

The use of land or buildings for the commercial wholesale or retail storage of liquefied petroleum gases shall be in accordance with the ordinances of the city and the regulations of the state liquefied petroleum gas administration.
(Ord. No. 1843, § Hart. IV, § 12), 2-14-89)

Sec. 62-285. Trailer parks.

Trailer parks shall be constructed in accordance with the requirements of the ordinances of the city relating thereto.
(Ord. No. 1843, § l(art. IV, § 13), 2-14-89)

Sec. 62-286. New commercial district areas.

The minimum area for any new commercial district shall be 50,000 square feet. However, an existing commercial district may be increased by less than this amount, provided the additional area is in the same commercial category as the existing district, and is contiguous to the property within the commercial district.
(Ord. No. 1843, § l(art. IV, § 15), 2-14-89)

Sec. 62-287. Industrial pilot plants.

For the purpose of encouraging industrial development, the city council may permit the installation of pilot plants for industrial purpose in any existing commercial building for a period of one year, subject to review by the city council and time extension not to exceed two additional years.
(Ord. No. 1843, § Hart. IV, § 17), 2-14-89)

Sec. 62-288. Temporary location of mobile homes.

(a) *Construction trailer.* It shall be common operational policy to allow a construction contractor to bring onsite all necessary supplies, equipment and materials, including mobile offices necessary for completion of the job after a building permit is issued for construction of a building, or when the city engineer approves construction plans for utility work.

(b) *Mobile home sales offices.* Mobile homes that are used as sales offices shall be allowed only on property where mobile homes or travel trailers are being sold.

(c) *Temporary location of mobile homes or trailers for temporary office use.* A mobile home or trailer for temporary use as a business shall be allowed in all commercial districts only, provided that onsite construction to replace the trailer on a permanent-type structure has begun. The, temporary mobile home or trailer shall not be allowed on the site for more than 365 consecutive days. (Ord. No. 1843, § Hart. **IV,** § 18), 2-14-89)

Sec. 62-289. Satellite communication an. tennas.

(a) Specific aesthetic standards by which the proliferation of satellite dish (communication) antennas may be regulated, are hereby adopted to accomplish the following:

(1) Clearly define aesthetic objectives to protect residential neighborhoods.

(2) Define reasonable safety considerations for the general populace.

(3) Allow satellite operations in such a manner as not to impose unreasonable governmental limitations on reception of satellite-delivered signals by antennas.

(4) Allow municipal regulation of satellite transmission antennas in such a manner as not to impose excessive costs upon users.

(5) Continue to utilize accepted yard requirements that promote a homogeneous character in surroundings, and provide a certain amount of open space on each residential lot.

(6) Orient activities and uses to appropriate locations on residential lots.

(b) Satellite antennas may be permitted as an accessory use only in residential districts (R-1B, R-2, R-3), provided the following standards are met:

(1) The antenna shall not be permitted as a primary use on a lot.

(2) The antenna shall be ground mounted, and located in the rear yard only.

(3) The antenna shall not exceed 12 feet **in** diameter, and the materials used in constructing the antenna shall not be unnecessarily bright, shiny, garish or reflective, and shall employ, to the extent possible, materials and colors that blend with the surroundings.

(4) The antenna, including any guy wires, supporting structures, and accessory equipment, shall be located and designed so as to minimize the negative visual impact on surrounding properties and from public streets. Antennas should be screened through the addition of architectural features such as evergreen plantings, fencing and/or landscaping that harmonize with the elements and characteristics of the property. The height of the screening shall be equal to at least 75 percent of the antenna height.

(c) A building permit shall be required for the construction and installation of any satellite communication antenna, and all applications for a building permit shall include certification by a registered engineer that the proposed installation complies with those standards listed in section 623.0 of the BOCA National Building Code as adopted by the city.

(d) All installations shall be located to prevent obstruction of the antenna's reception window from potential permitted development on adjoining properties.

(e) Only one satellite dish antenna may be permitted per lot, and shall be used only for private noncommercial purposes.

(D Special exception uses: Roof-mounted satellite dish antennas up to 12 feet in diameter may be allowed in residential districts, subject to the following criteria:

(1) Demonstration by the applicant that compliance with subsections (b)(5) and (d) of this section would result in the obstruction of the antenna's reception window; furthermore, such obstruction involves factors beyond the control of the applicant.

(2) The height of the proposed installation does not exceed the maximum height restriction imposed upon primary uses within the district.

(3) All applications must include certification by a registered engineer that the proposed installation complies with those standards listed in section 623.0 of the BOCA National Building Code as adopted by the city. Also, written documentation of such compliance, including load distributions within the building's support structure shall be furnished.

(g) All satellite dish antennas, previously erected in any district prior to February 14, 1989 which do not conform to the requirements of the provisions of this section, shall be accepted as nonconforming accessory uses for a period of three years to expire January 1991. Thereafter, the satellite dish antennas shall be subject to modification or relocation to comply with the standards of this section.
(Ord. No. 1843, § l(art. IV, § 19), 2-14-89)

Sec. 62-290. Utility screening requirements.

The construction and installation of any public utility service use shall require the provision of an adequate green screening as a barrier between the utility service and any adjoining district. The screening shall consist of closely spaced, rapidly growing evergreen (non deciduous) woody shrubs or plants reaching a minimum of six to eight feet in height at maturity, that will provide an aesthetically pleasing solid green space around the entire perimeter of the utility service within two years after planting. The evergreen screening shall be well maintained by the utility service at all times, with any dead shrubs/plants removed and replaced.
(Ord. No. 1843, § 1(art. IV, § 20), 2-14-89)

Secs. 62-291-62-300. Reserved.

DIVISION 6. OFF-STREET PARKING AND LOADING

Subdivision 1. *General Provisions*

Sec. 62-301. Intent and application.

It is the intent of this division that adequate parking and loading facilities be provided off the street for each use ofland within the city. Requirements are intended to be based on the demand created by each use. The requirements of this division shall apply to all uses in all districts. Whenever there is a use of land proposed which is not specifically mentioned in this division, the requirements for off-street parking facilities for a use which is so mentioned, and which is similar to the unmentioned use, shall apply. If such proposed use cannot be determined to be similar to a use specifically mentioned, the planning commission shall make a determination of the parking demand and such demand shall become a requirement and be made a condition of the building permit authorizing such use. The planning commission shall then recommend an .amendment of this division to include such use and parking requirement.
(Ord. No. 1843, § 1(art. V, § 15.1), 2-14-89)

Sec. 62-302. Enforcement.

The city manager or an officer or employee of the city designated by him is hereby authorized to enforce this division.
(Ord. No. 1843, § 1(art. V, § 15.2), 2-14-89)

Sec. 62-303. Requirements for mixed land uses.

In the case of mixed uses of land, the total reo quirements for off-street parking shall be the sum of the requirements of the various uses computed

separately; and the off-street parking for one use shall not be considered as providing the required off-street parking for any other use; provided, however, that if the type of one structure indicates that its periods of usage will not be simultaneous with the usage of other structures (as determined by the planning commission), the parking provided for such other structures may be counted for the purpose of complying with the parking requirement for such structure.
(Ord. No. 1843, § 1(art. V, § 15.7), 2-14-89)

Sec. 62-304. Access to street or alley; parking space deemed required open space.

Required parking spaces shall be provided with vehicular access to a street or alley and shall be deemed to be required open space associated with the permitted use and shall not therefore be reduced, diminished or encroached upon in any manner.
(Ord. No. 1843, § l(art. V, § 15.3), 2-14-89)

Sec. 62-305. Ownership and location.

The ownership of the land which parking is provided shall be the same as the ownership of the land upon which the principal use exists for which the parking is provided; and shall be located within 200 feet of the proposed land use, exclusive of streets and alleys. The area between the street right-of-way lines and setback lines may be used for parking when such area is hard surfaced and an adequate means of ingress is provided.
(Ord. No. 1843, § 1(art. V, § 15.4), 2-14-89)

Sec. 62-306. Paving.

All parking spaces shall be paved with a sealed surface pavement and maintained in such a manner that no dust will result from the continued use.
(Ord. No. 1843, § 1(art. V, § 15.5), 2-14-89)

Sec. 62-307. Size of spaces.

The parking space for one vehicle shall consist of a rectangular area having dimensions of not less than nine feet by 21 feet, plus adequate area for ingress and egress.
(Ord. No. 1843, § l(art. V, § 15.6), 2-14-89)

Sec. 62-308. Handicapped parking requirements.

(a) *General overview.* Building construction in the city (including parking space requirements for all districts) is governed and controlled through the application of several building codes (including designs and tables for handicapped accessibility) adopted for specific use by the city council; i.e., BOCA National Building Code; National Electrical Code; BOCA Plumbing Code; CABO One and Two Family Dwelling Code; NFP A; Architectural and Transportation Barriers Compliance Board through its "Minimum Guidelines and Requirements for Accessible Design"; the American National Standards Institute's "Specification for Making Buildings and Facilities Accessible To and Usable By Physically Handicapped People" (ANSI A1l7.1-1980); which standards are also the basis for the BOCA Code. Within these standards are the requirements for making parking spaces and passenger loading zones accessible for handicapped people.

(b) *Scope.* The ANSI standards specification in the BOCA Code adopted by the city council are intended to make buildings and facilities accessible to, and usable by, people with such physical disabilities as the inability to walk, difficulty walking, reliance on walking aids, sight and hearing disabilities, incoordination, reaching and manipulation disabilities, lack of stamina, difficulty interpreting and reacting to sensory information, and extremes of physical size. Accessibility and usability allow a disabled person to get to, enter and use a building or facility.

(c) *Construction specifications.* State and federal handicap regulations specify that any building or facility (other than a privately owned residential structure, unless leased for federally subsidized housing programs), intended to be "accessible to the general public," is required to be designed, constructed or altered so as to be readily accessible to, and usable by, physically handicapped people.

(d) *ANSI standards applicability.*

(1) The design and construction of new buildings and facilities, including both rooms and spaces, site improvements and public walks.

(2) Remodeling, alteration and rehabilitation of existing construction.

(3) Permanent, temporary and emergency conditions.

(e) *Parking and passenger loading zone minimum requirements.*

(1) If any parking is required to be provided by this article for employees or visitors or both in any district, each such parking area shall comply with section 1190.60 (36 CFR P.1190), Parking and Passenger Loading Zones diagram;

(2) ANSI Standard 4.6.1 (ANSI A117.1-1980); and

(3) The following table from Section 1190.31 (36 CFR 1190)

Total parking in lot	*Required minimum number of accessible spaces*
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1000	2 percent of total
Over 1000	20 plus 1 for each 100 over 1,000

(f) *General parking requirements; commercial! industrial districts.*

(1) Location. Accessible parking spaces and accessible passenger loading zones shall:

a. Be the spaces or zones located closest to the nearest accessible entrance on an accessible route in accordance with ANSI 4.6.2.

b. If located in a separate building or facility, be on the shortest accessible route to an accessible entrance of the parking facility.

c. Passenger loading zones shall have an access aisle of at least five feet wide by 20 feet long, adjacent, parallel and level with vehicle standard space (ANSI 4.6.5).

d. Have curb ramps conforming to section 1190.70 Ramps and Curb Ramps, if there are any curbs between the accessibility aisle and other portions of the access route.

(2) Conformance required. Conformance in all other areas of handicapped accessibility required by the Architectural Barriers Act and BOCA Codes, incorporating the ANSI standards for handicapped accessibility shall be required, as well as any applicable city codes.

(Ord. No. 1843, § 1(art. V, §§ 15.28-15.33), 2-14-89)

Sec. 62-309. Landscaping requirements for off.street parking.

(a) *Intent.* The intent of this section is to protect and promote the public health, safety and welfare by requiring the landscaping of parking lots which will serve to reduce wind and air turbulence, heat and noise, and the glare of automobile lights; to prevent soil erosion; to reduce the level of carbon dioxide and return pure oxygen to the atmosphere; to provide shade; to visually enhance the appearance of parking lots; and to generally promote a healthful and pleasant environment. All areas used for the display, parking, or storage of any and all types of vehicles; boats are also subject to provisions herein.

(b) *Landscaping requirements for off-street parking/other vehicular use areas with ten to* 30 *spaces.*

(1) *Peripheral landscaping requirements.*

a. Peripheral landscaping shall be required along any side of a parking area that abuts adjoining property that is not a street or alley right-of-way.

b. A landscaping strip four feet in width shall be located between the parking area and the abutting property lines.

c. At least one tree for each 40 linear feet or fraction thereof shall be planted in the landscaping strip. The required trees may be evenly spaced or grouped.

d. In addition to the required trees, a wall, fence, hedge, berm, or other durable landscape barrier shall be planted or installed. The height of any such hedge or barrier shall be no less than six feet.
e. At least one shrub or vine for each ten feet of nonliving durable barrier (such as a wall or fence) shall be planted between the parking lot and the barrier.
f. Peripheral landscaping requirements shall not be applicable in the following situations:

1. To those portions of the property that are opposite a building located on the abutting property line.
2. Where the abutting property is zoned for nonresidential uses, only the tree provision and the landscape strip, planted with grass or ground cover, shall be required.

g. Twenty percent of the trees for peripheral landscaping requirements can be evergreens that normally grow to an overall height of a minimum of 15 feet.

(2) Street landscaping requirements.

a. Street landscaping shall be required along any side of a parking lot that abuts the right-of-way of any street, road or highway.
b. A landscaping strip five feet in depth shall be located between the abutting right-of-way and the parking lot.
c. At least one tree for each 40 linear feet or fraction thereof shall be planted in the landscaping strip. The required trees may be evenly spaced or grouped.
d. A hedge, landscaped berm, or other living durable landscape barrier shall extend the entire length of the landscaping strip. The height of any such barrier or hedge shall be no more than three feet. The first ten feet on both sides of any driveway pavement is excluded from this requirement, but shall be planted with grass or ground cover.
e. In lieu of the requirements of subsections (b)(2)c and (b)(2)d of this section, at least one tree for each 20 linear feet or fraction thereof shall be planted in the landscaping strip. The required trees may be evenly spaced or grouped.

(c) *Landscaping requirements for off-street parking/other vehicular use areas with more than 30 spaces.*

(1) Interior landscaping requirements.

a. Off-street parking areas shall have at least ten square feet of interior landscapingfor each parking space excluding those spaces abutting a perimeter for which landscaping is required by other sections hereof and excluding all parking spaces which are directly served by an aisle abutting and running parallel to such perimeter.
b. Each separate landscaped area shall contain a minimum of 50 square feet, shall have a minimum dimension of at least five feet, and shall include at least one tree. The remaining area shall be landscaping material not to exceed three feet in height.
c. The total number of trees shall not be less than one for each 100 square feet or fraction thereof of required interior landscaped area.
d. No parking space shall be located more than 100 feet from a portion of landscaped open space required by this section.

(d) *Plant material.* Species of plant material shall be acceptable to the director of planning, with guidance and recommendations from the tree board.

(1) Trees.

a. For the purposes of this division, trees are defined as any self-supporting woody plants which usually produce one main trunk and normally grow to an overall height of a minimum of 15 feet.
b. Trees having an average natural spread of crown less than 15 feet may be substituted by grouping the same so as to create the equivalent of a I5-foot crown spread. Trunks must be main-

tained in a clean condition over five feet of clear wood.

c. Tree species shall be a minimum of six feet overall height immediately after planting.

d. Trees of species whose roots are known to cause damage to public roadways or other public works shall not be planted closer than 12 feet to such public works, unless the tree root system is completely contained within a barrier acceptable to the director of planning, with guidance and recommendations from the tree board.

(2) Shrubs and hedges.

a. For the purposes of this division, shrubs are defined as any woody plant that usually remains low and produces shoots or trunks from the base.

b. Hedges, where required shall be a minimum of two feet in height when measured immediately after planting and shall be maintained so as to form a continuous, unbroken, solid, visual screen within a maximum of one year after planting.

(3) Vines. For the purposes of this division vines are defined as plants which normall; require support to reach mature form.

(e) *Other requirements for landscaped areas.*

(1) Installation.

a. All landscaping shall be installed according to accepted planting procedures and landscaped areas shall require protection from vehicular encroachment. The tree board shall be contacted for information, guidance and direction on how to follow the community tree board's master plan for street trees, and to ensure that landscaping efforts will be in harmony with the urban forestry's survey.

b. A building permit, including a certificate of occupancy therein, is required for all parking areas having ten or more spaces and no certificate will be issued unless the landscaping meets the requirements herein provided; or unless a bond is posted acceptable to the director of planning, who may accept such a bond in lieu of landscaping due to weather or climate conditions unsuitable for planting. Such a bond will not be maintained in lieu of planting for more than nine months.

(2) Maintenance.

a. The owners shall be responsible for providing, protecting, and maintaining all landscaping in growing and healthy condition; shall replace it when necessary; and shall keep it reasonably free from debris.

b. Should the owner not maintain the property as provided in subsection (e)(2)a of this subsection, the city has the authority to enter the premises upon written notice and perform the necessary maintenance. The cost of performing the maintenance shall be certified by the director of planning to the owner, upon information provided by the director of community services. Should the owner fail to pay the cost of maintenance within 30 days from date of the invoice, the cost shall become a lien on the property as provided by law.

(Ord. No. 1843, § 1(art. IV, § 21), 2-14-89)

Secs. 62-310-62-320. Reserved.

Subdivision II. Space Requirements

Sec. 62-321. Application of division.

Off-street parking and loading facilities shall be provided in all districts in accordance with the provisions of this division.

(Ord. No. 1843, § l(art. V, § 15.8), 2-14-89)

Sec. 62-322. Dwellings.

(a) The following requirements shall apply in residential districts:

(1) Dwelling, single-family or duplex: Two pa~kin? spaces for each separate dwelling umt wIthm the structure:

(2) Dwelling, multiple-family: The number of spaces provided shall not be less than 11/2 times the number of units in the dwelling.

(b) Whenever off-street parking lots for more than four vehicles are to be located within or adjacent to a residential district, the following provisions shall apply:

(1) All sides of the parking lot within or abutting the residential district shall be enclosed with an opaque ornamental fence, wall or dense evergreen hedge having a height of not less than five feet. Such fence, wall or hedge shall be maintained in good condition.

(2) No parking shall be permitted within a front yard setback line whenever the parking lot is located in a residential district or immediately abuts the front yard of a residential unit. In all other cases, a minimum five-foot setback shall be required.

(3) Driveways used for ingress and egress shall be confined to and shall not exceed 25 feet in width, exclusive of curb returns.

(4) Whenever lighting is provided, it shall be arranged so that all light is deflected from adjoining residential uses.

(5) No sign of any kind shall be erected except information signs used to guide traffic and to state the condition and terms of the use of the lots. Only nonintermittent white lighting of signs shall be permitted.

(Ord. No. 1843, § 1(art. V, § 15.9),2-14-89)

Sec. 62-323. Hotels, motels, tourist homes and other places offering overnight accommodations.

Hotels, clubs, lodging houses, tourist homes and cabins, motels, trailer courts, boardinghouses and roominghouses, dormitories, sororities, fraternities and all other similar places offering overnight accommodations, and not otherwise provided for in this division, shall be provided with one parking space for each guestroom. If assembly halls, bars, restaurants, nightclubs, retail shops or room for other shops, service establishments or businesses are provided at such places, additional off-street parking spaces will be required in accordance with the regulations set forth in this division for such uses.

(Ord. No. 1843, § 1(art. V, § 15.10), 2-14-89)

Sec. 62-324. Mobile home parks.

(a) Mobile home parks accommodating tourists or other transient guests shall be provided with one parking space for each mobile home stand, plus one additional space for each four mobile home stands.

(b) Mobile home parks accommodating long-term or nontransient guests shall be provided with one parking space for each mobile home stand, plus one additional space for each two mobile home stands.

(Ord. No. 1843, § 1(art. V, § 15.11), 2-14-89)

Sec. 62-325. Hospitals.

Hospitals shall be provided with one parking space for each three patient beds, exclusive of bassinets, plus one space for each professional staff member, plus one space for each two employees, including nurses, plus adequate off-street space for loading and unloading emergency vehicles.

(Ord. No. 1843, § l(art. V, § 15.12),2-14-89)

Sec. 62-326. Convalescent homes, orphan. ages and similar institutions.

Convalescent or nursing homes, sanitoriums, asylums, orphanages and all other similar institutions shall be provided with one parking space for each six patient beds, plus one space for each staff or visiting doctor, plus one space for each two employees, including nurses, plus adequate off-street space for loading and unloading emergency vehicles.

(Ord. No. 1843, § Hart. V, § 15.13),2-14-89)

Sec. 62-327. Restaurants, bars and other similar eating and drinking establishments.

Restaurants, bars, taverns, nightclubs, lunch counters, diners and all similar dining or drinking establishments, unless otherwise specifically clas-

sified shall be provided with one parking space for each three seats provided for patron use.
(Ord. No. 1843, § l(art. V, § 15.14),2-14-89)

Sec. 62-328. Places of public assembly generally.

Places of public assembly, including private clubs, lodges and fraternal buildings not providing overnight accommodations, assembly halls, exhibition halls, convention halls, auditoriums, skating rinks, dance halls, sports arenas, stadiums, gymnasiums, amusement parks, race tracks, fairgrounds, circus grounds, funeral homes and mortuaries, community centers, libraries, places of amusement or recreation, museums and all other similar places of relatively frequent public assembly and not otherwise specifically classified, shall be provided with one parking space for each four seats provided for patron use, or one space for each 50 square feet of floor area, whichever requires the greater number of spaces.
(Ord. No. 1843, § l(art. V, § 15.15),2-14-89)

Sec. 62-329. Theatres generally.

Theatres, including motion picture houses, but not including drive-in theatres, shall be provided with one parking space for each two seats provided for patron use.
(Ord. No. 1843, § Hart. V, § 15.16), 2-14-89)

Sec. 62-330. Drive.in theatres.

Drive-in theatres shall be provided with parking reservoir space equal to ten percent of the vehicle capacity of the theatre.
(Ord. No. 1843, § Hart. V, § 15.17), 2-14-89)

Sec. 62-331. Bowling alleys.

Bowling alleys shall be provided with four parking spaces for each alley.
(Ord. No. 1843, § Hart. V, § 15.18), 2-14-89)

Sec. 62-332. Religious institutions.

Religious institutions shall be provided with one parking space for each four seats, based on maximum seating capacity, or one space per 150 square feet of floor area, whichever is greater.
(Ord. No. 1843, § Hart. V, § 15.19), 2-14-89)

Sec. 62-333. Schools.

Schools, including academies, colleges, universities, elementary schools, junior high schools, high schools, prep schools and all other similar institutions of learning not otherwise specifically classified, shall be provided with two parking spaces for each three employees, including administrators, teachers and building maintenance personnel, plus one space for each ten students enrolled at a grade level above junior high school.
(Ord. No. 1843, § l(art. V, § 15.20), 2-14-89)

Sec. 62-334. Retail establishments generally.

Retail establishments, including personal service shops, equipment or repair shops, motor vehicle sales or repair establishments, retail stores and businesses and banks or other financial and lending institutions, unless otherwise specifically classified, shall be provided with one parking space for each 150 square feet of net floor area.
(Ord. No. 1843, § l(art. V, § 15.21), 2-14-89)

Sec. 62-335. Motor fuel stations.

Motor fuel stations shall be provided with two parking spaces for each three employees, plus two spaces for each service bay, whether enclosed or not, plus one space for each service vehicle.
(Ord. No. 1843, § Hart. V, § 15.22), 2-14-89)

Sec. 62-336. Office buildings generally.

Office buildings, including commercial, governmental and professional buildings, unless otherwise specifically classified, shall be provided with one parking space for each 200 square feet of net floor area.
(Ord. No. 1843, § Hart. V, § 15.23), 2-14-89)

Sec. 62-337. Medical and dental clinics or offices.

Medical and dental clinics or offices shall be provided with six parking spaces for each professional staff member, plus one space for each two employees.
(Ord. No. 1843, § l(art. V, § 15.24), 2-14-89)

Sec. 62-338. Wholesale, manufacturing and industrial plants, etc.

Wholesale, manufacturing and industrial plants, including warehouses and storage buildings and yards; public utility buildings; contractor's equipment and lumber yards; research laboratories; business service establishments, such as blueprinting and printing and engraving; binding, publishing and issuing newspapers or other reading matter; soft drink bottling establishments; laundry and dry cleaning plants; fabricating plants; and all other structures devoted to similar mercantile or industrial pursuits and not otherwise specifically classified shall be provided with two parking spaces for each three employees or one space for each 500 square feet of floor space, whichever requires the greater number of spaces.
(Ord. No. 1843, § Hart. V, § 15.25), 2-14-89)

Sec. 62-339. Terminal facilities generally.

Terminal facilities, including airports, railroad passenger and freight stations, bus depots, truck terminals and all other similar personal or material terminal facilities not otherwise specifically classified shall be provided with such number of spaces as the planning commission shall deem adequate to serve the public or customers, patrons and visitors.
(Ord. No. 1843, § l(art. V, § 15.26), 2-14-89)

Sec. 62-340. Motor freight terminals.

Motor freight terminals shall be provided with two parking spaces for each three employees.
(Ord. No. 1843, § Hart. V, § 15.27), 2-14-89)

Secs. 62-341-62-360. Reserved.

ARTICLE VI. SUBDIVISION REGULATIONS*

DIVISION 1. GENERALLY

Sec. 62-361. 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:

Alley means a minor right-of-way dedicated to public use which gives a secondary means of vehicular access to back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

Area of special flood hazard means the land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year.

Base flood means the flood which has a one-percent chance of being equalled or exceeded in any given year (lOa-year flood).

Block means a parcel of land, intended to be used for urban purposes, which is entirely surrounded by public streets, highways, railroad rights-of-way, public walks, parks or green strips, rural land or drainage channels or a combination thereof.

Building line or *setback line* means a line or lines designating the area outside of which buildings may not be erected.

Development means any manmade change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving excavation or drilling operations.

Easement means a grant by the property owner to the public, a corporation, or persons, of the use of a strip of land for specific purposes.

*State law reference-Subdivisions and plats, 11 O.S. §§ 41-101 et seq., 45-104.

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of lakes, streams, rivers or any other inland waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood hazard boundary map (FHBM) means an official map of a community, issued by the Federal Insurance Administration where the areas having special flood hazards have been designated as zone A.

Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

General plan means the comprehensive development plan for the city which has been officially adopted to provide long-range development policies for the area subject to urbanization in the foreseeable future and which includes, among other things, the plan for land use, land subdivision, circulation and community facilities.

Habitable floor means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used for storage purposes only is not a habitable floor.

Lot means a subdivision of a block or other parcel intended as a unit for the transfer of ownership or for development.

Lot, corner means a lot located at the intersection of and abutting on two or more streets.

Lot, double frontage means a lot which runs through a block from street to street and which has two nonintersecting sides abutting on two or more streets.

Lot, reverse frontage means a double frontage lot which is designed to be developed with the rear yard abutting a major street and with the primary means of ingress and egress provided on a minor street.

Mobile home means a structure, transportable in one or more sections, which is built on a permanent chassis, designed to be used with or without a permanent foundation when connected to the required utilities.

Mobile home park or *mobile home subdivision* means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets).

Plat, final means a map of a land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets and alleys, public areas and other dimensions of land.

Plat, preliminary means a map of a proposed land subdivision showing the character and proposed layout of the tract in sufficient detail to indicate the suitability of the proposed subdivision of land.

Start of construction means the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the start of construction includes the first perm a-

nent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, "start of construction" means the affIxing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivisions, start of construction is the date on which the construction of facilities for servicing the site on which the mobile home is to be affIxed (including, at a minimum, the construction of streets, either fInal site grading or the pouring of concrete pads, and installation of utilities) is completed.

Street means any public or private right-of-way which affords the primary means of access to abutting property.

Street, collector means a minor street which collects traffIc from other minor streets and serves as the most direct route to a major street or a community facility.

Street, cul-de-sac means a minor street having one end open to vehicular traffIc and having one closed end terminated by a turnaround.

Street, frontage or *service* means a minor street auxiliary to and located on the side of a major street for service to abutting properties and adjacent areas and for control of access.

Street, major means an arterial street which is designated on the major street plan or expressway plan.

Street, minor means any street not classifIed as a major street on the major street plan or expressway plan.

Subdivider means any person, fIrm, partnership, corporation, or other entity, acting as a unit, subdividing or proposing to subdivide land as herein defIned.

Subdivision means the division or redivision of land into two or more lots, tracts, sites, or parcels for the purpose of transfer of ownership or for development, or the dedication or vacation of a public or private right-of-way or easement.

Subdivision, rural means the division or redivision of land into two or more lots, tracts, sites or parcels of not less than two acres for the purpose of transfer of ownership or for development of single-family residential, or the dedication or vacation of a public or private right-of-way easement.

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure, either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this defInition "substantial improvement" is considered to occur when the fIrst alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifIcations which are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

Variance means a grant of relief to a person from the requirements of this division when specifIc enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this division.

(Ord. No. 1492, § 3(art. **I,** § 4), 7-27-76)

Cross reference-Definitions generally, § 1-2.

Sec. **62-362. Purpose.**

The subdivision of land is the fIrst step in the process of urban development. The arrangement of land parcels in the community for residential, commercial and industrial uses and for streets, alleys, schools, parks and other public purposes, will determine to a large degree the conditions of health, safety, economy, and amenity that prevail in the urban area. The quality of these conditions is of public interest. These regulations and standards in this article for the subdivision and improvement of land for urban use are to make provision for adequate light, air, open space, drainage, transportation, public utilities and other needs, to insure the development and maintenance of a healthy, attractive and effIcient community that

provides for the conservation and protection of its human and natural resources. These regulations are designed, intended and should be administered in a manner to:

(1) Implement the general plan.

(2) Provide neighborhood conservation and prevent the development of slums and blight.

(3) Harmoniously relate the development ofthe various tracts of land to the existing community and facilitate the future development of adjoining tracts.

(4) Provide that the cost of improvements, located within the tract of land being developed, be borne by the owners or developers of the tract, and also 50 percent of the cost of city-owned trunk lines to serve subdivisions be borne by same owners or developers.

(5) Provide the best possible design for the tract.

(6) Reconcile any differences of interest.

(7) Establish adequate and accurate records of land subdivision.

(Ord. No. 1492, § 3(art. I, § 1), 7-27-76)

Sec. 62-363. Penalty.

Any person who shall violate any of the provisions of this article, or shall fail to comply therewith, or with any of the requirements thereof, shall be deemed guilty of an offense and shall be punished as provided in section 1-8. Each day such violation shall be permitted to exist shall constitute a separate offense. In addition to the other remedies provided herein, the city may institute any proper action or proceedings to enforce the provisions of this article.

(Ord. No. 1492, § 3(art. V, § 5), 7-27-76)

Sec. 62-364. Separability of provisions.

If any section, clause, paragraph, provision or portion of this article shall be held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, paragraph, provision or portion of this article.

(Ord. No. 1492, § 3(art. V, § 3), 7-27-76)

Sec. 62-365. Authority.

The subdivision regulations and minimum standards for land development in this article are adopted by ordinance passed by the city council under the authority granted by 11 O.S. art. 45 (11 O.S. § 45-101 et seq.).

(Ord. No. 1492, § 3(art. I, § 2), 7-27-76)

Sec. 62-366. Administration **and** amendment.

The city council may, from time to time, adopt, amend and make public rules and regulations for the administration of this article to the end that the public be informed and that approval of plats be expedited. These regulations may be enlarged or amended by the city council after public hearing, due notice of which shall be given as required by law.

(Ord. No. 1492, § 3(art. V, § 2), 7-27-76)

Sec. 62-367. Jurisdiction.

The regulations and development standards in this article shall apply to the following forms of land subdivision:

(1) The division ofland into two or more tracts, lots, sites or parcels, any part of which, when subdivided, shall contain less than ten acres in area.

(2) The division of land previously subdivided or platted into a tract, lot, site or parcel of two or more acres which is to be resubdivided into three or more lots or ownerships.

(3) The dedication, vacation or reservation of any public or private easement through any tract ofland regardless of the area involved, including those for use by public and private utility companies.

(4) The dedication or vacation of any street or alley through any tract of land regardless of the area involved.

(5) The division of land previously subdivided as a portion of a rural subdivision.

(Ord. No. 1492, § 3(art. I, § 3), 7-27-76)

Sec. 62-368. Variations and exceptions.

Whenever the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in this article would result in substantial hardship or inequity, the planning commission may vary or modify, except as otherwise indicated, such requirements of design, but not of procedure or improvements, so that the subdivider may develop his property in a reasonable manner but so, at the same time, the public welfare and interests of the city are protected and the general intent and spirit of this article preserved. Such modification may be granted upon written request of the subdivider stating the reasonCs) for each modification and may be waived by three-fourths vote of the regular membership of the planning commission, subject to the acceptance of the plat and the dedications thereon by the city council.
COrd. No. 1492, § 3Cart. V, § 1), 7-27-76)

Sec. 62-369. Conditions for issuing building permit.

No building permit shall be issued for any new structure or change, improvement or alteration of any existing structure on any tract of land which does not comply with all of the provisions of this article.
COrd. No. 1492, § 3Cart. V, § 4), 7-27-76)

Secs. 62-370-62.380. Reserved.

DIVISION 2. PLATS AND PLAT APPROVAL

Sec. 62-381. General procedure.

Ca) *Plat approval.* For all cases of subdividing within the scope of this article, a plat of the land in question or an easement with a description in writing where appropriate shall be drawn and submitted to the planning commission and city council for approval or disapproval as provided; provided that no rural subdivision shall be platted or approved within the area bounded by U.S. Highway 69 Bypass on the south and east and Business Route 69 on the west.

(b) *Official recording.* No plat or other land subdivision instrument shall be filed in the office of the county clerk until it has been approved by the planning commission and by the city council as hereinafter set forth. All final plats shall be filed within one year of the date of approval by the planning commission, and no lots shall be sold from any plat until recorded. Failure to record the plat within one year of the date of planning commission or city council approval, whichever is the later, shall void all approvals thereto.

(c) *Agenda.* Each plat submitted for preliminary or final approval shall be placed on the agenda of the planning commission only after fulfilling the appropriate requirements of this article. However, a plat not meeting all of the requirements may be submitted providing the subdivider presents with the plat a written request for specific exception and enumerates in detail the reasons therefor.

(d) *Filing fee.* To defray partially the costs of notification and administration procedures, there shall be paid to the city treasurer at the time of submission of the preliminary plat a fee in the following amounts: $5.00 plus $1.00 per lot for the first ten lots; plus $0.10 for each additional lot. Where only a portion of an approved preliminary plat is submitted for final approval, a final plat of the remaining area may be submitted at any time within five years of the preliminary approval without payment of an additional filing fee by the subdivider, if the final plat for the additional area conforms substantially with the approved preliminary plat.
COrd. No. 1492, § 3(art. IV, § 5), 7-27-76)

Sec. 62-382. Subdivision review committee.

Ca) There is hereby created a subdivision review committee, the membership of which shall be made up of one representative of each of the following agencies and such other public officials as the chief administrative officer of the municipality may designate:

(1) City manager.

(2) Planning department.

(3) Planning commission.

(4) Engineering department.

(5) Utilities department.

(6) County health department.

(b) It shall be the responsibility of the subdivision review committee to meet together, on call of the director of planning who shall ser-ve as chairman, to review preapplication plans, to study the suitability of the proposed subdivision for the purposes for which it is intended and to submit its findings and recommendations to the planning commission at the time the preliminary plat is to be reviewed by the planning commission.
(Ord. No. 1492, § 3(art. IV, § 1), 7-27-76)

Cross reference-Boards and commissions, § 2-166 et seq.

Sec. 62-383. Pre application plans and data.

Not less than 14 days prior to the filing of an application for approval of a preliminary plat, the subdivider shall present to the subdivision review committee the following information:

(1) A general description ofthe existing conditions of the site and the suitability of the site for the proposed development. This information may include data on existing covenants and agreements, the availability of utilities and community facilities, the proposed use of each portion of the subdivision, proposed lot sizes and building sites, proposed business areas, playground, park and school sites and other pertinent data as may be needed to supplement the sketches required in subsections (2) and (3) below.

(2) A general location map shall be submitted and shall show the proposed subdivision and its relationship to existing utilities, schools, parks, traffic arteries, and other features that will affect and influence the subdivision such as hospitals, churches, airports, railroads, and shopping and employment centers.

(3) A sketch plan drawn to approximate scale shall be submitted and shall show topography, using a contour interval of not greater than five feet, the proposed street layout, lots and other planning features. The street and lot plan may be in the form of a freehand pencil sketch.

(Ord. No. 1492, § 3(art. IV, § 2), 7-27-76)

Sec. 62-384. Preliminary plat.

(a) *Generally.* The subdivider shall prepare a preliminary plat for submission to the planning commission. Four copies of the preliminary plat shall be submitted to the office of the city clerk not less than 12 days prior to the meeting at which it is to be considered.

(b) *Certification of design.* The preliminary plat shall be accompanied by a statement signed by the registered engipeer or register land surveyor preparing the plat that he has, to the best of his ability, designed the subdivision in accordance with the general plan, with which he is completely familiar, and in accordance with the ordinances and regulations governing the subdivision of land except where an exception is requested in writing and the reasons for which are clearly stated.

(c) *Contents.* The preliminary plat shall be drawn at a scale of 100 feet to one inch. Whenever this becomes impractical, scales shall be allowed by the city engineer to be adjusted to produce an overall drawing not exceeding 21 inches by 331/2 inches in size between borderlines on a standard 24-inch by 36-inch sheet, but in no case shall the scale be greater than 200 feet to an inch. The preliminary plat shall contain or be accompanied by the following information:

(1) The scale, north point and date.

(2) The proposed name of the subdivision.

(3) The name and address of the owner of record, the subdivision, engineer or surveyor preparing the plat, including registration number.

(4) A vicinity map showing the location of the proposed subdivision referenced to existing or proposed major streets and to government section lines, and including the boundaries and number of acres of the drainage area of which the proposed subdivision is a part.

(5) The names, with location of intersecting boundary lines, of adjoining subdivisions, and the location of city limits, if falling within or immediately adjoining the tract.

(6) Existing and proposed contours established by field survey relating to United States Geological Surveyor Coastal and Geodetic Survey benchmark or movement are to be shown on the same map as the proposed subdivision layout. Acceptable contour intervals shall be as follows:

a. Grades up to 5 percent. . 2 feet
b. Grades over 5 percent. . . 5 feet

(7) The location of existing buildings, water, watercourses, and the location of dedicated streets at the point where they adjoin and/or are immediately adjacent to the subdivision; provided, however, that the actual measured distances shall not be required.

(8) Whenever any stream or important surface drainage course is located in the area being subdivided, provision shall be made for an easement that shall include all land that has an elevation below the 50-year maximum flood elevation in accordance with section 62-397(c)(2) and also for the purpose of widening, deepening, realigning, improving or protecting the stream for drainage purposes.

(9) The length of the boundaries of the tract, measured to the nearest foot, and the proposed location and width of streets, alleys, easements and setback lines and the approximate lot dimensions.

(10) The location, size and type of sanitary and storm sewers, water mains, culverts, power and natural gas lines and other surface and subsurface structures and pipelines existing within or immediately adjacent to the proposed subdivision, and the location, layout, type and proposed size of the following structures and utilities:

a. Water mains.
b. Sanitary sewer mains, submains and laterals. Septic tank systems shall be planned and oriented with respect to abutting streets or alleys so as to minimize exterior plumbing changes needed to connect to a future central sewage collection system.
c. Storm sewers, culverts and drainage structures.
d. Street improvements.

(11) The location of all drainage channels and subsurface drainage structures and the proposed method of all runoff from the proposed subdivision, and the location and size of all drainage easements relating thereto, whether they are located within or outside of the proposed plat.

(12) The classification of every street within or adjacent to the subdivision in accordance with the intended use of the street based on the proposed design. This shall be done by placing the appropriate term, expressway, primary thoroughfare, secondary thoroughfare, collector, (or minor) directly on each street.

(13) A certification identifying the date for completion of all utilities including water, sewer, drainage and streets.

(14) The plan for staged development of any utilities not to be constructed as an entire unit (i.e., phased construction of streets, sewers, waterlines and/or storm drainage).

(d) *Planning commission action.* The planning commission shall approve, approve conditionally, or disapprove the plat within 60 days of the date of its submission by the applicant. If the preliminary plat is disapproved or approved conditionally, the reasons for such action shall be stated in writing, a copy of which shall be signed by the planning commission chairman and shall be attached to one copy of the plat and transmitted to the subdivider. Unless stipulation for additional time is agreed to by the subdivider, if no action is taken by the planning commission at the end of 60 days after submission, the plat shall be decmed to have been approved. The reasons for disapproval or conditional approval shall refer specifi. cally to those parts of the general plan or specific regulations with which the plat does not conform. On conditionally approving a plat, the planning

commission may require submission of a revised preliminary plat. If the plat conforms to all of the standards, or after the applicant and planning commission agree upon any revision which shall be filed with the planning commission on a revised copy, the applicant may proceed with the staking of streets and roads and with the preparation of a final plat.
(Ord. No. 1492, § 3(art. IV, § 3), 7-27-76; Ord. No. 1544, § 3, 1-24-78)

Sec. 62-385. Final plat.

(a) *Generally.* A final plat, neatly drawn in ink on tracing cloth, and three darkline prints thereof shall be submitted to the office of the city clerk not less than 12 days before the planning commission meeting at which it is to be considered for final approval. At the same time, there shall be submitted three sets of the proposed plans and specifications for all improvements and the proposed restrictions in final form; provided, however, the final plat may be approved subject to later submission of final improvement plans and specifications.

(b) *Time of submission.*

(1) The final plat of the proposed subdivision shall be submitted to the planning commission and the city council for final approval within one year of the date on which the preliminary plat was approved. If not submitted for final approval within such time, the preliminary plat shall be considered as having been disapproved unless the planning commission agrees to an extension of time. The final plat shall be filed in the office of the county recorder within one year after approval by the city council and planning commission, or if not filed within such time, the approval shall be considered as having been voided.

(2) In the instance where the means of sewage disposal is proposed by individual septic tank and filter fields, the final plat shall be accompanied by a copy of the Oklahoma State Department of Health Environmental Health Services Soil Report for Subdivisions or Individual Sites, or any applicable form which supersedes said form for each lot contained with the final plat. Such form shall be executed by a registered professional engineer or by a registered professional sanitarian.

(3) In the instance of where the means of sewage disposal is proposed by individual septic tank and filter fields, one print of the final plat denoting the location on each lot where percolation tests have been performed shall be filed with the application for approval of the final plat.

(4) In the case of a plat proposing the reserving or dedicating of land to be used in common by owners of lots in the subdivision, there shall be submitted by the subdivider evidence acceptable to counsel of the city that all necessary steps have been taken for:

a. The establishment of some process for adequately maintaining the common property; and
b. Disposition of the common property in the event of dissolution of the maintenance process which had been previously established.

(c) *Drafting.* The final plat shall be drawn at a scale of 100 feet to the inch from an accurate survey and on sheets whose dimensions are 21 inches by 331/2 inches between borderlines. On the first sheet of every plat there shall be a key map showing the location of the subdivision referenced to government survey section lines and major streets. If more than two sheets are required for the plat, the key map shall show the number of the sheet for each area. A border of one-half inch surrounding the sheet shall be left blank at the top, bottom, and right-hand side, and a margin of two inches at the left side for binding purposes.

(d) *Contents.* The final plat shall show:

(1) The location and description of all section corners and permanent survey monuments in or near the tract, to at least one of which the subdivision shall be referenced.

(2) The length of all required lines dimensioned in feet and decimals thereof, and the value

of all required true bearings and angles dimensioned in degrees and minutes, as hereafter specified.

(3) The boundary lines of the land being subdivided fully dimensioned by lengths and bearings, and the location of boundary lines of adjoining lands, with adjacent subdivisions identified by official names.

(4) The lines of all proposed streets fully dimensioned by lengths and bearings or angles.

(5) The lines of all proposed alleys. Where the length and/or direction of an alley is not readily discernible from data given for lot and block lines, the length and/or bearing shall be given.

(6) The widths, and names where appropriate, of all proposed streets and alleys, and of all adjacent streets, alleys and easements which shall be properly located.

(7) The lines of all proposed lots fully dim ensioned by lengths and bearings or angles, except that where a lot line meets a street line at right angles, the angle or bearing value may be omitted.

(8) The outline of any property which is offered for dedication to public use fully dimensioned by lengths and bearings, with the area marked "Public."

(9) The blocks numbered consecutively throughout the entire subdivision and the lots numbered consecutively throughout each block, with areas to be excluded from platting marked "Reserved" or "Not a Part. "

(10) The location of all building lines, setback lines, and easements for public services or utilities with dimensions showing their 10-cation.

(11) The radii, arcs, points of tangency, points of intersection and central angles for curvilinear streets and radii for all property returns.

(12) The proper acknowledgments of owners and the consent by the mortgagee to plat restrictions.

(13) The following which shall be made and shown on the cloth tracing:

a. Owner's certificate and dedication, signed.
b. Certificate of survey, executed with registered engineer's or registered land surveyor's seal.
c. Certificate for release of mortgage for any portion dedicated to the public.
d. Reference to any separate instruments, including restrictive covenants, filed in the office of the county recorder of deeds which directly affect the land being subdivided.
e. Certificate of planning commission approval.
f. Certificate of city council acceptance of ways, easements, and public land dedications.
g. Treasurer's certificate.

(14) A title which shall include:

a. Name of the subdivision.
b. Name of city, county and state.
c. Location and description of the subdivision referenced to section, range and township.

(15) A notification to any purchaser of any lot contained in the plat that the city will not issue a building permit for construction of any private improvements thereon until all public utilities guaranteed by and contained in the plat have been completed to that lot and a certificate of completion of utilities has been issued by the city engineer.

(16) The plan for staged development of any utilities not to be constructed as an entire unit (i.e., phased construction of streets, sewers, waterlines, and/or storm drainage).

(17) A separate instrument reflecting the restrictive covenants imposed on the subdivision, provided that said restrictive covenant shall not be in violation of any applicable law of the United States, the

state or the city and further provided that in all instances where a tract of two or more acres is being platted, said restrictive covenant shall contain the following provision:

"No lot, herein described, may be resubdivided into three or more lots or ownerships without first being resubdivided and replatted in accordance with the applicable plat preparation and approval procedure of the ordinances of the City of McAlester."

(18) A separate instrument reflecting the reo strictive covenants imposed on the subdivision, provided that the restrictive covenant shall not be in violation of any applicable law of the United States, the state or the city and further provided that in all instances where the subdivision is a rural subdivision said restrictive covenant shall contain the following provision:

"No lot, herein described, may be resubdivided into two or more lots or ownerships without first being resubdivided and replatted in accordance with the applicable plat preparation and approval procedure of the ordinances of the City of McAlester."

(e) *Planning commission action.* The planning commission shall act upon the final plat within 45 days after it has been submitted for final approval. This approval and the date thereof shall be shown on the plat over the signature of the planning commission chairman or secretary member. Unless stipulation for additional time is agreed to by the subdivider, and if no action is taken by the planning commission at the end of 45 days after submission, the plat shall be deemed to have been approved. A certificate by the city clerk as to date of submission of the plat for final approval and failure of the planning commission to act thereon within such time shall be sufficient in lieu of written endorsement of approval. If the final plat is disapproved, grounds for this refusal shall be stated in writing, a copy of which shall be transmitted with the tracing and prints to the applicant. The reasons for disapproval shall refer specifically to those parts of the general plan or ordinance with which the plat does not comply.

(D *City council action.* Before recording the final plat, it shall be submitted to the city council for approval and for acceptance of public ways and service and utility easements and land dedicated to public use. This approval of the plat shall be shown over the signature of the mayor and at. tested to by the city clerk or his deputy. The disapproval of any plat or plan by the city council shall be deemed a refusal of the proposed dedication shown thereon.

(g) *Recording of plat.* After final approval of the plat and the affixing of all required signatures on the original tracing, the subdivider shall provide the code administrator with two darkline prints thereof, and one contact reproducible cloth tracing, such tracing to be filed with the city engineer. The applicant, accompanied by a representative of the city, shall file the original tracing with the county clerk, and the applicant shall pay all required filing fees.
(Ord. No. 1492, § 3(art. N, § 4), 7-27-76; Ord. No. 1544, § 3, 1-24-78)

Secs. 62-386-62-395. Reserved.

DIVISION 3. DESIGN STANDARDS

Sec. 62-396. Urban design principles.

The quality of design of the urban area is dependent on the quality of design ofthe individual subdivisions that compose it. Good community design requires the coordination of the efforts of each subdivider and developer ofland within the urban area. Therefore, the design of each subdivision shall be prepared in accordance with the principles established by the general plan for land use, circulation, community facilities, and public utility services, and in accordance with the following general principles:

(1) Neighborhood unit. It is intended that the urban area shall be designed as a group of integrated residential neighborhoods and appropriate commercial and industrial and public facilities. The neighborhood, as a planning unit, is intended as an area principally for residential use, and of a size that can be served by one elementary school. Space for religious, recreational, educa-

tional and shopping facilities to serve the residents of the neighborhood should be provided and designed as an integral part of each neighborhood.

(2) *Size of lots and blocks.* The size of lots and blocks and other areas for residential, commercial, industrial and public uses should be designed to provide adequate light, air, open space, landscaping and off-street parking and loading facilities.

(3) *Natural features.* The arrangement of lots and blocks and the street system should be designed to make the most advantageous use of topography and natural physical features. Tree masses and large individual trees should be preserved. The system of sidewalks and roadways and the lot layout should be designed to take advantage of the visual qualities of the area.

(4) *Design and circulation.* Circulation within the urban area shall be provided in accordance with the following design criteria:

a. Each subdivision shall provide for the continuation of all arterial streets and highways as shown on the major street and expressway plan. Arterial streets should be located on the perimeter of the residential neighborhood.

b. Minor streets should be designed to provide access to each parcel of land within the residential neighborhood and within industrial areas, and in a manner that will discourage use by through traffic. They should be planned so that future urban expansion will not require the conversion of minor streets to arterial routes.

c. Collector streets should be designed to provide a direct route from other minor streets to the major street and expressway system.

d. Ingress and egress to residential properties should be provided only on minor streets.

e. Sidewalk improvements. Sidewalks may be required along officially designated major streets where deemed essential for public convenience or safety by the city council. All required sidewalks and crosswalks shall be paved and shall be constructed in accordance with standards established by the city council. Construction shall be under the supervision of the city engineer, and shall be subject to his approval.

(5) *Minimum standards.* Minimum standards for development are contained in the zoning ordinance, the building code, and in this article. However, the general plan expresses policies designed to achieve optimum quality of development in the urban area. If only the minimum standards are followed, as expressed by the various ordinances regulating land development, a standardization of development will occur. This will produce a monotonous urban setting. Subdivision design should be of a quality to carry out the purpose and spirit of the policies expressed in the general plan and in this article rather than be limited to the minimum standards required herein.

(Ord. No. 1492, § 3(art. II, § 1), 7-27-76)

Sec. 62-397. Subdivision design standards.

(a) *Streets.* The arrangement, character, extent, width, grade, and location of all streets shall conform to all of the elements of the general plan and shall be designed in accordance with the following provisions:

(1) Major streets shall be planned to conform with the major street and expressway plan.

(2) Whenever a subdivision abuts or contains an existing or proposed major street, the planning commission may require service streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots or such other treatment as may be necessary

for adequate protection of residential properties and to afford separation of through and local traffic.

(3) Minor streets shall be laid out so that their use by through traffic will be discouraged.

(4) Where a subdivision borders on or contains a railroad right-of-way or limited-access highway right-of-way, the planning commission may require a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the intervening land. Such distances also shall be determined with due regard for the requirements of approach grades and future grade separation structures.

(5) Reserve strips controlling access to streets shall be prohibited except where their control is placed in the city under conditions approved by the planning commission.

(6) Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system for the unsubdivided portion shall be prepared and submitted by the subdivider.

(7) When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and opening of future streets and appropriate resubdivision, with provision for adequate utility easements and connections for such resubdivision.

(8) Street jogs with centerline offsets of less than 150 feet should be avoided.

(9) Street right-of-way widths shall be in accordance with the city transportation plan, and where not otherwise designated, it shall be the responsibility of the developer to dedicate right-of-way to provide a width of not less than the following:

a. *Major streets:*

Primary arterial	100 feet
Secondary arterial	80 feet

b. *Minor streets:*

Collector	60 feet
Urban local (residential).....	60 feet
Rural local	60 feet
Cul-de-sac.....	50-foot radius

Whenever the major or minor street is located wholly within the proposed subdivision, the total width of the right-of-way shall be dedicated; and whenever the major or minor street is located adjacent to the outer edge of the subdivision, one-half of the right-of-way shall be dedicated, if it is equitable and feasible from an engineering design standpoint for the other half of the right-of-way to be dedicated from adjacent property.

(10) In general, the design criteria as set forth in Table 1 shall be followed in the layout and design of major and minor streets. All collector streets shall have a paved surface not less than 32 feet in width, measured from face-to-face of curbs; and all other minor streets shall have a paved surface of not less than 27 feet in width, measured from back-to-back of curbs. All construction shall be in accordance with the street construction specifications of the city.

(11) A cul-de-sac should not exceed 500 feet in length, measured from the entrance to the center of the turnaround, and if more than 150 feet in length shall be provided with a turnaround having a radius of not less than 50 feet at the property line and not less than 40 feet at the curb line.

(12) Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with the other requirements of this article; and provided that the planning commission finds it will be practical to obtain the dedication of the other half of the street easement when the adjoining prop-

erty is subdivided. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within the tract which is being subdivided.

(13) The arrangement of streets shall be such as to cause no hardship in the subdividing of adjacent properties. The planning commission may require the dedication of street rights-of-way to facilitate the development of adjoining properties.

(14) No street names shall be used which will duplicate or be confused with the names of existing streets. Street names shall be subject to the approval of the planning commission.

(15) Vehicular entrances to commercially or industrially zoned or used areas shall be no closer to the intersection of adjacent streets and roads than 100 feet measured along the curb from the outside limits of the curbline extended to the closest curb of the drive.

(16) The grades of all streets shall not exceed the following, except where unusual topographic conditions justify, in the opinion of the planning commission, a modification of these standards:

Major streets	*Percent*
Primary	5
Secondary	7
Minor	10

No street shall be less than 0.3 percent.

(b) *Alleys.*

(1) Alleys shall be provided in commercial and industrial districts, except that the planning commission may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.

(2) Alleys serving commercial and industrial areas shall not be less than 20 feet in width.

(3) Alleys are not required for residential areas, but when provided shall not be less than 20 feet in width.

(4) Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

(5) Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the dead end, as determined by the planning commission.

(c) *Easements.*

(1) Where alleys are not provided, easements not less than ten feet wide shall be provided along each rear lot line, and along side lot lines where necessary for use by public and private utilities. The planning commission may require aerial easements and easements of greater width for the extension of main storm and sanitary sewers and other utilities where it is deemed necessary.

(2) Where a subdivision is traversed by a watercourse, drainage channel, or stream, there shall be provided a right-of-way for drainage and public parks and public utility purposes adequate to contain all of the runoff from a 50-year maximum flood. The right-of-way shall include all of the land within the subdivision that has an elevation below the 50-year maximum flood elevation which shall be calculated in accordance with, and shall be adequate to provide for the drainage requirements of the ordinances and regulations relating thereto. This shall not be interpreted as prohibiting the reclamation of lands subject to flooding by filling or by other appropriate means.

(d) *Public areas and open spaces.* Public parks, playgrounds, school sites and other public areas and open spaces shall be provided in accordance with the requirements and standards set forth in the general plan and in the ordinances relating thereto.

(e) *Blocks.*

(1) The lengths, widths and shapes of blocks shall be determined with due regard for the following:

a. Provision of adequate building sites suitable to the special needs of the type of use contemplated.

b. Zoning requirements as to lot sizes and dimensions.

c. Needs for convenient access, circulation, control and safety of street traffic.

d. Limitations and opportunities of topography.

(2) Blocks for residential use shall not be longer than 1,800 feet, measured along the centerline of the block. When a block exceeds 600 feet in length, the planning commission may require a dedicated easement not less than 15 feet in width and a paved crosswalk not less than four feet in width to provide pedestrian access across the block.

(3) Blocks used for residential purposes should be of sufficient width to allow for two tiers of lots of appropriate depth. Blocks intended for business and industrial use should be of a width suitable for the intended use, with due allowance for off-street parking and loading facilities.

(f) *Lots.*

(1) Residential lots other than lots for townhouses shall be not less than 50 feet in width at the front building line and shall abut a street a distance of not less than 35 feet, except that a corner lot shall be not less than 60 feet in width at the front building line.

(2) Side lot lines should be approximately at right angles or radial to street lines.

(3) The depth of residential lots other than lots for townhouses shall not be less than 120 feet.

(4) The area of residential lots other than lots for townhouses shall not be less than 6,000 square feet.

(5) Lots for townhouses shall have a width, depth, and area of not less than that required by article V for the zoning district in which the townhouses are to be located.

(6) Lots are not required for subdivisions for commercial and industrial use, but when provided should be of appropriate size and arrangement to provide for adequate off-street parking and loading facilities based on the intended use, and no individual parcel shall be created for a particular commercial or industrial use that has an area, width or depth that is less than is required for the permitted use under the applicable provisions of the zoning ordinance.

(7) Double frontage and reverse frontage lots should be avoided except where they are needed to provide for the separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten feet shall be provided along the portion of the lots abutting such a traffic artery or other use where screening is required. There shall be no right of access across a planting screen easement. At the discretion of the planning commission, the developer may substitute for an easement and a planting screen a permanent ornamental fence of a height and architectural design which will appropriately screen and be harmonious with residential or other neighborhood elements.

(8) In residential subdivisions where septic tanks or individual sewage disposal devices are to be installed, the area of the lot shall not be less than 20,000 square feet and the width of the lot at the front building line shall not be less than 100 feet. The minimum size lot for a rural subdivision will be no less than two acres.

(g) *Building lines.* Building lines shall be provided for all residential subdivisions as follows:

(1) A front building shall be located 25 feet back of the street right-of-way line.

(2) A side yard building line on the side of a corner lot abutting the street shall be located not less than 15 feet back of the street right-of-way when such lot is back to back with another corner lot and not less than 25 feet back of the street right-of-way in every other case.

(3) A side yard building line shall be provided not less than ten feet back of a crosswalk right-of-way line on the side of a lot abutting a midblock crosswalk.

(4) Restrictions requiring buildings to be located within the building lines shown on the plat shall be set forth on the plat or on a separate recorded instrument.

(h) *Neighborhood unit development.* Whenever a subdivision is developed as a neighborhood unit, wherein adequate park or playground area is provided, through traffic is cared for adequately and the majority of the minor streets are of the cul-de-sac or loop type, the planning commission may vary the requirements of this article in order to allow the subdivider more freedom in the arrangement of streets and lots, but at the same time protect the convenience, health, safety and welfare of the probable future residents of the subdivision as well as the character of the surrounding property and the general welfare of the entire community. However, in no case shall the lot area be less than 6,000 square feet for detached single-family dwellings.

(i) *Flood hazard prevention.*

(1) All subdivision proposals shall be consistent with the stated purpose and objectives of this article and those of article V, division 4 of this chapter.

(2) All proposals for the development of a subdivision shall meet the following standards:

a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

b. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

c. All new construction or substantial improvements shall be constructed with material and utility equipment resistant to flood damage.

d. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

e. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharges from the systems into the floodwaters.

f. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(3) Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than 50 lots or five acres, whichever is the lesser.

(4) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(5) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(Ord. No. 1492, § 3(art. II, § 2), 7-27-76; Ord. No. 1547, § 3(2), 2-28-78; Ord. No. 2466, § 1, 6-11-13)

Secs. 62-398—62-410. Reserved.

DIVISION 4. IMPROVEMENTS

Sec. 62-411. Minimum standards generally.

All improvements shall be designed and installed in accordance with all of the elements of

the general plan and shall meet the minimum standards established by the ordinances and regulations relating thereto.
(Ord. No. 1492, § 3(art. III, § 1), 7-27-76)

Sec. 62-412. Plan preparation.

(a) Plans for the improvements required in this division shall be prepared by the city engineering department or by a qualified engineer, registered in the state. Two sets of prints of the proposed plans and specifications for all improvements shall be filed with the city clerk. One set of as-built plans and specifications, certified and signed by an engineer registered in the state, shall be filed with the city clerk prior to the acceptance by the city council of any improvement installed by the subdivider.

(b) In lieu of completion of the improvements herein required, the subdivider shall file a surety bond with the city clerk to secure to the city the actual construction of such improvements according to specifications within a reasonable period of time from the date of approval of the final plat. This period of time shall be identified upon the filing of the preliminary and final plats in accordance with sections 62-384 and 62-385. Such bond shall be in the amount of 100 percent of the estimated cost of the improvement as determined by the council and in such form and with conditions satisfactory to the council; provided, however, that no building construction shall be permitted on any lot that does not comply with the provisions of these regulations and other applicable elements of the master plan of the city, and no municipal utility service will be furnished to such lot; and further provided that in any case where the council does not require a bond for the improvements required herein, the subdivider shall furnish his written undertaking guaranteeing to the council the actual construction of such improvements as herein provided and shall be liable to the city for the cost of reimbursement for such improvements in the event of failure to perform.
(Ord. No. 1492, § 3(art. III, § 2), 7-27-76; Ord. No. 1544, § 1, 1-24-78)

Sec. 62-413. Continuity of improvements.

All improvements shall be designed and installed such as to provide for a logical system of utilities, drainage and streets and to create continuity of improvements for the development of adjacent properties. If utility improvements, including streets, are to be staged as development occurs, then the staging plan requires approval by the city council at the time of acceptance of the preliminary and final plats.
(Ord. No. 1492, § 3(art. III, § 3), 7-27-76; Ord. No. 1544, § 1, 1-24-78)

Sec. 62-414. Permanent markers.

Each block and subdivision corner shall be marked with iron pipes or pins not less than one-half inch in diameter and 24 inches long at least one inch below finished grade.
(Ord. No. 1492, § 3(art. III, § 4), 7-27-76)

Sec. 62-415. Street improvements.

The subdivider of any subdivision designed to be used for residential, commercial, industrial or other purposes shall lay out, grade and otherwise improve all streets that are designated on the approved plat or that directly serve the subdivision in accordance with the specifications of the city and in accordance with the following provisions:

(1) The design of an improvement of an intersection of any new street with an existing state or federal highway shall be in accordance with the specifications of the state highway department, but in no case shall the standard be less than the applicable city specifications.

(2) Whenever a subdivision contains a major street that requires a street facility that is more costly than is required to serve the future occupants of the subdivision, the subdivider shall be required to pay only the portion of the cost of the major street that would equal the cost of an improvement required to serve only the subdivision, as determined by the city council.

(3) All driveways which connect with public streets shall be constructed in accordance with the transportation plan of the city.

(4) Streets in rural developed areas shall be improved in compliance with the applicable standards and specifications of this Code relating to streets in rural areas.

(Ord. No. 1492, § 3(art. III, § 5), 7-27-76)

Sec. 62-416. Waterlines.

The subdivider shall install waterlines and fire hydrants, and installation shall be in accordance with the specifications for waterline construction, applicable to the city.

(Ord. No. 1492, § 3(art. III, § 6), 7-27-76)

Sec. 62-417. Sanitary sewers.

The subdivider shall install sanitary sewers, and installation shall be in accordance with the specifications for sanitary sewer construction applicable to the city. If sewer lines are not within a reasonable distance, as determined by the city,

permission may be granted for use of septic tanks in accordance with the following provisions:

(1) A lot on which a unit disposal system is located shall not be less than 20,000 square feet in area.

(2) No portion of any unit disposal system shall be located closer than 20 feet to the lot line of the lot on which the system is located.

(3) In the instance where individual sewage disposal is proposed by means of septic tank and filter fields, each lot, block or tract shall have a suitable location for such treatment system evidenced by one or more percolation tests, the number of such tests for each lot to be determined by the city engineer and the registered professional sanitarian of the county health department. The percolation tests must meet minimum requirements of both federal and state department of health regulations in effect at the time of construction.

(4) The provisions herein set forth shall apply regardless of the zoning district or area of the tract of land involved, provided, however, that at such time as city sewer service becomes available and is installed within 300 feet of the tract of land involved, the property owner shall connect to same as required by ordinance.

(Ord. No. 1492, § 3(art. III, § 7), 7-27-76)

Sec. 62-418. Storm sewers and drainage.

Storm sewers and drainage shall be provided in accordance with the specifications contained in the ordinances and regulations relating thereto.

(Ord. No. 1492, § 3(art. III, § 8), 7-27-76)

Sec. 62-419. Maintenance and supervision.

(a) Where the subdivision contains sewers, sewage treatment plants, water supply systems or other physical facilities necessary or desirable for the welfare of the area, or that area of common use or benefit which are not or cannot be satisfactorily maintained by an existing public agency, provision shall be made which is acceptable to the city council for the proper and continuous operation, maintenance and supervision of such facilities.

(b) Prior to the acceptance of required improvements by the city council, the developer or contractor shall be required to provide a maintenance bond in such form, and guaranteed by, such assurances as the city council may approve. The bond shall be filed with the city clerk and shall be payable to the city. The amount of the bond shall be equal to 15 percent of the entire cost of materials and labor for all waterlines, sewer lines, paving, grading and drainage improvements for the required period of time. The duration of the maintenance bond shall be five years for urban streets and three years for water, sanitary sewer and storm sewer improvements from the date of acceptance of the improvements by the city council.

(Ord. No. 1492, § 3(art. III, § 9), 7-27-76)

Sec. 62-420. Sidewalks.

(a) The city council, after consultation with the planning commission, may require the construction of sidewalks to connect with existing or future proposed sidewalks in areas adjacent to the subdivision where such sidewalks are needed for pedestrian circulation. In such cases a plan for a system of sidewalks and walkways shall be prepared that will provide adequate pedestrian walkways within a residential or commercial subdivision or portion thereof with consideration given to sidewalk connections with all of the community facilities and commercial enterprises located within or adjacent to the subdivision, and in a manner that will provide convenient pedestrian circulation throughout the neighborhood or area in which the subdivision is located.

(b) Sidewalks and walkways required by this division shall be completed either:

(1) At the time the streets are installed; or

(2) On each lot or parcel of land subsequent to the improvement of said lot or parcel of land, but prior to the final inspections of such improvements by the city engineer.

(c) All sidewalks so required shall be constructed according to the specifications and requirements of this Code, including the following:

(1) Sidewalks shall be shown typically in plan on paving plans.

(2) Street rights-of-way shall be graded so that the slope between the right-of-way limits and the top of the curb will not exceed ten percent and be not less than two percent, and the sidewalk shall have a transverse slope of not to exceed two percent.

(3) All sidewalks shall be located within street rights-of-way. Placement within the street right-of-way shall be at the discretion of the city engineer and/or city planner who shall take into consideration the factors of safety, adjacent sidewalk location, topography and landscape. On curvilinear streets, the alignment shall generally be an equal distance from the back of the curb. The minimum radius of a horizontal curvature shall be 15 feet measured along the centerline of the sidewalk. The maximum grade of a sidewalk shall not exceed ten percent. Steps should be avoided wherever possible and may be installed only after obtaining the written approval of the city engineer.

(d) No dwelling unit or business establishment shall be occupied until required sidewalk construction is completed, inspected and accepted by the city.

(Ord. No. 1492, § 3(art. III, § 10), 7-27-76)

TABLE 1. DESIGN STANDARDS FOR McALESTER STREETS

Design Element	*Primary Arterial*	*Secondary Arterial*	*Collector*	*Local*
Design speed				
Outlying areas	50 mph	45 mph	30 mph	25 mph
Urbanized areas	40 mph	40 mph	30 mph	25 mph
Maximum grade				
Outlying areas	4%	7%	10%	15%
Urbanized areas	6%	7%	10%	15%
Minimum grade	0.5%	0.5%	0.5%	0.5%
Stopping sight distance	350'	200'	200'	200'
Number of traffic lanes	4 min.	4	2	2
Traffic lane effective width	12'	12'	12'	
Number of parking lanes	Not allowed	Not allowed	1 side	1 side
Total minimum street width (Face-to-face of curbs)	48' min.	48' min.	32'	26'
Minimum paving thickness				
Asphalt section	81/2"	81/2"	81/2"	81/2"
Concrete section	6"	6"	6/1	6"
Width of shoulder/parkline lane	10'	10'	8'	8'
Right-of-way width	100' min.	80' min.	70' min.	60' min.
Access control	Planned	Planned		
Structure design load	HS-20	HS-20	H-15	H-15

Design Element	*Primary Arterial*	*Secondary Arterial*	*Collector*	*Local*
Vertical clearance	15.5'	15.5'	15.5'	15.5'
Surface type	High	High	High	High

Note: All streets shall have 6-inch curbs and enclosed storm drainage, plus 6-inch for local residential streets, 6-inch for local commercial streets.

Secs. 62-421-62-440. Reserved.

ARTICLE VII. SIGNS*

DIVISION 1. GENERALLY

Sec. 62-441. Short title.

This article shall be known and may be cited as the "sign ordinance."
(Code 1974, § 25-1)

Sec. 62.442. 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:

Accessory sign means a sign which advertises a business located on the same premises as the sign.

Awning means any structure made of cloth or metal with a metal frame attached to a building and projecting over a thoroughfare, when the same is so erected as to permit its being raised to a position fiat against the building when not in use.

Canopy means any structure, other than an awning, made of cloth or metal with a metal frame attached to a building, projecting over a thoroughfare and carried by a frame supported by the ground or sidewalk.

Erect means to build, construct, attach, hang, place, suspend or affIx, and shall also include the painting of wall signs.

.Cross reference-Street banners prohibited, § 94-5.

Facing or *surface* means any surface of a sign upon, against or through which the message is displayed or illustrated on the sign.

Ground sign means any sign supported by uprights or braces placed upon the ground and not attached to any building.

Illuminated sign means any sign which has characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes as a part of the sign proper.

Incombustible material means any material which will not ignite at or below a temperature of 1,200 degrees Fahrenheit and will not continue to burn or glow at that temperature.

Marquee means any hood or awning of permanent construction projecting from the wall of a building above an entrance and extending over a thoroughfare.

Nonaccessory sign means a sign which advertises a business or a product not located or sold on the premises where the sign is located.

Projecting sign means any sign which is attached to a building or other structure and extends beyond the line of the building or structure or beyond the surface of that portion of the building or structure to which it is attached. A horizontal projecting sign is a projecting sign which is greater in width than in height. A vertical projecting sign is a projecting sign which is greater in height than in width.

Roof sign means any sign erected, constructed and maintained wholly upon or over the roof of any building, with the principal support on the roof structure.

Sign means and includes every sign, billboard, ground sign, wall sign, roof sign, illuminated sign,

projecting sign, temporary sign, marquee, awning, canopy and street clock, and shall include any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person when the same is placed out-of-doors in view of the general public.

Street clock means any timepiece erected upon a standard upon a sidewalk, or on the exterior of any building or structure for the convenience of the public, and placed and maintained by some person for the purpose of advertising his place of business.

Structural trim means the molding, battens, cappings, nailing strips, latticing and platforms which are attached to a sign structure.

Temporary sign means any sign, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other light materials, with or without frames, intended to be displayed for a short period of time only.

Wall sign means all flat signs of solid face construction which are placed against a building or other structure and attached to the exterior front, rear or side wall of the building or other structure.
(Code 1974, § 25-2)
Cross reference-Definitions generally, § 1-2.

Sec. 62-443. Exemptions.

(a) The provisions of this article shall not apply to the following signs:

(1) Real estate signs not exceeding eight square feet in area which advertise only the sale, rental or lease of the premises upon which such signs are located.

(2) Professional nameplates not exceeding two square feet in area.

(3) Bulletin boards not over eight square feet in area for public, charitable or religious institutions when the same are located on the premises of such institutions.

(4) Signs painted on the exterior surface of a building or structure; provided, however, if such signs have raised borders, letters, characters, decorations or lighting appliances, they shall be subject to the provisions of this article.

(5) Signs denoting the architect, engineer or contractor when placed upon work under construction, and not exceeding 16 square feet in area.

(6) Occupational signs denoting only the name and profession of an occupant in a commercial building, public institutional building or dwelling house, and not exceeding two square feet in area.

(7) Memorial signs or tablets, names of build. ings and dates of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials.

(8) Traffic or other municipal signs, legal notices, railroad crossing signs, danger signs and such temporary, emergency or non advertising signs as may be approved by the city council.

(b) The exemptions granted by subsection (a) above shall not apply to section 62-467, and all signs mentioned in such subsection shall be subject to the provisions of section 62-467.
(Code 1974, § 25.3)

Sec. 62-444. Nonaccessory signs prohibited on certain property.

Nonaccessory signs shall be prohibited on all property joining Carl Albert Parkway and all overpasses and underpasses over or under Carl Albert Parkway from the east city limits to the west city limits, and all other overpasses and underpasses in the city limits.
(Code 1974, § 25.4)

Sec. 62-445. Wind pressure and dead load requirements.

All signs shall be designed and constructed to withstand a wind pressure of not less than 40 pounds per square foot of area, and shall be constructed to receive dead loads as required in the building code or other ordinances of the city.
(Code 1974, § 25-5)

Sec. 62-446. Information required to be displayed.

Every sign erected after November 14, 1966, shall have painted in a conspicuous place thereon, in letters not less than one inch in height, the date of erection, the permit number and the voltage of any electrical apparatus used in connection therewith.
(Code 1974, § 25-6)

Sec. 62-447. Signs on or near street lines must have smooth surface.

All signs which are constructed on street lines, or within five feet thereof, shall have a smooth surface and no nails, tacks or wires shall be permitted to protrude therefrom, except electrical reflectors and devices which may extend over the top and extend in front of the sign.
(Code 1974, § 25-7)

Sec. 62-448. Gooseneck reflectors and lights.

Gooseneck reflectors and lights shall be permitted on ground signs, roof signs and wall signs; provided, that the reflectors shall be provided with proper glass lenses concentrating the illumination upon the area of the sign so as to prevent glare upon the street or adjacent property.
(Code 1974, § 25-8)

Sec. 62-449. Floodlights, spotlights prohibited on signs extending over public property.

It shall be unlawful for any person to maintain any sign which extends over public property which is wholly or partially illuminated by floodlights or spotlights.
(Code 1974, § 25-9)

Sec. 62-450. Obstruction of doors, windows, fire escapes; attachment to standpipe or fire escape.

No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape. No sign of any kind shall be attached to a standpipe or fire escape.
(Code 1974, § 25.10)

Sec. 62-451. Interfering with or distracting traffic.

No sign shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision; or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device; or which makes use of the words "stop," "drive-in," "danger" or any other word, phrase, symbol or character in such a manner as to interfere with, mislead or confuse traffic.
(Code 1974, § 25-11)

State law reference-Display of unauthorized signs, signals, or markings, 47 0.8. § 11-206.

Sec. 62-452. Display of obscene matter.

It shall be unlawful for any person to display upon any sign any obscene matter.
(Code 1974, § 25-12)

Secs. 62-453-62-465. Reserved.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT

Subdivision 1. General Provisions

Sec. 62-466. Inspections.

The code administrator shall inspect annually, or at such other times as he deems necessary, each sign regulated by this article for the purpose of ascertaining whether the same is secure or insecure, and whether it is in need of removal or repair.
(Code 1974, § 25-13)

Sec. 62-467. Removal or repair of unsafe and unlawful signs.

If the code administrator shall find that any sign is unsafe or insecure, or is a menace to the public, or has been constructed or erected or is being maintained in violation of the provisions of this article, he shall give written notice to the owner thereof or to the person to whom the permit for such sign was issued. If the permittee or owner fails to remove or alter the sign so as to comply with the required standards within ten days after

such notice, such sign or other advertising structure may be removed, or altered to comply, by the code administrator at the expense of the permittee or owner of the property upon which it is located. The code administrator shall refuse to issue permits under this chapter to any permittee or owner who has refused to pay the costs so assessed. The code administrator may cause any sign which is an immediate peril to persons or property to be removed summarily and without notice.
(Code 1974, § 25-14)

Sec. 62-468. Removal of obsolete signs.

Any sign which no longer advertises a bona fide business conducted, or a product sold, shall be taken down and removed by the owner, agent or person having the beneficial use of the building or structure upon which such sign is located, within 30 days after written notification from the code administrator. Upon failure to comply with such notice within the time specified, the code administrator is hereby authorized to cause the removal of such sign and any expense incident thereto shall be paid by the owner of the building or structure to which such sign is attached.
(Code 1974, § 25-15)

Sec. 62-469. Board of adjustment.

The board of adjustment is hereby authorized, upon appeal, to hear and approve variances to requirements on sign setbacks, area, height and size requirements where a strict application of these requirements would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner/occupant of such property. The board is also authorized to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the interpretation or enforcement of this article.
(Code 1974, § 25-16)

Secs. 62-470-62-480. Reserved.

Subdivision II. Sign Permit

Sec. 62-481. Required.

It shall be unlawful for any person to erect, alter or relocate any sign within the city, without first obtaining a permit from the code administrator.
(Code 1974, § 25-26)

Sec. 62.482. Application generally.

Application for a permit under this division shall be made upon forms provided by the code administrator and shall contain or have attached thereto the following information:

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

(2) The location of the building, structure or lot to which or upon which the sign is to be attached or erected.

(3) The position of the sign in relation to nearby buildings or structures.

(4) The name of the person erecting the sign.

(5) The insurance policy and bond required by section 62-483.

(6) Plans and specifications showing the method of construction and attachment to the building or the ground.

(7) If the sign is more than 35 feet in height, a copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressure, in any direction, in the amount required by this article and any other ordinance of the city.

(8) Such other information as the code administrator may require to show full compliance with this article and all other ordinances of the city.

(Code 1974, § 25-27)

Sec. 62-483. Applicant's bond and insurance.

(a) Every applicant for a permit under this division shall, before the permit is granted, file with the code administrator a continuing bond in the penal sum of $1,000.00 executed by the applicant and a surety company to be approved by the city council, and conditioned for the faithful observance of the provisions of this article and all amendments thereto, and of all laws and ordinances relating to signs. Such bond shall indemnify and save harmless the city from any and all damages, judgments, costs or expenses which the city may incur or suffer by reason of the granting of the permit. A liability insurance policy issued by an insurance company authorized to do busi-

ness in the state and conforming to this section shall also be required of such applicant. Such policy shall be in the amounts of $5,000.00/ $10,000.00/$5,000.00.

(b) Any person lawfully maintaining a sign regulated by this article on November 14, 1966 shall, within 30 days after such enactment, comply with all the provisions set forth in this section.
(Code 1974, § 25-28)

Sec. 62-484. Approval or disapproval of application.

(a) It shall be the duty of the code administrator, upon the filing of an application for a permit under this division, to examine the plans and specifications and other data and the premises upon which it is proposed to erect the sign. If it shall appear that the proposed sign is in compliance with all the requirements of this article- and all other ordinances of the city, he shall approve the application. If it appears that the sign does not comply with such requirements, the code administrator shall disapprove the application.

(b) The application for a permit for the erection of a sign in which electrical wiring and connections are to be used shall be submitted to the electrical inspector. The electrical inspector shall examine the plans and specifications respecting all wiring and connections to determine if the same complies with the electrical code of the city, and he shall approve such application if the plans and specifications comply with such code, or disapprove the application if noncompliance with such code is found. This action of the electrical inspector shall be taken prior to submission of the application to the code administrator for final approval or disapproval.
(Code 1974, § 25-29)

Sec. 62-485. Fee.

(a) Every applicant, before being granted a permit under this division, shall pay the following permit fee for each sign covered by the individual and separate permit:

(1) Temporary signs and portable electric signs, $10.00.

(2) Wall signs less than 50 square feet in size, $10.00.

(3) Permanent ground signs, $25.00.

(b) In addition to the fees prescribed above, any applicable permit and/or inspection fees for illuminated signs prescribed by the electrical code shall be paid.

(c) Any additional inspection made necessary by initial work being rejected or incomplete will be a minimum of $10.00.
(Code 1974, § 25-30)

Sec. 62-486. Issuance.

The permit required by this division shall be issued by the code administrator if the application has been approved and the applicant has complied with the provisions of this article.
(Code 1974, § 25-31)

Sec. 62-487. Expiration generally.

If the work authorized by a permit issued under this division has not been commenced within six months after the date of issuance, the permit shall expire and thereafter be null and void.
(Code 1974, § 25-32)

Sec. 62-488. Duration of permit for temporary sign.

Permits for temporary signs shall authorize the erection of such signs and their maintenance for a period not exceeding 30 days.
(Code 1974, § 25-33)

Sec. 62-489. Revocation.

(a) All rights and privileges acquired under the provisions of this article or any amendment thereto are mere licenses, revocable for cause at any time by the city council, and all permits issued under this division shall contain this provision.

(b) The code administrator is hereby authorized and empowered to revoke any permit issued by him under this division upon failure of the holder thereof to comply with any provision of this article.
(Code 1974, § 25-34)

Secs. 62-490-62-500. Reserved.

DIVISION 3. REQUIREMENTS FOR SPECIFIC TYPES OF SIGNS

Subdivision I. General Provisions

Secs. 62-501-62-510. Reserved.

Subdivision II. Ground Signs

Sec. 62-511. Incombustible material required; exception.

All ground signs shall have a surface or facing of incombustible material; provided; however, that combustible trim may be used thereon.
(Code 1974, § 25-55)

Sec. 62-512. Maximum height.

It shall be unlawful to erect any ground sign whose total height is greater than 70 feet above the level of the ground upon which the sign is erected.
(Code 1974, § 25-56)

Sec. 62-513. Space between sign and ground and other signs and structures.

Ground signs shall have an open space not less than two feet between the base line of the sign and the ground level. This open space may be filled in with a platform or decorative latticework which does not close off more than one-half of any square foot of such open space. No ground sign shall be nearer than two feet to any other sign, building or structure.
(Code 1974, § 25-57)

Sec. 62-514. Setback line.

No ground sign shall be nearer the street than ten feet or the building line, as established by article V of this chapter, whichever is less. No nonaccessory ground sign shall be nearer the street than 25 feet or the building line, as so established, whichever is greater.
(Code 1974, § 25-58)

Sec. 62-515. Bracing, anchorage and supports.

All ground signs shall be securely built, constructed and erected upon posts and standards sunk at least three feet below the natural surface of the ground. All posts, anchors and bracing of wood shall be treated to protect them from moisture by creosoting or other approved methods when they rest upon or enter into the ground.
(Code 1974, § 25-59)

Sec. 62-516. Letters, figures, etc., in cutout or irregular form.

All letters, figures, characters or representations in cutout or irregular form, maintained in conjunction with, attached to or superimposed upon any ground sign shall be safely and securely built or attached to the sign structure and shall comply with all requirements of section 62-447.
(Code 1974, § 25-60)

Sec. 62-517. Maintenance of signs and surrounding premises.

All ground signs and the premises surrounding the same shall be maintained by the owner thereof in a clean, sanitary and inoffensive condition, and free and clear of all obnoxious substances, rubbish and weeds.
(Code 1974, § 25-61)

Secs. 62-518-62-530. Reserved.

Subdivision III. Wall Signs

Sec. 62-531. Incombustible material required; exception.

All wall signs shall have a surface or facing of incombustible material; provided, however, that combustible trim may be used thereon.
(Code 1974, § 25-72)

Sec. 62-532. Maximum area.

No wall sign shall exceed an area of 500 square feet.
(Code 1974, § 25-73)

Sec. 62-533. Not to cover wall opening or project beyond ends or top of wall.

No wall sign shall cover wholly or partially any wall opening, nor project beyond the ends or top of the wall to which it is attached.
(Code 1974, § 25-74)

Sec. 62-534. Extension beyond building line; minimum height.

No wall sign shall be permitted to extend more than six inches beyond the building line. No such sign shall be attached to a wall at a height of less than ten feet above the sidewalk or ground.
(Code 1974, § 25-75)

Sec. 62-535. Supports and attachment.

All wall signs shall be safely and securely attached to the building wall by means of metal anchors, bolts or expansion screws of not less than three-eighths inch in diameter embedded in the wall at least three inches; provided, however, that such signs may rest in, or be bolted to, strong, heavy metal brackets or saddles set not over six feet apart, each of which shall be securely fIxed to the wall as hereinbefore provided. In no case shall any wall sign be secured with wire, strips of wood or nails.
(Code 1974, § 25-76)

Secs. 62-536-62-545. Reserved.

Subdivision IV: Roof Signs

Sec. 62-546. Incombustible material required; exception.

Every roof sign, including the upright supports and braces thereof, shall be constructed entirely of incombustible materials; provided, however, that combustible trim may be used thereon.
(Code 1974, § 25-87)

Sec. 62-547. Area and height limitations.

No roof sign shall have a surface or facing exceeding 300 square feet, nor have its highest point extended more than 20 feet above the roof level.
(Code 1974, § 25-88)

Sec. 62-548. Required setback from roof edge.

No roof sign shall be erected or maintained with the face thereof nearer than fIve feet to the outside wall toward which the sign faces.
(Code 1974, § 25-89)

Sec. 62-549. Bracing, anchorage and supports.

Every roof sign shall be thoroughly secured to the building by iron or other metal anchors, bolts, supports, rods or braces. When erected upon buildings which are not constructed entirely of fIreproof material, the bearing plates of the sign shall bear directly upon masonry walls and intermediate steel columns in the building. No roof sign shall be supported or anchored to the wooden framework of a building.
(Code 1974, § 25-90)

Sec. 62-550. Space between sign and roof; clearance between vertical supports.

All roof signs shall have a space of at least fIve feet in height between the base ofthe sign and the roof level, and at least five feet clearance between the vertical supports thereof.
(Code 1974, § 25-91)

Sec. 62-551. Prohibited obstructions.

No roof sign shall be placed on the roof of any building or structure in such a manner as to prevent free passage from one part of the roof to any other part thereof or interfere with openings in the roof.
(Code 1974, § 25-92)

Secs. 62-552-62-560. Reserved.

Subdivision V Projecting Signs

Sec. 62-561. Design by structural engineer, approval by code administrator and electrical inspector.

Every projecting sign, including the frames, braces and supports thereof, shall be designed by a structural engineer or manufacturer and shall

be approved by the code administrator as in compliance with the building code of the city and by the electrical inspector as in compliance with the electrical code of the city.
(Code 1974, § 25-103)

Sec. 62-562. Incombustible material required.

Every projecting sign shall be constructed of incombustible material.
(Code 1974, § 25-104)

Sec. 62-563. Area limitations.

Except by special permission of the city council, projecting signs shall be limited in area as follows:

(1) Horizontal projecting signs, 50 square feet each side.

(2) Vertical projecting signs, 100 square feet each side.

(Code 1974, § 25-105)

Sec. 62-564. Thickness limitation.

The distance measured between the principal faces of any projecting sign shall not exceed 18 inches.
(Code 1974, § 25-106)

Sec. 62-565. Location.

Every projecting sign shall be placed at least ten feet above the public sidewalk over which it is erected, and at a distance not greater than two feet from the face of the wall to which it is attached, measuring from the point of the sign nearest thereto. No such sign or part thereof shall extend nearer the curbline than one foot. Every projecting sign erected over public driveways, alleys and thoroughfares shall be placed not less than 15 feet above the level of the same.
(Code 1974, § 25-107)

Sec. 62-566. Attachments and supports.

(a) Projecting signs exceeding ten square feet in area or 50 pounds in weight shall not be attached to or supported by frame buildings or the wooden framework of a building. Such signs shall be attached to masonry walls with galvanized expansion bolts at least three-eighths inch in diameter or shall be fIxed in the wall by means of bolts extending through the wall, and shall contain a proper size metal washer or plate on the inside of the wall.

(b) No projecting sign shall be secured with wire, strips of wood or nails, nor shall any projecting sign be hung or secured to any other sign.
(Code 1974, § 25-108)

Sec. 62-567. To be two.faced; V.shaped signs prohibited.

Every projecting sign shall be two-faced. V-shaped projecting signs, consisting of two single-faced signs erected without a roof or ceiling, shall not be permitted.
(Code 1974, § 25-109)

Sec. 62-568. Illumination.

Every projecting sign shall be illuminated. The reflectors shall be provided with the proper glass lenses concentrating the illumination upon the area of the sign and preventing glare upon the street or adjacent property. No floodlight, spot. light or reflector of the gooseneck type shall be permitted on projecting signs.
(Code 1974, § 25.110)

Sec. 62-569. Use of glass or other transparent material.

The lettering or advertising designs to be illuminated on a projecting sign may be composed of glass or other transparent or semitransparent incombustible material. Any glass forming a part of any sign shall be safety glass or plate glass at least one-quarter inch thick and in case any single piece or pane of glass has an area exceeding three square feet, it shall be wire glass. One section, not exceeding three square feet in area, constructed of wire glass or safety glass shall be permitted on each side of the sign.
(Code 1974, § 25-111)

Sec. 62-570. Movable parts secured.

Any movable part of a projecting sign, such as the cover of a service opening, shall be securely fastened by chains or hinges.
(Code 1974, § 25-112)

Secs. 62-571-62-580. Reserved.

Subdivision VI. Temporary Signs

Sec. 62-581. Material requirements.

No temporary sign of combustible material shall exceed four feet in one of its dimensions or 100 square feet in area. Such signs in excess of 60 square feet shall be made of rigid materials, i.e., of wallboard or other light materials with frames.
(Code 1974, § 25-123)

Sec. 62-582. Signs exceeding 50 pounds to be approved by building official.

Every temporary sign weighing in excess of 50 pounds must be approved by the code administrator as conforming to the safety requirements of the building code of the city.
(Code 1974, § 25-124)

Sec. 62-583. Extension over or into street or sidewalk or over wall opening.

No temporary sign shall extend over or into any street, alley, sidewalk or other public thoroughfare a distance greater than four inches from the wall upon which it is erected and shall not be placed or projected over any wall opening.
(Code 1974, § 25-125)

Sec. 62-584. Anchorage and support.

Every temporary sign shall be attached to the wall with wire or steel cables and no strings, ropes or wood slats for anchorage or support purposes shall be permitted.
(Code 1974, § 25-126)

Sec. 62-585. Permitted advertising.

The advertisement contained on any temporary sign shall pertain only to the business, industry or pursuit conducted on or within the premises on which such sign is erected or maintained. This provision shall not apply to signs of a civic, political or religious nature.
(Code 1974, § 25-127)

Secs. 62-586-62-595. Reserved.

Subdivision VII. Marquees

Sec. 62-596. Design by structural engineer, approval by code administrator and electrical inspector.

All marquees shall be designed by a structural engineer and approved by the code administrator as in compliance with the building code of the city and by the electrical inspector as in compliance with the electrical code of the city.
(Code 1974, § 25-138)

Sec. 62-597. Illumination required.

All marquees shall be illuminated.
(Code 1974, § 25-139)

Sec. 62-598. Incombustible material required.

All marquees, including the anchors, bolts, supports, rods and braces thereof, shall be constructed of incombustible materials.
(Code 1974, § 25-140)

Sec. 62-599. Roof use and material.

The roofs of all marquees shall be used for no other purpose than to form and constitute a roof, and at least 25 percent of the area of the roof of every marquee shall be of glass or other incombustible transparent substance.
(Code 1974, § 25-141)

Sec. 62-600. Drainage.

The roofs of all marquees shall be properly guttered and connected by downspouts to a sewer so that the water therefrom will not drip or flow onto public property.
(Code 1974, § 25-142)

Sec. 62-601. Minimum height.

No portion of a marquee shall be less than ten feet above the level of the sidewalk or other public thoroughfare.
(Code 1974, § 25-143)

Sec. 62-602. Setback from curbline.

No marquee shall be permitted to extend beyond a point two feet inside the curbline.
(Code 1974, § 25-144)

Sec. 62-603. Maximum width.

No marquee shall be wider than the entrance or entrances of the building, plus five feet on each side thereof; provided, however, that where the entrances to a building are not more than 20 feet apart, a marquee may be made a continuous single structure between the entrances.
(Code 1974, § 25-145)

Sec. 62-604. Support.

Marquees shall be supported solely by the building to which they are attached, and no columns or posts shall be permitted as support therefor.
(Code 1974, § 25-146)

Sec. 62-605. Anchorage to wood structure.

No marquee shall be erected on any building of wood frame construction, unless attached to the masonry, concrete or steel supports of the building.
(Code 1974, § 25-147)

Sec. 62-606. Live load requirements.

The roof of a marquee, except the required glass area, shall be designed and constructed to support a live load of not less than 100 pounds per square feet.
(Code 1974, § 25-148)

Sec. 62-607. Signs and advertising material attached to marquee.

Signs attached to or hung from a marquee shall be completely within the borderline of the marquee's outer edge, and shall in no instance be lower than ten feet above the sidewalk or public thoroughfare. No sign or advertising material shall exceed five feet in height exclusive of the name of the establishment exhibiting such marquee. No advertising material shall be placed upon the roof of any marquee.
(Code 1974, § 25-149)

Secs. 62-608-62-620. Reserved.

Subdivision VIII. Awnings and Canopies

Sec. 62-621. Permitted materials.

(a) Awnings may be constructed of cloth or metal; provided, however, all frames and supports shall be of metal.

(b) Canopies may be constructed of cloth or metal hood; provided, however, all frames and supports shall be of metal.
(Code 1974, § 25-160)

Sec. 62-622. Minimum height.

(a) All awnings shall be constructed and erected so that the lowest portion thereof shall not be less than eight feet above the level of the sidewalk or public thoroughfare.

(b) All canopies shall be constructed and erected so that the lowest portion thereof shall be not less than nine feet above the level of the sidewalk or public thoroughfare.
(Code 1974, § 25-161)

Sec. 62-623. Setback requirements generally.

No awning or canopy shall be permitted to extend beyond a point two feet inside the curbline.
(Code 1974, § 25-162)

Sec. 62-624. Width.

There shall be no limitation on the width of awnings. No canopy shall be permitted to exceed eight feet in width.
(Code 1974, § 25-163)

Sec. 62-625. Support for awnings.

Every awning shall be securely attached to and supported by the building. Posts or columns beyond the building line shall not be permitted for awnings. No awning shall be attached to the wood jambs, frames or other wood members of a building (frame buildings excepted), when such building is less than ten feet from public property.
(Code 1974, § 25-164)

Sec. 62-626. Frames and supports for canopies.

The framework of all canopies shall be designed by a structural engineer and approved by the code administrator as in compliance with the building code of the city. All frames and supports shall be of metal and designed to withstand a wind pressure as provided in section 62-445.
(Code 1974, § 25-165)

Sec. 62-627. Permitted advertising.

No advertising shall be placed on any awning or canopy except that the name of the owner and the business, industry or pursuit conducted within the premises may be painted or otherwise permanently placed in a space not exceeding eight inches in height on the front and side portions thereof.
(Code 1974, § 25.166)

Sec. 62-628. Awnings rolled or folded except when in service.

Every awning shall be rolled or folded against the building wall except when in service as a protection from sun, rain, snow or other inclement weather.
(Code 1974, § 25-167)

Secs. 62-629-62-640. Reserved.

Subdivision IX. Street Clocks

Sec. 62-641. Incombustible material required.

All street clocks shall be constructed of incombustible material, including the frames, brace,s and supports thereof.
(Code 1974, § 25-178)

Sec. 62-642. Minimum diameter of dial.

The dial of a street clock shall be not less than 30 inches in diameter.
(Code 1974, § 25-179)

Sec. 62-643. Glass requirements.

Any glass forming a part of a street clock or the sign thereon shall be safety glass or plate glass at least one-fourth inch thick. In case any single piece or pane of glass has an area exceeding three square feet, it shall be constructed of wire glass, securely held in place.
(Code 1974, § 25-180)

Sec. 62-644. Movable parts secured.

Any movable part of a street clock, such as the cover or service opening, shall be securely fastened by metal hinges.
(Code 1974, § 25.181)

Sec. 62-645. Limitation on number at same location.

No person shall be permitted to erect more than one street clock for any place of business at any one location.
(Code 1974, § 25.182)

Sec. 62-646. Special permit required for erection on sidewalk.

Any person erecting a street clock on any public sidewalk shall obtain the special written permission of the city council, in addition to all other permits required by this article.
(Code 1974, § 25-183)

Sec. 62-647. Height, location when erected on sidewalk.

Every street clock erected on a sidewalk shall be supported upon a post of ornamental design, the total height of which shall not be less than 15 feet, and which shall be at least 20 feet from the point of intersection of the lines of any street, measured parallel with the street.
(Code 1974, § 25-184)

Sec. 62-648. Height, projection when supported on building corner.

Street clocks supported on the corner of any building or structure at the intersection of two streets shall not be less than 15 feet or more than 20 feet above the sidewalk and shall not project from the face or wall of the building or structure in any direction more than five feet.
(Code 1974, § 25-185)

Sec. 62-649. Supports and attachments.

All street clocks erected on the exterior of any building or structure shall comply with the requirements set forth in section 62-535 regulating wall signs, or section 62-566 regulating projecting signs, whichever applies.
(Code 1974, § 25-186)

Sec. 62-650. Permitted advertising.

Only the name of the owner, proprietor or manager of the place of business erecting and maintaining a street clock shall be permitted as advertising matter on such clock.
(Code 1974, § 25-187)

Sec. 62-651. Keeping of accurate time.

Street clocks shall keep accurate time, and if this condition is not complied with, the clock shall be promptly repaired or removed.
(Code 1974, § 25-188)

Chapters 63-65

RESERVED

Chapter 66

LAW ENFORCEMENT

Article I. In General

Secs. 66-1–66-25. Reserved.

Article II. Police Department

Sec. 66-26. Department created; supervision by chief.
Sec. 66-27. General duties.

ARTICLE I. IN GENERAL

Secs. 66-1–66-25. Reserved.

ARTICLE II. POLICE DEPARTMENT*

Sec. 66-26. Department created; supervision by chief.

There is hereby created a police department, the head of which shall be the chief of police appointed by the city manager for an indefinite term, and removable by the manager. The chief of police shall be an officer of the city, and shall have supervision and control of the police department. (Code 1974, § 22-1)

State law reference–Chief of police, 11 O.S. § 34-102.

Sec. 66-27. General duties.

It shall be the duty of the police department to apprehend and arrest on view or on warrant and bring to justice all violators of the ordinances of the city; to suppress all riots, affrays and unlawful assemblies which may come to its knowledge and generally to keep the peace; to serve all warrants, writs, executions and other processes properly directed and delivered to it; to apprehend and arrest persons violating federal or state law as provided by law, and to turn them over to proper authorities; and in all respects to perform all duties pertaining to the offices of police. (Code 1974, § 22-2)

***Charter reference**–Police 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 references–Municipal police departments, 11 O.S. § 34-101 et seq.; police pension and retirement system, 11 O.S. § 50-101 et seq.

Chapters 67–69

RESERVED

Chapter 70

LIBRARY*

Article I. In General

Sec. 70-1. Multicounty library district.
Sec. 70-2. Failure to return books.
Sec. 70-3. Injuring library property.
Sec. 70-4. Supervision.
Secs. 70-5-70-25. Reserved.

Article II. Library Board

Sec. 70-26. Composition; appointment, terms, compensation of members.
Sec. 70-27. Organization, meetings.
Sec. 70-28. Duties, powers.

.Cross reference-Parks and recreation, ch. 86.
State law reference-Public libraries, 65 O.S.

ARTICLE I. IN GENERAL

Sec. 70-1. Multicounty library district.

Nothing in this Code or the ordinance adopting this Code shall affect the validity of Ordinance No. 1223, adopted by the city council on September 25, 1967, and relating to the city's participation in the multicounty library district, and such ordinance is recognized as continuing in full force and effect to the same extent as if set out at length in this chapter.
(Code 1974, § 15-1)

State law reference-Multicounty library districts and systems, 65 O.S. § 4-101 et seq.

Sec. 70-2. Failure to return books.

It shall be unlawful for any person to retain or fail to return any books to the library for a longer period than is fixed by the rules of the library board.
(Code 1974, § 15-3)

Sec. 70-3. Injuring library property.

It shall be unlawful for any person to deface or in any way injure any part of the library building, books or property of any kind.
(Code 1974, § 15-4)

Sec. 70-4. Supervision.

The librarian, subject to the authority of the library board, shall have supervision and control of the libraries, including all other personnel thereof.
(Code 1974, § 15-2(d»

Secs. 70-5-70-25. Reserved.

ARTICLE II. LffiRARY BOARD*

Sec. 70-26. Composition; 8_lJPointment, terms, compensation of members.

There shall be a city library advisory board of trustees composed of seven members. The board shall serve under the authority ofthe city council, and shall be required to report to it annually. The mayor shall appoint members of the board for terms of five years, with such terms to begin on the first day of January following appointment and to terminate on the 31st day of December, five years hence. When necessary, the board, with concurrence of the mayor, may take action to ensure that no more than three appointments terminate on the same date.
(Code 1974, § 15-2(a); Ord. No. *2v~1,* 9 1,9-27-94; Ord. No. 2033, § 1, 2-28-95)

Charter reference-Authority of council to appoint and remove members of library board, § 2-4(5).

Sec. 70-27. Organization, meetings.

Every year, as soon after January 1 as practicable, the library board shall elect a chairman and a vice-chairman from its own membership, and a secretary, who need not be a member of the board. The board shall determine the time and place of its regular meetings, and the chairman or any three members of the board may call special meetings of the board.
(Code 1974, § 15-2(b»)

Sec. 70-28. Duties, powers.

The library board may, by contract, carry out the above duties. The contract shall set out the responsibilities of all parties to the contractual agreement.
(Code 1974, § 15-2(c); Ord. No. 2024, § 2,9-27-94)

*Cross reference-Boards and commissions, § 2-166 et seq.

Chapters 71-73

RESERVED

Chapter 74

MANUFACTURED HOMES AND TRAILERS*

Article I. In General

Sec. 74-1. Definitions.
Sec. 74-2. Parking on streets, other public property.
Sec. 74-3. Parking oriocating on private property.
Secs. 74-4-74-25. Reserved.

Article II. Trailer Camps

Division 1. Generally

Sec. 74-26. Applicability of plumbing, electrical and building ordinances.
Sec. 74-27. Site drainage and grading.
Sec. 74-28. Designation of and access driveways for units.
Sec. 74-29. Electric outlets for units.
Sec. 74-30. Location of trailers with respect to other trailers, buildings and camp boundaries.
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.Cross references-Buildings and building regulations, ch. 18; businesses, ch. 22; land development code, ch. 62.
State law reference-Factory-built housing, 63 O.S. § 1084.

ARTICLE I. IN GENERAL

Sec. 74-1. Definitions.

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

Trailer means any vehicle or structure so designed and constructed as will permit occupancy thereof as sleeping quarters for one or more persons, or the conduct of any business, profession, occupation or trade, or use as a selling or advertising device, and so designed that it is or may be mounted on wheels and used as a conveyance on highways or city streets, propelled or drawn by its own or other motive power, except a device used exclusively upon stationary rails or tracks.

Trailer camp means any park, trailer park, trailer court, court, camp, site, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying a location or accommodations for any trailer, and upon which any trailer is parked, and shall include all buildings used or intended for use as part of the equipment thereof, whether a charge is made for the use of the trailer camp and its facilities or not. "Trailer camp" shall not include automobile or trailer sales lots on which unoccupied trailers are parked for purposes of inspection and sale.

Unit means a section of ground in a trailer camp of not less than 800 square feet of unoccupied space in an area designated as the location for only one automobile and one trailer.
(Code 1974, § 29-1)

Cross reference-Definitions generally, § 1-2.

Sec. 74-2. Parking on streets, other public property.

It shall be unlawful for any person to park any trailer on any street, alley, highway or other public property within the city; provided that, emergency or temporary stopping or parking is permitted on any street, alley or highway for not longer than one hour, subject to any other and further prohibitions, regulations or limitations imposed by the traffic and parking regulations or ordinances for such street, alley or highway. Trailers may also be parked on large public landholdings as necessary to provide security.
(Code 1974, § 29-2)

Cross reference-Stopping, standing and parking, § 102-116 et seq.

Sec. 74-3. Parking or locating on private property.

It shall be unlawful for any person to park or otherwise locate any trailer on any privately owned property, occupied or unoccupied, within the city, except in a licensed trailer camp and except as permitted by the zoning ordinance; provided that, the city council, in its discretion, may permit the temporary installation of trailers to be used as mobile offices and classrooms for public health, safety and educational purposes, and the duration of such occupancy shall also be within the discretion of the city council.
(Code 1974, § 29-3)

Secs. 74-4-74-25. Reserved.

ARTICLE II. TRAILER CAMPS

DIVISION 1. GENERALLY

Sec. 74-26. Applicability of plumbing, electrical and building ordinances.

All plumbing, electrical, building and other work on or at any trailer camp shall be in accordance with the ordinances of the city regulating such work, unless such ordinances are specifically made inapplicable under the terms of this article.
(Code 1974, § 29-15)

Sec. 74-27. Site drainage and grading.

Every trailer camp shall be located on a well-drained area, and the premises shall be properly graded so as to prevent the accumulation of storm-waters or other waters.
(Code 1974, § 29-16)

Sec. 74-28. Designation of and access drive. ways for units.

Units in a trailer camp shall be clearly designated and the camp so arranged that all units

shall face or abut on a driveway of not less than 16 feet in width, giving easy access from all units to a public street. Such driveway shall be paved or graveled and maintained in a good condition, have natural drainage into city street catchbasins, be well lighted at night and shall not be obstructed.
(Code 1974, § 29-17)

Sec. 74-29. Electric outlets for units.

Every unit in a trailer camp shall be furnished with an electric service outlet. Such outlet shall be equipped with an externally operated switch or fuse of a capacity of not less than 30 amperes, and a heavy duty outlet receptacle.
(Code 1974, § 29-18)

Sec. 74-30. Location of trailers with respect to other trailers, buildings and camp boundaries.

No trailer shall be located within a trailer camp less than ten feet from any other trailer building or the boundary line of the trailer camp.
(Code 1974, § 29-19)

Sec. 74-31. Limitation on number of trailer occupants.

No trailer in a trailer camp may be inhabited by a greater number of occupants than that for which it was designed.
(Code 1974, § 29-20)

Sec. 74-32. Water supply.

(a) No trailer camp shall be located within the city unless city water connections are available. An adequate supply of pure water, furnished through a pipe distribution system connected directly with the city water main, with supply faucets located not more than 200 feet from any trailer, shall be furnished for drinking and domestic purposes.

(b) No common drinking vessels shall be permitted in a trailer camp, nor shall any drinking water faucet be placed in any toilet room or water closet compartment.

(c) An abundant supply of hot water shall be provided at all times in a trailer camp, for bathing, washing and laundry facilities.
{Code 1974, § 29-21)

Sec. 74-33. Sewage and wastewater disposal.

(a) No trailer camp shall be located within the city, unless city sewer connections are available. All waste from showers, toilets, laundries, faucets and lavatories in a trailer camp shall be wasted into a sewer system extended from and connected with the city sewer system, and all sanitary facilities in any trailer which are not connected with the city sewer system by means of rigid pipe connections shall be sealed and their use is hereby declared unlawful.

(b) Each faucet site in a trailer camp shall be equipped with facilities for drainage of waste and excess water into the sewer. In no case shall any wastewater be thrown or discharged upon the surface of the ground or disposed of by means other than as herein provided.
(Code 1974, § 29-22)

Sec. 74-34. Service buildings; toilet, bathing and laundry facilities.

(a) Every trailer camp shall have erected thereon, at a distance not greater than 200 feet from any unit it is designed to serve, a suitable building for housing the toilets, showers and laundry facilities required by this section, such building to be known as the service building. No unit in the camp shall be located farther than 200 feet from a service building and walkways to such buildings shall be paved and well lighted at night.

(b) Separate toilet rooms for each sex shall be provided in the service building. Flush toilets provided with an adequate water supply shall be enclosed in separate compartments having a minimum width of four feet, and shall be provided for each sex in the ratio of one toilet for each eight units, or fraction thereof. Every male toilet room shall have one urinal for each 16 units, but in no case shall any male toilet be without one urinal. Toilet rooms shall contain lavatories with hot and cold water in the ratio of one lavatory to every two or less water closets.

(c) Separate bathing facilities for each sex shall be provided in the service building, with one shower, enclosed in a compartment at least four feet square, for each eight units, or fraction thereof. Each shower compartment shall be supplemented by an individual dressing compartment of at least 12 square feet.

(d) Laundry facilities shall be provided in the service building in the ratio of one double tray and one ironing board for each ten units or cabins.

(e) The accommodations required by this section shall be based on the total camp capacity according to accepted plans.

m Floors of toilets, showers and the laundry shall be of concrete, tile or similar material, impervious to water and easily cleaned and pitched to a floor drain.
(Code 1974, § 29-23)

Sec. 74-35. Office building required.

In every trailer camp there shall be an office building in which shall be located the office of the person in charge of the camp.
(Code 1974, § 29-24)

Sec. 74-36. General maintenance requirements.

The premises of every trailer camp, and every trailer located therein, shall be maintained in a sanitary, clean, orderly and safe condition and manner at all times.
(Code 1974, § 29-25)

Sec. 74-37. Garbage storage and collection.

Every unit in a trailer camp shall be provided with a garbage container or receptacle meeting the requirements of chapter 106, article IV, from which the contents shall be removed by the city garbage collection service.
(Code 1974, § 29-26)

Sec. 74-38. City fire protection facilities required.

No trailer camp shall be located within the limits of the city, unless city fire protection facilities are available.
(Code 1974, § 29-27)

Sec. 74-39. Fire extinguishers.

Hand fire extinguishers shall be provided in each trailer camp at locations approved by the fire department. There shall be at least one such extinguisher for each eight units, or fraction thereof, in the camp.
(Code 1974, § 29-28)

Sec. 74-40. Open fires prohibited.

The lighting of open fires on the premises of any trailer camp is prohibited.
(Code 1974, § 29-29)

Sec. 74-41. Animals running at large.

It shall be unlawful for any person to permit any dog, cat or other animal to run loose or at large within any trailer camp.
(Code 1974, § 29-30)

Sec. 74-42. Guest register.

(a) It is hereby made the duty of the attendant or person in charge of a trailer camp, and the licensee therefor, to keep at all times a register of all guests showing for all guests:

(1) Names and addresses.

(2) Dates of entrance and departure.

(3) License numbers of all trailers and towing or other automobiles, and state issuing such licenses.

(4) Place of last location and length of stay.

(b) The register required by this section shall be kept, at all times, in the trailer camp office. Such register shall be open, at all times, to inspection by state, federal and city officers.
(Code 1974, § 29-31)

Sec. 74-43. Reports to health officer of cases of communicable disease.

It shall be the duty of the licensee, manager or other person in charge of a trailer camp to report to the health officer all cases of persons or animals affected or suspected of being affected with any communicable disease.
(Code 1974, § 29-32)

Sec. 74-44. Duty of management to enforce article and report violations.

It shall be the duty of the manager or other person in charge of a trailer camp, and the person holding the license therefor, to see that the provisions of this article are complied with and enforced and to report promptly to the proper authorities any violations of this article or any other violations oflaw which may come to his attention.
(Code 1974, § 29-33)

Sec. 74-45. Copy of article or original ordinance posted in office.

A copy of this article or of Ordinance No. 779, from which this article is derived, shall be posted in the office of each trailer camp.
(Code 1974, § 29-34)

Secs. 74-46-74-55. Reserved.

DIVISION 2. LICENSE

Sec. 74-56. Required.

It shall be unlawful for any person to establish, operate, maintain, or permit to be established, operated or maintained upon any property owned or controlled by him, a trailer camp within the limits of the city without first having secured a license therefor from the city treasurer, granted and existing in compliance with the terms of this divi-SIOn.
(Code 1974, § 29-41)

Sec. 74-57. Application generally.

Application for a license under this division or the renewal thereof shall be filed with the city treasurer on printed forms furnished by the treasurer. Such application shall include the name and address of the owner in fee of the land upon which the trailer camp is or will be located. If the fee is vested in some person other than the applicant, the application shall contain or be accompanied by a duly verified statement by that person that the applicant is authorized by him to construct or maintain the trailer camp and make the application. Such application shall also contain such a legal description of the premises upon which the trailer camp is or will be located as will readily identify and definitely locate the premises.
(Code 1974, § 29-42)

Sec. 74-58. Camp plan to accompany application.

The application for a license under this division or the renewal thereof shall be accompanied by four copies of the camp plan, showing the following, either existing or as proposed:

(1) The extent and area used for trailer camp purposes.

(2) The roadways and driveways.

(3) The location of units for trailers.

(4) The location and number of sanitary conveniences, including toilets, washrooms, laundries and utility rooms to be used by the occupants of the units.

(5) The method and plan of sewage disposal.

(6) The method and plan of garbage removal.

(7) The plan for water supply.

(8) The plan for electrical lighting of units.
(Code 1974, § 29-43)

Sec. 74-59. Applicant's bond.

Each application for the issuance or renewal of a license under this division shall be accompanied by a bond in the sum of $1,000.00 to guarantee that the applicant will comply with the terms of this article.
(Code 1974, § 29.44)

Sec. 74-60. Fee.

The annual fee for a license under this division shall be $5.00 for each unit in the trailer camp. Such fee shall be paid at the time of filing the application for the issuance or renewal of the license.
(Code 1974, § 29-45)

Sec. 74-61. Favorable recommendation of city manager or favorable action by council prerequisite to issu. ance.

The city treasurer shall not issue a license under this division without the favorable recommendation of the city manager, or in case of an appeal from the denial under section 74-66, favorable action by the city council.
(Code 1974, § 29-46)

Sec. 74-62. Conveys no right to perform building, plumbing or electrical work.

Licenses issued under the terms of this division convey no right to erect any building, to do any plumbing work or to do any electrical work, and proper permits therefor must be obtained, as required by other ordinances of the city.
(Code 1974, § 29-47)

Sec. 74-63. Posting.

The license issued under this division shall be posted in the trailer camp office.
(Code 1974, § 29-48)

Sec. 74-64. Expiration and renewal.

A license issued under this division shall expire one year from the date of issuance, but may be renewed under the provisions of this division for additional periods of one year.
(Code 1974, § 29-49)

Sec. 74-65. Revocation generally.

The city manager is hereby authorized to revoke any license issued pursuant to the terms of this division, if after due investigation, he determines that the holder thereof has violated any of the provisions of this article.
(Code 1974, § 29-50)

Sec. 74-66. Appeals from issuance, denial or revocation.

(a) Any person aggrieved by the grant, denial, renewal or revocation of a license for a trailer camp under this division may file a written request for a hearing before the city council, within ten days after such action. The city council may give notice of the hearing to other persons directly interested in the action in question. At such hearing, the city council shall determine whether the grant, denial, renewal or revocation of the license was in accordance with the provisions of this division and shall issue written findings of fact and conclusions of law and an order to carry out its findings and conclusions. These findings shall be filed with the city clerk and served by the city clerk upon all parties represented or appearing at the hearing.

(b) The owner of any property located within 300 feet of a trailer camp for which a license is issued under this division may appeal such issuance to the city council in accord with the provisions of subsection (a).
(Code 1974, § 29-51)

Chapters 75-77

RESERVED

Chapter 78

NATURAL RESOURCES*

Article I. In General

Sec. 78-1. Drilling for, production of oil and gas.
Secs. 78-2-78-25. Reserved.

Article II. McAlester Water District

Sec. 78-26. Established.
Sec. 78-27. Rules, regulations of boards of health and health officers extended over district.
Sec. 78-28. Police power of city extended over district.
Sec. 78-29. Inspectors.
Sec. 78-30. General prohibition against pollution.
Sec. 78-31. Rules adopted.
Sec. 78-32. Authority of council to adopt additional rules, change boundaries of district.

"**Cross** reference-Land development code, ch. 62.

ARTICLE I. IN GENERAL

Sec. 78-1. Drilling for, production of oil and gas.

It shall be unlawful for any person to drill or dig a well for oil or natural gas, or to produce oil or natural gas within the city. In addition to being an offense and punishable as such, such drilling, digging or production is also hereby declared to be a public nuisance and subject to abatement as a public nuisance.
(Code 1974, § 8-21)

Secs. 78-2-78-25. Reserved.

ARTICLE II. McALESTER WATER DISTRICT*

Sec. 78-26. Established.

Pursuant to the authority granted by 11 O.S. §§ 37-110-37-112, there is hereby established and designated by metes and bounds a water district, for the sanitary protection of the water supply of the city, which district shall be known as the McAlester Water District, and shall embrace all the lands in the county within the following described metes and bound-s:

Beginning at the southwest corner of section 2, township 6 north, range 14 east; thence due west along the south line of section 3, approximately 5,280 feet to the southwest corner of section 3; thence south 1,320 feet; thence in a southwesterly direction through section 9, approximately 6,600 feet to the southwest corner of section 9; thence south, approximately 2,640 feet; thence due west, approximately 7,920 feet to the center of section 18; thence due north, approximately 2,640 feet to the center of the north line of section 18; thence due west, approximately 2,640 feet to the northwest corner of section 18, township 6 north, range 14 east; thence due north on the section line between sections 7 and 12 (which is also the range line between range 14 east and range 13 east) approximately 2,640 feet; thence due west through the center of section 12, township 6 north, range 13 east, approximately 5,280 feet; thence due west to the center of section 11, approximately 2,640 feet; thence in a northwesterly direction, approximately 3,960 feet to the northwest corner of section 11; thence in a northwesterly direction through section 3, township 6 north, range 13 east, approximately 5,785 feet which is the center of the north line of section 3 on the township line between townships 6 and 7; thence due north through section 34, township 7 north, range 13 east, approximately 5,280 feet to the center of the north line of section 34; thence due north, approximately 2,640 feet to the center of section 27; thence due east 2,640 feet to the center of the east line of section 27; thence due north 2,640 feet to the northeast corner of section 27; thence due east along the section line between sections 26 and 23, approximately 2,640 feet; thence north, approximately 2,640 feet to the center of section 23; thence due east, approximately 2,640 feet to the center of the east line of section 23; thence due east in section 24, approximately 1,980 feet which is approximately 660 feet west of the center of section 24; thence due north, approximately 2,640 feet to the north line of section 24; thence due north through section 13, approximately 5,280 feet; thence due east along the north line of section 13, approximately 3,300 feet to the northeast corner of section 13, township 7 north, range 13 east, which point is on the range line between ranges 13 and 14; thence due east along the north line of section 18, township 7 north, range 14 east, approximately 5,280 feet to the northeast corner of section 18; thence in a southeasterly direction through section 17, approximately 5,940 feet to the center of the south line of section 17; thence in a southeasterly direction through section 20 approximately 5,780 feet to the southeast corner of section 20; thence due east along the section line between sections 21 and 28, approximately 5,280 feet to the northeast corner of section 28; thence due east along the section line between sections 22 and 27, approximately 5,280 feet to the northeast corner of section 27; thence due east along the section line between sections 23 and 26, approximately 5,280 feet to

.Cross references-City watershed lakes, § 86-76 et seq.; water supply system, § 106-26 et seq.

State law reference-Water districts, 11 O.S. § 37-110 et seq.

the northeast corner of section 26; thence due east along the section line between sections 24 and 25, approximately 2,640 feet which is the center of the north line of section 25; thence in a southwesterly direction through section 25, approximately 5,780 feet, which point is approximately 1,320 feet east of the southwest corner of section 25; thence due south in section 36, approximately 2,640 feet; thence due west, approximately 1,320 feet to the center of the west line of section 36; thence due south along the line between sections 36 and 35, approximately 2,640 feet to the southwest corner of section 36, township 7 north, range 14 east, which point is on the township line between townships 6 and 7 and approximately 5,280 feet west of the range line between ranges 14 and 15; thence in a southwesterly direction through sections 2, 6 and 14, approximately 7,460 feet to the point of beginning which is the southwest corner of section 2, township 6 north, range 14 east.

(Code 1974, § 31-99)

State law reference-Authority to establish water district, 11 O.S. § 37-110.

Sec. 78-27. Rules, regulations of boards of health and health officers extended over district.

All rules and regulations of the state, county and city boards of health, the state commissioner of health and the county and city health officers respectively, now in force are hereby extended over and shall apply and have full force and effect within the water district established by this article. All such rules and regulations that may be lawfully made in the future shall extend over and have the same effect within such water district as within the limits of the city.

(Code 1974, § 31-101)

Sec. 78-28. Police power of city extended over district.

By virtue of the laws of the state, the police power of the city is hereby extended over all the lands embraced within the water district established by this article, and it is hereby declared that the laws, ordinances, resolutions, regulations and jurisdiction of the city, the city council, the courts and all proper officers of the city, in the fullest degree conformable to law, extend over and apply to the entire water district for the protection of the public peace, safety and health of the inhabitants and the purity of the water supply of the city.

(Code 1974, § 31-100)

State law reference-Similar provisions, 11 o.s. § 37-110.

Sec. 78-29. Inspectors.

The city manager shall appoint one or more inspectors, whose duty it shall be to maintain, as nearly as may be, a continuous and complete oversight and inspection of the McAlester Water District and the watershed of the city's reservoir, under the direction of the city manager. Such inspectors shall note any violation of rules and regulations and also any cases of sickness existing within the water district or upon the watershed, and make a prompt report to the city manager, and shall perform such other duties as may be required by the city manager.

(Code 1974, § 31-102)

Sec. 78-30. General prohibition against pollution.

No person shall permit or cause any waste matter from oil or gas wells, or any salt water or other substance of any nature whatsoever that would pollute the water of the McAlester reservoir, as defined in section 78-31(1), to flow across, over or under any land in the McAlester Water District in such a manner that such waste matter, salt water or other substance will flow directly or ultimately into the McAlester reservoir or into any other reservoir, lake, pond, stream, ditch, watercourse or other body of water, the water of which flows or may flow directly or ultimately into the McAlester reservoir.

(Code 1974, § 31-103)

State law reference-Pollution of water supply prohibited, 11 O.S. § 37-115.

Sec. 78-31. Rules adopted.

The following rules are hereby ordained and declared to be in force within the McAlester Water District:

(1) *Rule* 1. "Reservoir," when mentioned in these rules, means the McAlester reservoir

formed by impounding water of Bull Creek and the flowing wasteback in such streams and tributaries by the city's dam approximately in the center of the southwest quarter of section 2, township 6 north, range 14 east, which reservoir is within the McAlester Water District.

(2) *Rule* 2. No cesspool, privy or other place for the reception, deposit or storage of human excrement shall be located, constructed or maintained within 3,000 feet of the high-water mark of the reservoir, or within 500 feet of the high-water mark of any other reservoir, lake, pond, stream, ditch, watercourse or other body of water, the water of which flows or may flow directly or ultimately into the reservoir, unless it is constructed according to the plans and specifications for sanitary vaults adopted by the city council and on file in the office of the city clerk; provided, however, that in no case, shall any such sanitary vault be located or constructed nearer than 300 feet to the high-water mark of Lake McHoma.

(3) *Rule* 3. No human excrement shall be deposited or discharged into the reservoir or into any other reservoir, lake, pond, stream, ditch, watercourse or other body of water, the water of which flows or may flow directly or ultimately into the reservoir; and no human excrement shall be kept in a cesspool, privy or other receptacle, except as provided for in rule 2, situated within 3,000 feet of the high-water mark of the reservoir or within 500 feet of the high-water mark of any stream or body of water, the water of which flows or may flow directly or ultimately into the reservoir.

(4) *Rule* 4. No human excrement or compost containing human excrement, or contents of any privy, cesspool, sewer or other receptacle for the reception or storage of human excrement, shall be deposited or discharged upon or into the ground at any place from which such excrement, compost or contents, or particles thereof, may flow or be washed or carried into the reservoir, or into any other reservoir, lake, pond, stream, ditch, watercourse or other body of water, the water of which flows or may flow directly or ultimately into the reservoir.

(5) *Rule* 5. No house slops, sink waste, water which has been used for cooking or washing or other polluted water shall be discharged into the reservoir, or into any lake, pond, reservoir, stream, ditch, watercourse or other body of water, the water of which flows or may flow directly or ultimately into the reservoir. No nuisance shall be committed or permitted and no house slops, sink waste, water which has been used for cooking or washing or other polluted water shall be discharged upon or into the ground within 3,000 feet of the high-water mark of the reservoir, or into or upon the ground within 500 feet of the high-water mark of any stream, reservoir, lake, ditch, watercourse or other body of water which flows or may flow directly or ultimately into the reservoir.

(6) *Rule* 6. No garbage, manure or other putrescible matter whatsoever shall be put into the reservoir or into any other reservoir, lake, stream, ditch, watercourse or other body of water, the water of which flows or may flow directly or ultimately into the reservoir, and no garbage, manure or putrescible matter whatsoever shall, except in the cultivation and use of soil in the ordinary methods of agriculture, be put upon the ground within 1,000 feet of the high-water mark of the reservoir, or within 500 feet of the high-water mark of any stream or body of water, the water of which flows or may flow directly or ultimately into the reservoir.

(7) *Rule* 7. No stable, pigsty, barnyard, hen house, hog yard, hitching place or standing place for horses, cattle or other animals, or other places where animal manure is de. posited or accumulated, shall be located, constructed or maintained, any part of which is within 3,000 feet of the reservoir or within 500 feet of the high-water mark of any stream or body of water, the water of which flows or may directly or ultimately flow into the reservoir.

(8) *Rule* 8. No manufacturing refuse or waste or other substance which is or may be poisonous or injurious to human beings or animals, or other putrescible organic matter whatsoever, shall be discharged directly into, or at any place from which it may flow or be washed or carried into, the reservoir, or into any stream or body of water which flows or may flow directly or ultimately into the reservoir.

(9) *Rule* 9. No manufacturing establishment at which more than five persons are employed, and no slaughterhouse or rendering establishment shall be located upon the watershed of the reservoir, unless the state board of health is first notified regarding such establishment, and consents thereto and issues permits therefor.

(10) *Rule 10.* No hospital for the treatment of contagious or infectious diseases shall be located upon the watershed of the reservoir or within the McAlester Water District.

(11) *Rule* 11. No person shall be permitted to bathe in the reservoir; and no person shall enter or go in any boat, skiff, raft or other contrivance on or upon the water of the reservoir, except in compliance with the ordinances, rules and regulations of the city regulating boats upon the waters of the reservOIr.

(12) *Rule* 12. If a case of sickness is found by the water district inspector, or by any official or employee of the city, or by any person residing on the watershed or within the water district, it shall be at once reported to the city manager, who shall promptly take such action as may be required.

(13) *Rule* 13. It is hereby made the duty of any and all persons having any knowledge of the existence of any contagious or infectious disease or of any nuisance or violation of the law or of these rules within the limits of the McAlester Water District, to immediately report the same to the city manager, who shall at once take such action as the case may require.

(14) *Rule* 14. No owner or occupant of land within the McAlester Water District shall permit the carcass or any part of any dead animal to remain on land under his control within such district. It shall be the duty of all owners or occupants ofland within such district to immediately remove all dead animals from or upon their premises to points not less than 3,000 feet from the high-water mark of the reservoir, and not less than 500 feet from the high-water mark of any other reservoir, lake, pond, stream, ditch, watercourse or other body of water, the water of which flows or may flow directly or ultimately into the reservoir.

(15) *Rule* 15. Persons are hereby permitted to occupy the shores of the reservoir for residential or camping purposes, provided they comply with all the rules and regulations of the city governing the McAlester Water District.

(Code 1974, § 31-104)

Sec. 78-32. Authority of council to adopt additional rules, change boundaries of district.

The city council may, from time to time, promulgate such additional rules and regulations relating to the McAlester Water District as may be deemed advisable, by resolution duly published and served as provided by law, and may by ordinance extend, modify or change the metes and bounds of such water district, so as to embrace any additional lands directly or indirectly flowing or shedding into the city's reservoir basin.

(Code 1974, § 31-105)

State law reference-Service and posting of rules and regulations governing water district, 11 O.S. § 37-111.

Chapters 79-81

RESERVED

Chapter 82

OFFENSES AND MISCELLANEOUS PROVISIONS

Article I. In General

Sec. 82-1. Harmful deception.
Sec. 82-2. Adoption of state statutes.
Sec. 82-3. Reserved.
Secs. 82-4—82-25. Reserved.

Article II. Offenses Against Public Authority

Sec. 82-26. Refusing or failing to assist city officer.
Sec. 82-27. Resisting, obstructing, etc., city officers or employees.
Sec. 82-28. Impersonating city officer or employee.
Sec. 82-29. False representations to city officer, employee or agency.
Sec. 82-30. Prisoners—Escape.
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city, or working upon the streets or other public places ofthe city in pursuance of any judgment, or otherwise held in legal custody by authority of the city, to escape or attempt to escape from any such jail, prison or custody.
(Code 1974, § 18-46)
State law reference-Escapes, 21 O.S. § 431 et seq.

Sec. 82-31. Same-Rescuing or assisting to escape.

It shall be unlawful for any person, in any illegal manner, to set at liberty, rescue or attempt to set at liberty or rescue, any prisoner or prisoners, from any officer or employee of the city having legal custody of the same or from the city jail or other place of confinement by the city, or to assist such prisoner in any manner to escape from such prison or custody.
(Code 1974, § 18-47)
State law reference-Assisting escapes, 21 O.S. § 437 et seq.

Secs. 82-32-82-50. Reserved.

ARTICLE III. OFFENSES AGAINST THE PERSON*

Sec. 82-51. Assault and battery.

(a) An assault is any willful and unlawful attempt or offer, with force or violence, to do corporal harm to another.

(b) A battery is any willful and unlawful use of force or violence upon the person of another.

(c) It shall be unlawful to commit an assault or an assault and battery within the city, and any person committing an assault or an assault and battery within the city shall be guilty of a misdemeanor.
(Code 1974, § 18-3)
State law references-Authority of city to prohibit assaults, 11 O.S. § 22-110; assault and battery, 21 O.S. § 641 et seq.

Secs. 82-52-82-70. Reserved.

*State law reference-Crimes against the person, 21 o.S. § 641 et seq.

ARTICLE IV. OFFENSES AGAINST PROPERTYt

Sec. 82-71. Petit larceny.

(a) Petit larceny is the taking of personal property of value of not to exceed $50.00, accomplished by fraud or stealth and with intent to deprive another thereof, when the property is not taken from the person of another.

(b) Petit larceny is unlawful, and any person who commits petit larceny shall be guilty of a misdemeanor.
(Code 1974, § 18-59)
State law reference-Larceny, 21 O.S. § 1701 et seq.

Sec. 82-72. Buying, receiving, etc., stolen property.

It shall be unlawful for any person to buy, receive or bring into the city any property which he knows has been stolen.
(Code 1974, § 18-60)
State law reference-Receiving stolen property, 21 O.S. § 1713.

Sec. 82-73. Molesting, starting, etc., vehicle of another.

It shall be unlawful for any person to crank, start, otherwise meddle with, molest, enter, occupy, loiter in, take or drive away any automobile or other vehicle belonging to another, without the consent of the owner or person in charge thereof.
(Code 1974, § 18-61)
State law reference-Similar provisions, 21 O.S. § 1787.

Sec. 82-74. Damaging, defacing, etc., property generally.

It shall be unlawful for any person to destroy, injure, deface, besmear or molest any structure, building, outbuilding, fence or any other property, real or personal, public or private, belonging to another; or to use any such property wrongfully to the detriment of the owner or other person enti-

tState law reference-Crimes against property, 21 O.S. § 1381 et seq.

ARTICLE I. IN GENERAL

Sec. 82-1. Harmful deception.

It shall be unlawful for any person knowingly to deceive another, whether by impersonation, misrepresentation or otherwise, when such deception results in or contributes to the loss, damage, harm or injury of the person deceived or of a third party, or results in or contributes to the benefit of the deceiver.
(Code 1974, § 18-25)

Sec. 82-2. Adoption of state statutes.

(a) The provisions of 21 O.S., other than provisions whose violation constitutes a felony, are adopted by reference as if set out at length in this chapter. It is unlawful to violate the provisions adopted by reference in this section.

(b) The provisions of 63 O.S., paragraphs 2-101 through 2-413, other than provisions whose violations constitute a felony, are adopted by reference as if set out at length in this chapter. It is unlawful to violate the provisions adopted by reference in this section.
(Ord. No. 2121, § 1, 10-10-00; Ord. No. 2182, § 1, 10-12-04)

Sec. 82-3. Reserved.

Editor's note—Ord. No. 2399, § 1, adopted Sept. 13, 2011, rescinded § 82-3, which pertained to restriction on sales of pseudoephedrine and derived from Ord. No. 2391, §§ 1—4, adopted June 14, 2011.

Secs. 82-4—82-25. Reserved.

ARTICLE II. OFFENSES AGAINST PUBLIC AUTHORITY*

Sec. 82-26. Refusing or failing to assist city officer.

An officer of the city making or about to make an arrest, or executing or about to execute a warrant or other process, in accordance with the ordinances of the city or with state or federal law, or suppressing or about to suppress a riot, affray or unlawful assembly, may call upon any person to assist him in making such arrest, executing such process or suppressing such riot, affray or unlawful assembly. It shall be unlawful for any person lawfully called upon to assist an officer of the city to refuse or fail to do so.
(Code 1974, § 18-42)

State law reference—Similar provisions, 21 O.S. § 537.

Sec. 82-27. Resisting, obstructing, etc., city officers or employees.

It shall be unlawful for any person knowingly or willfully to resist, oppose or obstruct the chief of police, any other policeman, the municipal judge, or any other officer or employee of the city in the discharge of his official duties; or, by threats or otherwise, to intimidate or attempt to intimidate any such officer or employee from the discharge of his official duties; or to assault or beat, or revile, abuse, be disrespectful to, use abusive or indecent language toward or about, any such officer or employee while such officer or employee is in the discharge of his official duties.
(Code 1974, § 18-43)

State law reference—Obstructing public officers, 21 O.S. § 540.

Sec. 82-28. Impersonating city officer or employee.

It shall be unlawful for any person to impersonate any officer or employee of the city, falsely represent himself to be an officer or employee of the city, or exercise or attempt to exercise any of the duties, functions or powers of an officer or employee of the city without being duly authorized to do so.
(Code 1974, § 18-44)

State law reference—Impersonation of public officers, 21 O.S. § 1533.

Sec. 82-29. False representations to city officer, employee or agency.

It shall be unlawful for any person knowingly to make any material misrepresentation to any officer, employee or agency of the city government in any official application to, or official dealing or negotiation with, such officer, employee or agency.
(Code 1974, § 18-45)

*State law reference—Crimes against public justice, 21 O.S. § 381 et seq.

Sec. 82-30. Prisoners—Escape.

It shall be unlawful for any person confined in the city jail or other place of confinement by the city, or working upon the streets or other public places of the city in pursuance of any judgment, or otherwise held in legal custody by authority of the city, to escape or attempt to escape from any such jail, prison or custody.
(Code 1974, § 18-46)
State law reference—Escapes, 21 O.S. § 431 et seq.

Sec. 82-31. Same—Rescuing or assisting to escape.

It shall be unlawful for any person, in any illegal manner, to set at liberty, rescue or attempt to set at liberty or rescue, any prisoner or prisoners, from any officer or employee of the city having legal custody of the same or from the city jail or other place of confinement by the city, or to assist such prisoner in any manner to escape from such prison or custody.
(Code 1974, § 18-47)
State law reference—Assisting escapes, 21 O.S. § 437 et seq.

Secs. 82-32—82-50. Reserved.

ARTICLE III. OFFENSES AGAINST THE PERSON*

Sec. 82-51. Assault and battery.

(a) An assault is any willful and unlawful attempt or offer, with force or violence, to do corporal harm to another.

(b) A battery is any willful and unlawful use of force or violence upon the person of another.

(c) It shall be unlawful to commit an assault or an assault and battery within the city, and any person committing an assault or an assault and battery within the city shall be guilty of a misdemeanor.
(Code 1974, § 18-3)
State law references—Authority of city to prohibit assaults, 11 O.S. § 22-110; assault and battery, 21 O.S. § 641 et seq.

*State law reference—Crimes against the person, 21 O.S. § 641 et seq.

Secs. 82-52—82-70. Reserved.

ARTICLE IV. OFFENSES AGAINST PROPERTY†

Sec. 82-71. Petit larceny.

(a) Petit larceny is the taking of personal property of value of not to exceed $50.00, accomplished by fraud or stealth and with intent to deprive another thereof, when the property is not taken from the person of another.

(b) Petit larceny is unlawful, and any person who commits petit larceny shall be guilty of a misdemeanor.
(Code 1974, § 18-59)
State law reference—Larceny, 21 O.S. § 1701 et seq.

Sec. 82-72. Buying, receiving, etc., stolen property.

It shall be unlawful for any person to buy, receive or bring into the city any property which he knows has been stolen.
(Code 1974, § 18-60)
State law reference—Receiving stolen property, 21 O.S. § 1713.

Sec. 82-73. Molesting, starting, etc., vehicle of another.

It shall be unlawful for any person to crank, start, otherwise meddle with, molest, enter, occupy, loiter in, take or drive away any automobile or other vehicle belonging to another, without the consent of the owner or person in charge thereof.
(Code 1974, § 18-61)
State law reference—Similar provisions, 21 O.S. § 1787.

Sec. 82-74. Damaging, defacing, etc., property generally.

It shall be unlawful for any person to destroy, injure, deface, besmear or molest any structure, building, outbuilding, fence or any other property, real or personal, public or private, belonging to another; or to use any such property wrongfully to the detriment of the owner or other person enti-

†State law reference—Crimes against property, 21 O.S. § 1381 et seq.

tled to its use; or to interfere wrongfully with the use of any such property by its owner or any other person entitled to its use.
(Code 1974, § 18-62)

State law reference—Damaging property of another, 21 O.S. § 1760 et seq.

Sec. 82-75. Bypassing utility meters; damaging, tampering with, etc., utility property; theft of cable television signals.

(a) It shall be unlawful for any person to connect or attach any kind of pipe, wire or other contrivance to any pipe, line, wire or other conductor carrying gas, water or electricity and belonging to a public utility, whether publicly or privately

owned, in such a manner as to enable him to consume or use the gas, water or electricity without it passing through the meter or in any other way so as to evade payment therefor.

(b) It shall be unlawful for any person to damage, molest, tamper with or destroy any pipe, line, wire, meter or any other part of any public utility, including telegraph, telephone and cable television.

(c) It shall be unlawful for any person to obtain cable television service from another by means of electrical, mechanical or electronic tampering or any other manner which will enable him to obtain the cable service without payment therefor.
(Code 1974, § 18-63)

State law reference-Tampering with utility lines, 21 O.S. § 1714, 76 O.S. § 23.

Sec. 82.76. Posting advertisements, etc., on property of another.

It shall be unlawful for any person to place, stick, tack, paste, post, paint, mark, write or print any sign, poster, picture, announcement, advertisement, bill, placard, device or inscription upon any public or private building, park, fence, sidewalk, bridge, viaduct, post, right-of-way, automobile, other vehicle or other property of another, without the consent of the owner or person in charge thereof.
(Code 1974, § 18-64)

Sec. 82-77. Unlawful intrusion upon land or streets.

Every person who intrudes or squats upon any lot or piece of land within the city without a license or authority from the owner or person in charge thereof, or who erects or occupies thereon any hut, hovel, shanty or other structure without such license or authority, and every person who places, erects or occupies within the bounds of any street, alley or avenue of the city any hut, hovel, shanty or other structure whatever, shall be guilty of a misdemeanor.
(Code 1974, § 18-65)

State law reference-Similar provisions, 21 O.S. § 1353.

Sec. 82-78. Unlawful entry.

(a) It shall be unlawful for any person to enter upon the property of another or into an area or structure on such property, whether such property, area or structure is public or private, when such entrance is plainly forbidden by signs or otherwise or when the property, area or structure is enclosed, except when such entrance is in the line of duty, or with the expressed or tacit consent of the owner or person in charge, or otherwise by authority of law or ordinance.

(b) It shall be unlawful for any person to trespass on private property. As used in this section:

(1) *Private property* means any property other than public property.

(2) *Public property* means that property which is dedicated to the public use and over which federal, state or municipal government or any political subdivision thereof exercises control and domain.

(3) *Trespass* means each and every actual entry upon the premises of an owner or other person in lawful possession of the premises without the express or the implied consent of the owner or other person in lawful possession. Trespass shall also mean remaining upon the premises of an owner or other person in lawful possession after having been told to leave the premises by the owner, or agent, or employee of the owner, or other person in lawful possession of the premises. Trespass shall also be defined as the act of remaining on private property at any time other than during posted hours of business operation after having been directed to vacate such premises by a police officer; provided that the provisions of this sentence shall not apply to persons, including employees, whose presence upon such premises is authorized by the owner or by a person in lawful possession of such premises; nor shall the provisions of this sentence apply unless hours of business operations are posted upon such premises. Trespass shall also be defined as the act of returning to private property before the posted time of opening for business opera-

tion on the next business day after having been directed to vacate such premises under the terms of this section_

(Code 1974, §§ 18-66, 18-67)

State law reference-Trespass, 21 O.S. § 1835.

Secs. 82-79-82.100. Reserved.

ARTICLE V. OFFENSES AGAINST PUBLIC SAFETY

DIVISION 1. GENERALLY

Sec. 82-101. Removal of door, lock, etc., from discarded refrigerators, similar containers.

It shall be unlawful for any person to have in his possession or on his property or premises any unused or discarded refrigerator, freezer, ice container or other receptacle, locker or compartment, without first removing the door therefrom and lock, catch or opening thereto. This section shall not apply to any warehouse, commercial business or store where such articles are stored within a building and kept for storage or commercial sales.

(Code 1974, § 18-10)

State law reference-Similar provisions, 21 O.S. § 1208.

Sec. 82-102. Unlawful throwing or shooting of stones or other objects.

It shall be unlawful for any person to throw or shoot any stone, shot or other object into or across any street or alley, or in any place where he is likely to hit another person wrongfully or to injure property, or to throw or shoot any stone, shot or other object at any person, vehicle, structure, electric light or other property of another, whether public or private, except in case where such is done in defense of himself or of another person or of property.

(Code 1974, § 18-6)

Secs. 82-103-82.115. Reserved.

DIVISION 2. WEAPONS*

Subdivision I. General Provisions

Sec. 82-116. Carrying weapons prohibited; exceptions.

It shall be unlawful for any person to carry upon or about his person, or in his portfolio or purse, any pistol, revolver, dagger, bowie knife, dirk knife, switchblade knife, spring-type knife, sword cane, knife having a blade which opens automatically by hand pressure applied to a button, spring, or other device in the handle of the knife, blackjack, loaded cane, billy, hand chain, metal knuckles, or any other offensive weapon, except as provided in this division. This section shall not prohibit the proper use of guns and knives for hunting, fishing or recreational purposes, nor shall this section be construed to prohibit any use of weapons in a manner otherwise permitted by statute. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.

(Code 1974, § 18-4)

State law references-Similar provisions, 21 O.S. § 1272; authority of city to prohibit carrying of weapons, 11 O.S. § 22-110, 21 O.S. § 1289.24 et seq.

Sec. 82-117. Carrying concealed weapon.

It shall be unlawful for any person, except a law enforcement officer, a registered security officer or a person employed by an armored car firm licensed by the corporation commission, to carry a concealed weapon other than permitted by law.

State law reference-Similar provisions, 21 O.S. § 1289.8.

Sec. 82-118. Off-duty peace officers authorized to carry weapons.

(a) A full-time duly appointed peace officer who is certified by the Council on Law Enforcement Education and Training, pursuant to the provisions of 70 O.S. § 3311 is hereby authorized to carry a weapon certified and approved by his employing agency during periods when he is not on active duty.

(b) When an off-duty officer carries a certified weapon, the officer shall be in law enforcement uniform prescribed by the employing agency or

*State law reference-Weapons, 21 O.S. § 1272 et seq.

when not wearing the prescribed law enforcement uniform shall be required:

(1) To have his official peace officers badge, commission card and council on law enforcement education and training certification card on his person at all times when carrying a weapon certified and approved by the employing agency; and

(2) To keep the authorized weapon concealed from view at all times except when the weapon is used within the guidelines, rules and regulations established by the employing agency.

(c) Nothing in this section shall be construed to expand the duties, authority or jurisdiction of any peace officer.

State law reference-Similar provisions, 21 O.S. § 1289.23.

Sec. 82-119. Discharging firearms, air rifles, BB guns.

It shall be unlawful for any person to discharge a firearm in the city except when doing so in the line of duty, when lawfully doing so in defense of himself or of another person or of property, or when otherwise authorized by law or ordinance. It shall be unlawful to discharge an air rifle or BB gun in the city.
(Code 1974, § 18-5)

State law references-Authority of city to prohibit discharge of firearms, 11 O.S. § 22-110, 21 O.S. § 1289.24; discharging firearms or air rifles in public places, 21 O.S. § 1364.

Sec. 82-120. Making, possessing or using Molotov cocktails, other bombs.

(a) No person shall make, carry, possess or use any type of Molotov cocktail, gasoline or any other type of bomb within the corporate limits of the city.

(b) As used in this section, the term "Molotov cocktail" means a bottle or other type container, containing gasoline or any other flammable matter to which has been inserted or attached a fuse-type wick or any similar contrivance.

(c) As used in this section, the word "bomb" means any can, bottle, box or other container having therein a chemical agent or a combination of chemical agents or other substances, with a means installed to activate such substances, which when activated, will cause fire or explosion.
(Code 1974, § 18-7)

Secs. 82-121-82-130. Reserved.

Subdivision II. Firearms

Sec. 82-131. Conditions under which fire. arms may be carried.

A person shall be permitted to carry shotguns, rifles or pistols, open and not concealed, under the following conditions:

(1) When going to, during participation in or coming from hunting animals or fowl, including moving from place to place by vehicle. However, a rifle or shotgun may be carried in a landborne motor vehicle over a public highway or roadway when clip or magazine loaded and not chamber loaded when carried in a locked compartment of the vehicle, such as the trunk of an automobile.

(2) When going to, during competition in or practicing or coming from a safety or hunter safety class, target shooting, skeet, trap or other recognized sporting events.

(3) When unloaded, going to or coming from a gunsmith.

(4) When unloaded, going to or coming from a store for purposes of repair, trade, barter or sale.

(5) Going to or coming from a military function of the state military forces to be defined as the Oklahoma Army or Air National Guard, Federal Military Reserve and active military forces.

(6) Going to or coming from a recognized police function of either a municipal, county or state government as functioning police officials.

(7) When unloaded, going to or coming from a place of publicly-recognized firearms display such as a gun show where the public is invited.

(8) When unloaded, going to or coming from a point of private trade for purposes of transferring a firearm to another private citizen in exchange for moneys, payment for services or trade.

(9) When going to, coming from and during a performance for entertainment purposes.

(10) For any legitimate purpose not in violation of this Code or any legislative enactment regarding the use, ownership and control of firearms.

State law reference-Similar provisions, 21 O.S. § 1289.6.

Sec. 82-132. Firearm in motor vehicle.

A person may carry or transport in a motor vehicle a rifle, shotgun or pistol, unloaded, at any time.

State law reference-Similar provisions, 21 O.S. § 1289.7.

Sec. 82-133. Carrying or using firearms while under influence of intoxicating liquors or drugs.

It shall be unlawful to carry or use shotguns, rifles or pistols under any circumstances while under the influence of intoxicating liquors or any hallucinogenic, unlawful or unprescribed drug, nor shall any person be permitted to carry or use shotguns, rifles or pistols when under the influence of any drug prescribed by a licensed physician if the aftereffects of such consumption affect mental, emotional or physical processes to a degree that would result in abnormal behavior.

State law reference-Similar provisions, 21 O.S. § 1289.9.

Sec. 82-134. Furnishing firearms to mentally incompetent or insane persons.

It shall be unlawful for any person to knowingly transmit, transfer, sell, lend or furnish any shotgun, rifle or pistol to any person who is under an adjudication of mental incompetency, or to any person who is a moron or idiot or is insane.

State law reference-Similar provisions, 21 O.S. § 1289.10.

Sec. 82-135. Reckless conduct.

It shall be unlawful for any person to engage in reckless conduct while having in his possession any shotgun, rifle or pistol, such actions consisting of creating a situation of unreasonable risk and probability of death or great bodily harm to another, and demonstrating a conscious disregard for the safety of another person.

State law reference-Similar provisions, 21 O.S. § 1289.11.

Sec. 82-136. Transporting loaded firearm in motor vehicle.

Except as otherwise provided, it shall be unlawful to transport a loaded firearm in a landborne motor vehicle over a public highway or roadway. However, a rifle or shotgun may be transported when clip or magazine loaded and not chamber loaded when transported in a locked compartment of the vehicle, such as the trunk of an automobile.

State law reference-Similar provisions, 21 O.S. § 1289.13.

Sec. 82-137. Transporting or discharging firearm from boat.

Except as otherwise provided, it shall be unlawful to transport or discharge a shotgun, rifle or pistol from a boat under power or sail, except for the purposes of hunting animals or fowl, and in compliance with existing state and federal laws.

State law reference-Similar provisions, 21 O.S. § 1289.14.

Sec. 82-138. Pointing firearms.

It shall be unlawful for any person to willfully or without lawful cause point a shotgun, rifle or pistol, or any deadly weapon, whether loaded or not, at any person for the purpose of threatening or with the intention of discharging the firearm or with any malice or for any purpose of injuring, either through physical injury or mental or emotional intimidation, or for purposes of whimsy, humor or prank, but not to include the pointing of shotguns, rifles or pistols by law enforcement authorities in the performance of their duties, members of the state military forces in the form of the Oklahoma Army or Air National Guard in the performance of their duties, members of the federal military reserve and active military components in the performance of their duties, or any federal government law enforcement officer in the performance of his duty, or in the performance of a play on stage, rodeo, television or on film, or in defense of one's person, home or property.

State law reference-Similar provisions, 21 O.S. § 1289.16.

Secs. 82.139,82.140. Reserved.

DIVISION 3. TOBACCO*

Subdivision I. General Provisions

Secs. 82·141-82·145. Reserved.

Subdivision II. Prevention of Youth Access

Sec. 82-146. Definitions.

The following definitions shall apply as used in this subdivision:

"Person" means any individual, firm, fiduciary, partnership, corporation, trust, or association, however formed;

"Proof of age" means a driver license, license for identification only, or other generally accepted means of identification that describes the individual as 18 years of age or older and contains a photograph or other likeness of the individual and appears on its face to be valid;

"Sample" means a tobacco product distributed to members ofthe public at no cost for the purpose of promoting the product;

"Sampling" means the distribution of samples to members of the public in a public place;

"Tobacco product" means any product that contains tobacco and is intended for human consumption;

"Transaction scan" means the process by which a seller checks, by means of a transaction scan device, the validity of a driver license or other government-issued photo identification; and

"Transaction scan device" means any commercial device or combination of devices used at a point of sale or entry that is capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of a driver license or other government-issued photo identification.

(Ord. No. 2253, § II(A), 4-24-07)

Sec. 82·147. Furnishing of tobacco products to minors prohibited; proof of age; fines; multiple violations.

(a) It is unlawful for any person to sell, give or furnish in any manner any tobacco product to another person who is under 18 years of age, or to purchase in any manner a tobacco product on behalf of any such person. It shall not be unlawful for an employee under 18 years of age to handle tobacco products when required in the performance of the employee's duties.

(b) A person engaged in the sale or distribution of tobacco products shall demand proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be under 18 years of age.

If an individual engaged in the sale or distribution of tobacco products has demanded proof of age from a prospective purchaser or recipient who is not under 18 years of age, the failure to subsequently require proof of age shall not constitute a violation of subsection (b) of this section.

(c) Violation of subsection (a) or (b) of this section may be punished by a fine of:

(1) Not more than $100.00 for the first offense,

(2) Not more than $200.00 for the second offense within a two-year period following the first offense,

(3) Not more than $300.00 for a third offense within a two-year period following the first offense, or

(4) Not more than $300.00 for a fourth or subsequent offense within a two-year period following the first offense.

(d) Proof that the defendant demanded, was shown, and reasonably relied upon proof of age shall be a defense to any action brought pursuant to this section. A person cited for violating this section shall be deemed to have reasonably relied

*Editor's note-Ord. No. 2253, § II(A}--(F), adopted April 24,2007, added provisions that were not specifically amendatory. At the editor's discretion, said provisions were included herein as §§ 82-146-82-151.

upon proof of age, and such person shall not be found guilty of such violation if such person proves that:

(1) The individual who purchased or received the tobacco product presented a driver license or other government-issued photo identification purporting to establish that such individual was 18 years of age or older, and

(2) The person cited for the violation confirmed the validity of the driver license or other government-issued photo identification presented by such individual by performing a transaction scan by means of a transaction scan device.

(e) Provided, that this defense shall not relieve from liability any person cited for a violation of this section if such person failed to exercise reasonable diligence to determine whether the physical description and picture appearing on the driver license or other government-issued photo identification was that of the individual who presented it. The availability of the defense described in this subsection does not affect the availability of any other defense under any other provision of law.
(Ord. No. 2253, § I1(B), 4-24-07)

Sec. 82-148. Purchase receipt or possession of tobacco products by minors prohibited; falsifying proof of age; penalties.

(a) It is unlawful for a person who is under 18 years of age to purchase, receive, or have in their possession a tobacco product, or to present or offer to any person any purported proof of age which is false or fraudulent, for the purpose of purchasing or receiving any tobacco product. It shall not be unlawful for an employee under 18 years of age to handle tobacco products when required in the performance of the employee's duties.

(b) Violation of this subsection may be punished by a fine of:

(1) Not to exceed $100.00 for a first offense; and

(2) Not to exceed $200.00 for a second or subsequent offense within a one-year period following the first offense.
(Ord. No. 2253, § II(C), 4-24-07)

Sec. 82-149. Distribution of tobacco product samples restricted; fines.

(a) It shall be unlawful for any person or retailer to distribute tobacco products or product samples to any person under 18 years of age.

(b) No person shall distribute tobacco products or product samples in or on any public street, sidewalk, or park that is within 300 feet of any playground, school, or other facility when the facility is being used primarily by persons under 18 years of age.

(c) Violation of subsection (a) or (b) of this section may be punished by a fine of:

(1) Not more than $100.00 for the first offense;

(2) Not more than $200.00 for the second offense; and

(3) Not more than $300.00 for a third or subsequent offense.
(Ord. No. 2253, § II(D), 4-24-07)

Sec. 82-150. Sale of tobacco products except in original, sealed packaging prohibited; fine.

(a) It is unlawful for any person to sell cigarettes except in the original, sealed package in which they were placed by the manufacturer.

(b) Violation of subsection (a) of this section may be punished by a fine of not more than $200.00 for each offense.
(Ord. No. 2253, § II(E), 4-24-07)

Sec. 82-151. Display or sale of tobacco products; public access; fines.

(a) It is unlawful for any person or retail store to display or offer for sale tobacco products in any manner that allows public access to the tobacco product without assistance from the person displaying the tobacco product or an employee or the owner of the store. The provisions of this subsec-

tion shall not apply to retail stores which do not admit into the store persons under 18 years of age.

(b) Violation of subsection (a) of this section may be punished by a fine of not more than $200.00 for each offense.
(Ord. No. 2253, § II(F), 4-24-07)

Secs. 82-152-82-160. Reserved.

ARTICLE VI. OFFENSES AGAINST PUBLIC PEACE AND ORDER*

Sec. 82-161. Unlawful assembly.

It shall be unlawful for two or more persons to assemble together or, being assembled together, to act in concert to do any unlawful act against the peace or to the terror of others, or to make any movement thereto or any preparation therefor, or otherwise to assemble together unlawfully or riotously.
(Code 1974, § 18-11)

State law references-Authority of city to prohibit *disorderly* assemblies, 11 O.S. § 22-110; riots and unlawful assemblies, 21 O.S. § 1311 et seq.

Sec. 82-162. Noise generally.

The following acts are declared to be unreasonably loud or disturbing noises in violation of this section, to-wit:

(1) The playing, using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, stereo, or other machine or device for the producing or reproducing of sound in such manner between the hours of 8:00 a.m. and 10:00 p.m. wherein the sound emanating from such device is plainly audible at a distance of 100 feet from the source or is plainly audible inside a neighboring residential occupancy with the doors and windows closed.

(2) The playing, using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, stereo, or other machine or device for the producing or reproducing of sound in such manner between the hours of 10:00 p.m. and 8:00 a.m. wherein the sound emanating from such device is plainly audible at a distance of 50 feet from the source or is plainly audible inside a neighboring residential occupancy with the doors and windows closed.

(3) The playing, using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, stereo or other machine or device for the producing or reproducing of sound in such manner wherein the sound emanating from such device is plainly audible inside a school, church, hospital medical clinic, or nursing home during operating or business hours with the doors and windows closed.

(4) For the purposes of this section, *"plainly audible"* means any sound that can be detected by a person using his or her unaided hearing faculties. An enforcement officer need not determine the title of a song, specific words, or the artist performing the song; the detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound. A "residential occupancy" includes single family dwellings, multiple family dwellings, boarding house rooms, hotel rooms or motel rooms.

(5) The following uses and activities shall be exempt from these regulations:

a. School sponsored activities conducted on school property at times other than between the hours of 10:00 p.m. and 7:00 a.m.

b. Church related activities conducted on church property at times other than between the hours of 10:00 p.m. and 7:00 a.m.

c. City sponsored or permitted parades and events.

d. Commercial businesses zoned for entertainment purposes, provided that

"Cross references-Public intoxication and drinking, § 6-1; public order preservation, § 30-86 et seq.

the sound is not plainly audible inside a residential occupancy located outside of the zoning district wherein that business is located, when the doors and windows of said residential occupancy are closed.

(6) Any person violating any of the provisions of this title shall be deemed guilty of a Misdemeanor offense. Each occurrence when such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as a separate offense. Each device found to be emitting sound in violation of this section shall be deemed a separate violator and shall be punishable as a separate offense.

(Code 1974, § 18-12; Ord. No. 2229, § 1,4-25-06)

State law reference-Unlawful noise, 21 O.S. § 1362.

Sec. 82-163. Loud sound-amplification systems prohibited.

(a) No person operating or occupying a motor vehicle on a street, highway, alley, parking lot or driveway shall operate or permit the operation of any sound amplification system from within the vehicle so that the sound is plainly audible at a distance of 50 or more feet from the vehicle.

(b) "Sound amplification system" means any radio, tape player, compact disc player, loudspeaker, or other electronic device used for the amplification of the human voice.

(c) "Plainly audible" means any sound produced by a sound amplification system from within the vehicle which clearly can be heard at a distance of 50 feet or more. Measurement standards shall be by the auditory senses, based upon direct line of sight. Words or phrases need not be discernible and bass reverberations are included. The motor vehicle may be stopped, standing, parked or moving on a street, highway, alley, parking lot, or driveway.

(d) It is an affirmative defense to a charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:

(1) The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition.

(2) The vehicle was an emergency or public safety vehicle.

(3) The vehicle was owned and operated by the city or public or private utility company.

(4) The vehicle was used in authorized public activities, such as parades, fireworks, sports events or other activities which have been approved by the appropriate city official or body.

(Ord. No. 1994, § 1(18-12.1), 10-13-92)

Sec. 82-164. Disturbing lawful assembly.

It shall be unlawful for any person to disturb any lawful public gathering or assembly by making noise, by rude, indecent or improper behavior, by profane, improper or loud language, or in any other manner, either within the place of assembly or within hearing distance thereof.

(Code 1974, § 18-13)

State law reference-Similar provisions, 21 O.S. § 1361.

Sec. 82-165. Disturbing religious worship.

It shall be unlawful for any person to disturb any congregation or assembly of persons meeting for religious worship by making noise, by rude, indecent or improper behavior, by profane, improper or loud language, or in any other manner, either within the place of worship or within hearing distance thereof.

(Code 1974, § 18-14)

State law reference-Similar provisions, 21 O.S. §§ 915, 916.

Sec. 82-166. Blasphemy.

It shall be unlawful for any person to circulate any literature or use any language, within the corporate limits of the city, that casts profane ridicule on God, Jesus or Christianity or any other religion, which in its common acceptance is calculated to cause a breach of peace or an assault.

(Code 1974, § 18-15)

State law reference-Similar provisions, 21 O.S. § 901.

Sec. 82-167. Disturbing the peace; insulting others.

It shall be unlawful for any person to disturb the peace of another or others by violent, obstrep-

erous or improper conduct or carriage, by loud or unusual noise, or by unseemly, obscene, offensive or abusive language; or to insult another or others by such conduct or language.
(Code 1974, § 18-16)

State law reference&-Similar provisions, 21 O.S. § 1362; authority of city to prohibit disturbances, 11 O.S. § 22-110.

Sec. 82-168. Display of insulting or abusive signs, flags, etc.

It shall be unlawful for any person to display any sign, emblem, badge, flag or device which, in its common acceptance, is insulting, profane or abusive to the citizens of the city, and which is calculated, or where the natural consequence is, to cause a breach of the peace or an assault.
(Code 1974, § 18-17)

Sec. 82-169. Loitering or sleeping in public places or on property of another after midnight.

(a) As used in this section, *"loitering"* shall mean remaining idle in essentially one location, and shall include the concepts of spending time idly, loafing or walking about aimlessly, and shall also include the colloquial expression "hanging around."

(b) No person shall loiter in a public place in such manner as to:

(1) Create or cause to be created a danger of a breach of the peace.

(2) Create or cause to be created any disturbance or annoyance to the comfort and repose of any person.

(3) Obstruct the free passage of pedestrians or vehicles.

(4) Obstruct, molest or interfere with any person lawfully in any public place.

This subsection shall include the making of unsolicited remarks of an offensive, disgusting or insulting nature, or which are calculated to annoy or disturb the person to, or in whose hearing, they are made.

(c) Whenever the presence of any person in any public place is causing any of the conditions enumerated above, any police officer may order that person to leave that place. Any person who shall refuse to leave after being ordered to do so by a police officer shall be guilty of a violation of this section.
(Code 1974, § 18-21)

Sec. 82-170. Juvenile curfew.

(a) *Offenses against the public.*

(1) The purpose and intent of this section is to narrowly tailor the restriction of late-night activities of juveniles to the extent juvenile crime is reduced and juveniles, as well as other citizens, and their property are protected from harm; and

(2) Juveniles are particularly vulnerable to the influences of persons who do not have the best interest of the juvenile in mind, due to the inability of juveniles to make important or critical decisions in an informed and mature manner and to avoid choices which could be detrimental to their health, safety and welfare; and

(3) A concern has arisen in the community that certain activities by juveniles and adults, during the late night hours, endanger the health, safety and welfare of other persons and their property; and

(4) The city does not desire to interfere with parent-child or parent-juvenile relationships or the parental right to raise their children, or juveniles; and

(5) While the city recognizes parents and/or responsible adults need wide latitude in supervising their children, the city desires to protect juveniles from nocturnal dangers, and encourage parental responsibility; and

(6) The public purpose of this section is to protect juveniles from nocturnal dangers, enhance parental supervision and responsibility for juveniles, and protect the public at-large.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Curfew hours means:

(1) 11:01 p.m. until 6:00 a.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday.

(2) 12:01 a.m. until 6:00 a.m. on any Saturday and Sunday.

Emergency means an unforeseen combination of circumstances, or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, natural disaster, automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

Establishment means any privately-owned place of business operated for profit to which the public is invited, but not limited to any place of amusement or entertainment.

Guardian means:

(1) A person who, under court order, is the guardian of the person of a juvenile; or

(2) A public or private agency with whom a juvenile has been placed by a court.

Juvenile means any person 17 years of age, or under 17 years of age.

Knowing permit means the parent, other responsible adult and/or operator as defined herein is aware of the fact the juvenile is in violation of the curfew hours or that such person, by exercise of reasonable care, would have known that the juvenile is in violation of the curfew hours.

Parent means a person who is a natural parent, adoptive parent, or step-parent of another person.

Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, common areas of schools, apartment houses, office buildings, hospitals, transport facilities, and retail establishments.

Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

Responsible adult means any person having, assuming or charged with permanent and/or temporary care and/or custody of a juvenile, including, but not limited to:

(1) Any legal guardian or adult exercising legal guardianship over a juvenile;

(2) An adult who stands in loco parentis to a juvenile;

(3) Any person to whom legal custody of a juvenile has been given by order of a court;

(4) Any adult who has, assumes or is charged with the care and/or custody of a juvenile at the request of, or on behalf of, a parent, guardian, locoparentis, or person to whom legal custody has been given by order of a court; and

(5) Any adult who has, assumes or is charged with the care and/or custody of a juvenile at the request of, or on behalf of, another parent.

(c) *Offenses.*

(1) Ajuvenile commits an offense if he/she is in any public place or on the premises of any establishment within the corporate limits of the city during curfew hours.

(2) A parent and/or responsible adult of a juvenile commits an offense if:

a. He/she knowingly permits or allows the juvenile to remain in any public place or on the premises of any establishment within the corporate city limits during curfew hours; and

b. The parent and/or responsible adult of a juvenile has previously cited so as to knowingly permit or allow a juvenile to remain in any public place or on the premises of any establishment within the corporate city limits during curfew hours. Every subsequent violation thereof will constitute a separate violation.

(3) The owner, operator or any employee of an establishment commits an offense if

he/she knowingly permits or allows a juvenile to remain upon the premises of the establishment during curfew hours.

(d) *Defenses.*

(1) It is a defense to prosecution under subsection (c) that the juvenile was at the time in question:

a. Accompanied by the juvenile's parent or responsible adult;

b. Engaged in any lawful employment activity, or going to or returning home from a lawful employment activity without any detour or stop;

c. Involved in an emergency;

d. In a motor vehicle involved in interstate travel;

e. Attending, going to or returning home without any detour or stop from an official school, religious or other recreational activity supervised by adults, or an event sponsored by the city, a civic organization, or any recognized entity that takes responsibility for the juvenile;

f. On an errand at the direction of the juvenile's parents or responsible adult, without any detour or stop;

g. Exercising First Amendment rights protected by the United States Constitution, or other rights protected by the United States or Oklahoma Constitution; or

h. Married, or had been married.

(2) It is a defense to prosecution under subsection (c)(3) that the owner, operator or employee of an establishment promptly notify the police department that a juvenile was present on the premises of the establishment during curfew hours and refused to leave.

(e) *Enforcement.*

(1) Before taking any enforcement action under this subsection, a police officer shall ask the apparent offender's reason for being in the public place. The police officer shall not issue a citation or make an arrest under this subsection unless the officer reasonably believes that an offense has occurred and, based on circumstances, no defense in subsection (d) is present.

(2) Absent an interlocal agreement with the district court for the municipal court to exercise jurisdiction over juveniles under 17 years of age under subsection (c) above pursuant to 10 O.S. § 1l02(E) as amended by H.B. 2640 of the 1994 Regular Session of the Oklahoma Legislature, the municipal court must refer all alleged juvenile violations to the juvenile bureau of the district attorney's office.

(f) *Penalties.*

(1) A person who violates a provision of this section is guilty of a separate offense for each day, or part of a day, during which the violation is committed, continued or permitted. Each offense, upon conviction, is punishable by a fine not to exceed $100.00, plus costs. The court may require community service work in lieu of a fine if the product of multiplying the number of hours of community service work by the prevailing wage does not result in a number which exceeds the maximum fine authorized by law.

(2) The municipal court's jurisdiction over a juvenile who violates subsection (c) of this section shall be expressly subject to Title 10 O.S., as amended by H.B. 2640 of the 1994 Regular Session of the Oklahoma Legislature.

(Ord. No. 2018, §§ 1-6, 7-12-94; Ord. No. 2059, §§ 1, 2, 4-8-97)

Sec. 82-171. Noise prohibited.

(a) *Prohibited acts generally.* It shall be unlawful for any person to make, continue, or cause to be made or continued any unreasonably loud noise or any noise which disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city.

(b) *Prohibited acts specifically.* The following acts, among others, are declared to be unreasonable or disturbing noises in violation of this section, but said enumeration shall not be deemed to be exclusive, namely:

(1) *Public loudspeakers.* Using or operating a loudspeaker or sound amplifying equipment in a fixed or movable position or mounted upon any sound vehicle in or upon any street, alley, sidewalk, park, place, or public property for the purpose of commercial advertising, giving instructions, directions, talks, addresses, lectures, or transmitting music to any persons or assemblages of persons wherein the sound emanating from such device is plainly audible inside a neighboring residential occupancy when the doors and windows are closed.

(2) *Yelling, shouting, etc.* Yelling, shouting, whistling or otherwise creating unreasonable noise particularly between the hours of 10:00 p.m. and 8:00 a.m., or at any time or place so as to disturb the quiet, comfort, or repose of persons in any neighboring residential occupancy when the doors and windows are closed.

(3) *Construction or repairing of buildings.* The erection (including excavation), demolition, alteration or repair of any building shall be prohibited between the hours of 10:00 p.m. and 6:00 a.m., except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the city.

(4) *Schools, courts, churches, hospitals, parks.* The creation of any unreasonable noise adjacent to any school, church or court while the same are in use, or adjacent to any hospital, medical clinic, or nursing home which unreasonably interferes with the workings of such institution, or which disturbs patients in the hospital, or in any park, which unreasonably disturbs the users thereof. This subsection shall not apply to businesses located in areas zoned "C-l", "C-2", "C-3", "C-4", "C-5", or any successor classification whenever any of the uses enumerated in this subsection moves or otherwise locates in an area zoned for commercial use.

(5) *Power lawn mowers.* The operation of any gasoline or similar internal combustion engine powered mower, cultivator, blower, weed cutter or like or related device in an area zoned residential between the hours of 10:00 p.m. and 6:00 a.m.

(c) *Exceptions.* The following uses and activities shall be exempt from these regulations:

(1) Noises of safety signals, warning devices, and emergency pressure relief valves.

(2) Noises resulting from any authorized emergency vehicle, when responding to an emergency.

(3) Noises resulting from emergency work.

(4) Any other noise resulting from activities of a temporary duration permitted by law for which a license or permit therefore has been granted by the city in accordance with this section.

(5) Any aircraft or railroad equipment operated in conformity with, or pursuant to state statute, federal law, federal regulations and traffic control instruction used pursuant to and within the duly adopted state or federal regulations. Any aircraft operating under technical difficulties, in any kind of distress, under emergency orders of air traffic control or being operated pursuant to and subsequent to the declaration of an emergency under federal air regulations shall also be exempt.

(6) School sponsored activities conducted on school property.

(7) Church related activities conducted on church property.

(8) City sponsored or permitted parades and events.

(d) *Definitions, scope.* For the purposes of this section, *"plainly audible"* means any sound that can be detected by a person using his or her unaided hearing faculties. A "residential occupan-

cy" includes single family dwellings, multiple family dwellings, boarding house rooms, hotel rooms or motel rooms.

(e) *Application for special permit.* Applications for a permit for relief from the noise level designated in this section on the basis of undue hardship may be made to the city manager or duly authorized representative. Any permit granted by the city manager hereunder shall contain all conditions upon which said permit has been granted and shall specify a reasonable time that the permit shall be effective. The city manager or duly authorized representative may grant a relief as applied for if they find:

(1) That additional time is necessary for the applicant to alter or modify the activity or operation to comply with this chapter; or

(2) The activity, operation or noise source will be of temporary duration and cannot be done in a manner that would comply with this chapter; and

(3) That no other reasonable alternative is available to the applicant. The city manager, in granting such a special permit, may prescribe any conditions or requirements they deem necessary to minimize adverse effects upon the community of the surrounding neighborhood. Any denial of an application under this section shall be appealable to the board of commissioners upon written application filed within ten days of the date notice of the city manager's decision is mailed to the applicant.

(f) *Penalty.* Any person violating any of the provisions of this title shall be deemed guilty of an infraction punishable as a misdemeanor offense. Each occurrence when such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as a separate offense.

(Ord. No. 2227, § 1, 4-11-06)

Sec. 82-172. Temporary detention and custody of children subject to compulsory attendance law and neglect or refusal to compel child to attend school; exceptions; enforcement.

(a) An attendance officer, any school administrator, or designee of the McAlester School Superintendent who is employed by the school, or any peace officer may, except for children being home schooled pursuant to § 10-105 of the Oklahoma Statutes, temporarily detain and assume temporary custody of any child subject to compulsory full-time education, during hours in which school is actually in session, who is found away from the home of such child and who is absent from school without lawful excuse within the McAlester School District that such attendance officer, peace officer or school official serves, if said McAlester School District has previously approved the temporary detention and custody pursuant to this section.

(b) Any person temporarily detaining and assuming temporary custody of a child pursuant to this ordinance shall immediately deliver the child either to the parent, guardian, or other person having control or custody of the child, or to the school from which the child is absent without valid excuse, or to a non-secure youth service or community center servicing the McAlester School District, or to a community intervention center, as defined by § 7301-1.3 of Title 10 ofthe Oklahoma Statutes.

(c) The temporary custody or detention provided by this ordinance shall be utilized as a means of reforming and returning the truant student to school and shall not be used as a pretext for investigating criminal matters. The temporary custody or detention herein provided is a severely limited type of detention and is not justified unless there are specific facts causing an attendance officer or other authorized person to reasonably suspect that a truancy violation is occurring and that the person the officer intends to detain is a truant.

(d) It shall be unlawful for a parent, guardian, or other person having custody of a child who is over the age of five years, and under the age of 18 years to neglect or refuse to cause or compel such child to attend and comply with the rules of some public, private or other school, unless other means of education are provided for the full term =the schools of the district are in session or the child is excused as provided in this section. One-half day of kindergarten shall be required of all children five years of age or older unless the child is excused from kindergarten attendance as provided in Title 10 of the Oklahoma Statutes or this

section. A child who is five years of age shall be excused from kindergarten attendance until the next school year after the child is six years of age if a parent, guardian, or other person having custody of the child notifies the McAlester School Superintendent by certified mail prior to enrollment in kindergarten, or at any time during the first school year that the child is required to attend kindergarten pursuant to this section, of election to withhold the child from kindergarten until the next school year after the child is six years of age.

(e) It shall be unlawful for any child who is over the age of 12 years and under the age of 18 years, and who has not finished four years of high school work, to neglect or refuse to attend and comply with the rules of some public, private or other school, or receive an education by other means for the full term the schools of the McAlester School District are in session.

Provided, that this section shall not apply:

(1) If any such child is prevented from attending school by reason of mental or physical disability, to be determined by the board of education of the McAlester School District upon a certificate of the school physician or public health physician, or, if no such physician is available, a duly licensed and practicing physician;

(2) If any such child is excused from attendance at school, due to an emergency, by the principal teacher of the school in which such child is enrolled, at the request of the parent, guardian, custodian or other person having control of such child;

(3) If any such child who has attained his or her sixteenth birthday is excused from attending school by written, joint agreement between:

a. The school administrator of the McAlester School District where the child attends school, and

b. The parent, guardian or custodian of the child. Provided, further, that no child shall be excused from attending school by such joint agreement between a school administrator and the parent, guardian or custodian of the child unless and until it has been determined that such action is for the best interest of the child and/or the community, and that said child shall thereafter be under the supervision of the parent, guardian or custodian until the child has reached the age of 18 years; or

(4) If any such child is excused from attending school for the purpose of observing religious holy days if before the absence, the parent, guardian, or person having custody or control of the student submits a written request for the excused absence. The McAlester School District shall excuse a student pursuant to this subsection for the days on which the religious holy days are observed and for the days on which the student must travel to and from the site where the student will observe the holy days.

(f) It shall be the duty of the attendance officer to enforce the provisions of this section. In the prosecution of a parent, guardian, or other person having custody of a child for violation of any provision of this section, it shall be an affirmative defense that the parent, guardian, or other person having custody of the child has made substantial and reasonable efforts to comply with the compulsory attendance requirements of this section but is unable to cause the child to attend school. If the court determines the affirmative defense is valid, it shall dismiss the complaint against the parent, guardian, or other person having custody of the child and the city prosecutor shall notify the school attendance .officerwho shall refer the child to the District Attorney for Pittsburg County for the filing of a Child in Need of Supervision Petition against the child pursuant to the Oklahoma Juvenile Code.

(g) Penalty. Any parent, guardian, custodian, child or other person violating any of the provisions of this section, upon conviction, shall be guilty of a misdemeanor, and shall be punished as follows:

(1) For the first offense, a fine of not less than $25.00 nor more than $50.00;

(2) For the second offense, a fine of not less than $50.00 nor more than ($100.00; and

(3) For the third or subsequent offense, a fine of not less than $100.00 nor more than $250.00.

(h) At the trial of any person charged with violating the provisions of this section, the attendance records of the child or ward may be presented in court by any authorized employee of the McAlester School District.
(Ord. No. 2269, § 1, 9-25-07)

Secs. 82·173-82·190. Reserved.

ARTICLE VII. OFFENSES AGAINST PUBLIC MORALS*

DIVISION 1. GENERALLY

Sec. 82-191. Gambling, gambling devices.

(a) It shall be unlawful for any person to play, whether for hire or not, any game of faro, monte, poker, roulette, craps, any banking, percentage or other game played with dice, cards or any device, for money, checks, chips, credit or any other thing of value; to own, keep, set up, operate or permit to be operated any slot machine, gambling device or other device whatsoever where money, checks, chips, credit or any other thing of value are played, when the act of playing the same might result in a gain or loss to the party playing; or to gamble knowingly in any other manner; or knowingly to permit his premises, house, lot or other property to be used in connection with or for any act declared unlawful in this section.

(b) Any money found by officers being used in any gambling game shall be confiscated and shall, upon order of the municipal judge, be paid over to the city treasurer.

(c) It shall be the duty of any police officer who discovers or has knowledge of the use or existence of any gaming or gambling or gambling instrumentality or device prohibited as unlawful by any of the provisions of the ordinances of the city to seize the same, with or without process, and safely keep it until the next session of the municipal court, when it shall be produced in the presence of the municipal judge to be disposed of as hereinafter set forth.

(d) Whenever there shall be produced in the presence of the municipal judge any property, instrumentality or device, and it shall be shown to the municipal judge that such property, instrumentality or device was designed, constructed or built for the purpose of being used for gambling, or as an accessory or convenience in any gaming or gambling house, or to the owner, keeper or habitues of any room or house used for gaming or gambling purposes; or if the municipal judge shall find that such property was used or kept for such use in any game in which the reward for winning was, or should be, money, merchandise, credit or any other thing of value, then the municipal judge shall order that such property be forthwith destroyed by the chief of police and such officer so directed by the municipal judge shall immediately destroy the same.

(e) In case any instrumentality or property referred to in this section is large or unwieldy and impracticable to produce before the municipal judge, the judge shall hear the evidence touching upon its nature and use and shall, in all respects, act upon such evidence the same as if the instrumentality or property had been produced.

(f) Before any property shall be destroyed as provided in this section, the municipal judge shall determine whether the instrumentality or device was used exclusively for such illegal purposes, or whether or not the same was an accessory to the business. Accessories having a serviceable value in connection with any lawful business for profit shall not be so destroyed, but shall be, by the municipal judge, ordered sold by the chief of police and the proceeds thereof shall be paid over to the city treasurer. Such property shall be sold by posting, ten days prior to the date of the sale in four public places in the city, one of which shall be near or on the front door of the police station,

·Cross reference-Public intoxication and drinking, § 6-1.
State law reference-Crimes against public decency and morality, 21 O.S. § 851 et seq.

notice of the time, place and manner of such sale and a general description of the property to be sold.
(Code 1974, § 18-18)
State law reference-Gambling, 21 O.S. § 941 et seq.

Sec. 82-192. Nudity; improper dress; indecent exposure.

It shall be unlawful for any person to appear in any public place in the city in a state of nudity or in any offensive, indecent or lewd dress, or to make an indecent public exposure of his person.
(Code 1974, § 18-28)
State law reference-Similar provisions, 21 O.S. § 1021.

Sec. 82-193. Lewd or indecent conduct.

It shall be unlawful for any person to conduct himself in a lewd or indecent manner or in a manner offensive to the good morals of the city, or to perform any act which is detrimental to the good morals of the city, in any public or private place within the city.
(Code 1974, § 18-29)

Sec. 82-194. Offenses involving narcotics.

It shall be unlawful for any person under the influence of opium or any other narcotic to appear or be upon or in any street, alley, place of business or other public place; or for any person to use opium or any other narcotic upon or in any street, alley, place of business or other public place within the city; or for any person to use opium or any other narcotic in any place within the city except as legally prescribed by a physician licensed to practice in the state; or to loiter about a place where opium or any other narcotic is sold or furnished illegally; or for any person to sell or furnish illegally to another person opium or any other narcotic.
(Code 1974, § 18-30)
State law references-Public intoxication, 37 O.S. § 8; Uniform Controlled Dangerous Substances Act, 63 O.S. § 2-101 et seq.

Secs. 82-195-82-205. Reserved.

DIVISION 2. PROSTITUTION AND RELATED OFFENSES*

Sec. 82-206. 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:

Anal intercourse means contact between human beings of the genital organs of one and the anus of another.

Cunnilingus means any act of oral stimulation of the vulva or clitoris.

Fellatio means any act of oral stimulation of the penis.

Lewdness means:

(1) Any lascivious, lustful or licentious conduct;

(2) The giving or receiving of the body for indiscriminate sexual intercourse, fellatio, cunnilingus, masturbation, anal intercourse or lascivious, lustful or licentious conduct with any person not his or her spouse; or

(3) Any act in furtherance of such conduct or any appointment or engagement for prostitution.

Masturbation means stimulation of the genital organs by manual or other bodily contact exclusive of sexual intercourse.

Prostitution means:

(1) The giving or receiving of the body for sexual intercourse, fellatio, cunnilingus, masturbation, anal intercourse or lewdness with any person not his or her spouse, in exchange for money or any other thing of value; or

(2) The making of any appointment or engagement for sexual intercourse, fellatio, cunnilingus, masturbation, anal intercourse

*State law references-Authority of city to restrain and prohibit houses of prostitution and disorderly houses, 11 O.S. § 22-109; prostitution and related offenses, 21 O.S. § 1025 et seq.

or lewdness with any person not his or her spouse, in exchange for money or any other thing of value.

(Code 1974, § 18-27)

Cross reference-Definitions generally, § 1-2.
State law reference-Similar provisions, 21 O.S. § 1030.

Sec. 82-207. Setting up, owning or operating place of prostitution; procuring; receiving person for forbidden purpose; transportation; receiving proceeds.

It shall be unlawful to:

(1) Keep, set up, maintain or operate any house, place, building, other structure, or part thereof, or vehicle, trailer or other conveyance with the intent of committing an act of prostitution, lewdness or assignation.

(2) Knowingly own any house, place, building, other structure, or part thereof, or vehicle, trailer or other conveyance used with the intent of committing an act of lewdness, assignation or prostitution, or to let, lease or rent, or contract to let, lease or rent any such place, premises or conveyance, or part thereof, to another with knowledge or reasonable cause to believe that the intention of the lessee or rentee is to use such place, premises or conveyance for prostitution, lewdness or assignation.

(3) Offer, or to offer to secure, another with the intent of having such person commit an act of prostitution, or with the intent of having such person commit any other lewd or indecent act.

(4) Receive or to offer or agree to receive any person into any house, place, building, other structure, vehicle, trailer or other conveyance with the intent of committing an act of prostitution, lewdness, or assignation, or to permit any person to remain there with such intent.

(5) Direct, take or transport, or to offer or agree to take or transport, or aid or assist in transporting, any person to any house, place, building, other structure, vehicle, trailer, or other conveyance, or to any other person with knowledge or having reasonable cause to believe that the intent of such directing, taking or transporting is prostitution, lewdness or assignation.

(6) Knowingly accept, receive, levy or appropriate any money or other thing of value without consideration from a prostitute or from the proceeds of any woman engaged in prostitution.

(Code 1974, § 18-27)

State law reference-Similar provisions, 21 O.S. § 1028.

Sec. 82-208. Engaging in prostitution, etc.; soliciting or procuring; residing or being in place for prohibited purpose; aiding, abetting or participating.

It shall be unlawful to:

(1) Engage in prostitution, lewdness, or assignation.

(2) Solicit, induce, entice or procure another to commit an act of lewdness, assignation or prostitution, with himself or herself.

(3) Reside in, enter, or remain in any house, place, building or other structure, or to enter or remain in any vehicle, trailer or other conveyance with the intent of committing an act of prostitution, lewdness or assignation.

(4) Aid, abet or participate in the doing of any of the acts herein prohibited.

(Code 1974, § 18-27)

State law reference-Similar provisions, 21 O.S. § 1029.

Chapters 83-85

RESERVED

Chapter 86

PARKS AND RECREATION*

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ARTICLE I. IN GENERAL

Sec. 86-1. Department and superintendent generally.

(a) There is hereby established an executive department of the City of McAlester to be known as the department of community services. The department of community services shall be organized into the divisions of: Airport, cemetery, tourism and EXPO center, parks, recreation and senior citizens/transit. The head of such department shall be the community services director, who shall be appointed by the city manager for an indefinite term and removable by the manager. The community services director shall be an officer of the city and shall have supervision and control of the department of community services.

(b) It shall be the duty of the community services director to oversee the divisions within the department of community services:

(1) Airport division, which shall be directly responsible for supervision, operation and maintenance of the airport. 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 community services director.

(2) Cemetery division, which shall be directly responsible for the supervision, operation and maintenance of the cemeteries under control ofthe 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 community services director.

(3) Tourism and EXPO center division, which shall be directly responsible for tourism and the supervision, operation and maintenance of the EXPO center. 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 community services director.

(4) Parks division, which shall be directly responsible for the maintenance of public parks, recreation areas and municipal right-of-way within 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 community services director.

(5) Recreation division, which shall be directly responsible for recreational program and other leisure service activities. 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 community services director.

(6) Senior citizens/transit division, which shall be directly responsible for the maintenance and operations of senior citizen facilities; and the operation, scheduling, and implementation of the public transportation system for participating seniors within 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 community services director.

(Code 1974, § 19-1; Ord. No. 2278, § 2, 1-8-08)

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

Cross reference-Departments, § 2-106 et seq.

Sec. 86-2. Park board.

(a) There is hereby created a park board consisting of nine members. One member shall be appointed from each of the six wards of the city and one shall be a member at large, such members to be appointed by the mayor with the approval of the council. Two members shall be elected by the student body of McAlester High School. The students so elected shall serve for a one-year term and be residents of the city and all other members shall serve for a term of three years. The members shall serve without compensation.

(b) If a member of the park board fails to attend more than half of all the meetings (regular and special) held within a year, he shall, ipso facto, cease to be a member. The mayor, with the approval of the council, may remove any member of the park board.

(c) As soon as practicable after January 1 of each year, the park board shall elect a chairman, a vice-chairman and a secretary. The secretary need not be a member of the board. The board shall determine the time and place of its regular meetings and the chairman or any four of the members may call special meetings.

(d) The park board shall advise and make recommendations to the council and the city manager on any matters pertaining to parks and recreation.
(Code 1974, § 19-2)

Charter references-Authority of council to appoint and remove members of advisory boards and agencies, § 2-4(5); authority of council to create offices, departments and agencies of city government, §§ 2-4(7), 3-3.

Cross reference-Boards and commissions, § 2-166 et seq.

Secs. 86-3-86-25. Reserved.

ARTICLE II. MUNICIPAL GOLF COURSE ADVISORY BOARD*

Sec. 86-26. Created; composition.

(a) There is hereby created a municipal golf course advisory board, which board shall consist of nine members. One member shall be the mayor or his designated representative. All of the remaining eight members shall be residents of the city appointed by and serving at the pleasure of the mayor with the concurrence of the city council. Six of these appointed members shall represent and reside within each of the six wards of the city. The two remaining members shall be appointed at-large. Initially, the members appointed from wards one, two and three shall serve a six-year term. Representatives of wards four, five and six shall initially serve a three-year term. The two at-large representatives shall initially serve a six-year term.

(b) Subsequent to subsection (a), members shall serve a term of four years.

(c) As soon as practicable after January 1 of each year, the board shall elect a chairman, vice-chairman and secretary. The secretary need not be a member of the board. The mayor or city manager cannot serve in the capacity of chairman of the board.

(d) The board shall meet at the call of its chairman or any five of its members, and at such times and places as the members shall determine.

(e) The board shall advise and make recommendations to the city council and city manager on any matters pertaining to the municipal golf course.

(f) The members of the board shall serve without compensation.

(g) Ex officio members shall be the city manager or his designee, the community services director and the golf course manager.

(h) Any voting member who is absent in excess of one-half of the meetings in a six-month period shall be automatically removed.
(Code 1974, § 19-18)

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

Sec. 86-27. Responsibilities.

This section shall be reserved until a municipal golf course is approved for construction. The responsibilities of the golf course advisory board will be prescribed by the city council.
(Code 1974, § 19-19)

Secs. 86-28-86-50. Reserved.

ARTICLE III. PUBLIC CONDUCT IN PARKS

Sec. 86-51. Hours of operation.

Public parks within the city shall be open for use between the hours of 5:00 a.m. and 11:00 p.m.

*Cross reference-Boards and commissions, § 2-166 et seq.

only, except as provided for in section 86-52. Signs stating park hours shall be posted prominently in each park.
(Code 1974, § 19-20)

Sec. 86-52. Extended hours of operation.

Hours of operation may be extended for programs or events sponsored by or approved by the city; the hours of operation may be extended during any such event or program and for a period of 60 minutes following the conclusion of such event or program.
(Code 1974, § 19-21)

Sec. 86-53. General restrictions on swimming in parks.

(a) No person shall swim, bath or wade in any waters or waterways in or adjacent to any park, except in such waters and at such places as are provided and designated therefor.

(b) No person shall frequent any waters or places in any park customarily designated for the purpose of swimming or bathing, or congregate thereat, when such activity is prohibited by the director of parks and recreation, upon a finding that such use of the water would be dangerous or otherwise inadvisable.

(c) No person shall frequent any waters or places in any park designated for the purpose of swimming or bathing, or congregate thereat, except between such hours of the day as shall be designated by the director of parks and recreation for such purposes for each individual area.
(Code 1974, § 19-3)

Sec. 86-54. Age limit for use of wading pools in parks.

No person over the age of 12 years shall use or enter any wading pool in a park.
(Code 1974, § 19-4)

Sec. 86-55. Wearing bathing suits in parks.

No person shall appear in a bathing suit at any place in a park except within the limits of designated swimming or bathing places or areas, and all bathing suits shall conform to commonly accepted standards. In no event shall any person wear a bathing suit in a park in such a manner as to indecently expose his person.
(Code 1974, § 19-5)

Sec. 86-56. Dressing, undressing in parks.

No person shall dress or undress on any beach, or in any vehicle, toilet or other place in a park, except in such bath houses or structures as may be provided for that purpose.
(Code 1974, § 19-6)

Secs. 86-57-86.75. Reserved.

ARTICLE IV. CITY WATERSHED LAKES*

DIVISION 1. GENERALLY

Sec. 86-76. 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:

Lakes means and includes the three McAlester watershed lakes commonly known as Lake McAlester, Talawanda Lake No.1. and Talawanda Lake No.2. Any reference to "Lake No. I" or "Lake No.2" shall be deemed to refer to Talawanda Lake No.1 and Talawanda Lake No.2, respectively.
(Code 1974, § 10-1)

Cross reference-Definitions generally, § 1-2.

Sec. 86-77. Suspension, revocation of permits issued under article.

In addition to any other penalty imposed, if any person is convicted of violating any provisions of this article, the city manager may suspend any permit issued to such person under this article, such suspension to be for a period of 30 days to one year. In the case of willful continuance of any violation, the city manager shall revoke the offender's permit and it shall be the duty of the occupants or owners of cabin sites and owners of boats whose permits have been so revoked to remove the same from city property.
(Code 1974, § 10-17)

Sec. 86-78. General antipollution requirements.

No offal, garbage or other trash shall be dumped or placed in any of the lakes or on the adjacent land belonging to the city or on watersheds of any of the lakes. No sewage or drainage of any fluids (other than rainwater) may be drained or put into any of the lakes.
(Code 1974, § 10-2)

"Cross reference-McAlester water district, § 78-26 et seq.

Sec. 86-79. Picnickers, campers shall clean premises, extinguish fires before leaving.

All persons holding picnics or camping on the watersheds of the lakes must clean up and destroy all trash and refuse prior to leaving the grounds. All fires must be properly extinguished before leaving the grounds or campsites.
(Code 1974, § 10-3)

Sec. 86-80. Burning of grass, destruction of timber or other property on watersheds.

There shall be no burning of grass or timber on the watersheds of the lakes. There shall be no destroying of standing live timber or property of any kind on the watersheds.
(Code 1974, § 10-4)

Sec. 86-81. Swimming prohibited.

No swimming shall be permitted in the lakes at any time.
(Code 1974, § 10-5)

Sec. 86-82. Wading prohibited; exception.

No wading in the lakes shall be permitted unless the waders are wearing hip boots or commercial waist waders.
(Code 1974, § 10-6)

Sec. 86-83. Duck blinds.

No duck blinds shall be built upon the lakes or their watersheds without first securing a permit from the superintendent of lakes. No duck blind shall be built closer to another existing blind than 200 yards. Blind permits shall be in force for a period of one year only, and must be secured each calendar year.
(Code 1974, § 10-13)

Sec. 86-84. Trapping.

Trapping may be allowed on the lakes upon approval by the city council, by the submission to and approval of the council of sealed bids for trapping rights.
(Code 1974, § 10-14)

Sec. 86-85. Carrying or using firearms.

No firearms shall be carried or used on the lakes or their watersheds, except for the purpose of duck hunting pursuant to the provisions of section 86-100 and except as allowed by the city manager at authorized skeet, trap or turkey shoots, or as allowed by the city manager for special exhibitions. The city manager may also authorize such persons as he may deem fit to use firearms in the destruction of turtles and snakes around the lakes and on the watersheds.
(Code 1974, § 10-15)

Secs. 86-86-86-95. Reserved.

DIVISION 2. FISHING AND FROG HUNTING

Sec. 86-96. Fishing permit.

(a) It shall be unlawful for any person to fish or spear or otherwise hunt frogs on or in any of the lakes, unless he has a current fishing permit, issued by the superintendent of lakes. Such permit must be carried on the person at all times while fishing or hunting frogs on lake property. No permit shall be required for any person under 16 years of age, if he is accompanied by an adult person who has a permit.

(b) The fee for a fishing permit shall be as follows:

(1) Daily permit, $1.00.

(2) Annual permit, $5.00.

Retired and current employees of the city may obtain a fishing permit without payment of the prescribed fee. Also, any resident of the city who is 65 years of age or older may obtain a fishing permit without payment of such fee.
(Code 1974, § 10-8)

Sec. 86-97. Methods of fishing.

(a) Fish may be taken from the lakes by the following means: pole and line; casting rod, reel and line using either artificial bait or natural bait; fly rod, reel and line, using either artificial or natural bait; spinning rod, reel and line using either artificial or natural bait. Snaglines having one hook attached to the line may be used, but only 12 snaglines may be placed in the lakes by the same permit holder. No snaglines of wire or other metal may be used on any of the lakes. Trotlines may be used on Lake McAlester only, such lines being prohibited on Lake Nos. 1 and 2. No more than 50 hooks may be attached to any trotline, and only one trotline per fishing permit may be placed in Lake McAlester. No trotline made of wire or any other metal shall be placed in Lake McAlester.

(b) No lines attached to jugs, cans or other floating containers may be placed in any of the lakes. No fish may be taken from the lakes with spears or any other single or multiple pronged object. No fish may be taken from the lakes by hand (this method being commonly known as grappling). No fish may be taken from the lakes by seines or nets, except that hand-landing nets of the types used in fly or bait casting fishing may be used as an aid to landing a fish caught on a rod and line. Exception to this regulation may be had by application to the city manager, and the city manager may permit the use of nets and seines for the purpose of removing any rough fish from the lakes as needed.
(Code 1974, § 10-9)

Sec. 86-98. Fish limits.

(a) All fish limits shall be 12 pounds and one fish in anyone day. This limit shall be one or more species but all fish caught must be considered as making up this limit per permit per fishing day. Channel catfish are excepted from this daily limit and 15 channel catfish may be taken per fishing permit in anyone day. Twenty-five perch may be taken per fishing permit in anyone day. No greater number than ten bass may be taken; no greater number than 25 crappie may be taken; and no greater number than 25 fish may be taken in anyone day per fishing permit.

(b) It shall be unlawful to take or carry away from any of the city lakes, reservoirs, watersheds or reservations any large mouth black bass, small mouth black bass, spotted black bass, or channel catfish of less than ten inches in length, nor shall any species of trout or rock bass be smaller than six inches in total length, and if any such fish of less than such prescribed lengths shall be taken,

the same shall immediately be put back into the water. Failure to immediately put such fish back into the water shall be taken, held and deemed a violation of this section.
(Code 1974, § 10-10)

Sec. 86-99. Method of and limit on taking of frogs.

Frogs may be taken on the lakes by the use of frog spears and lights. No frogs may be taken on the lakes by the use of nets or seines or by the use of any firearm. No more than ten frogs may be taken per fishing permit in anyone day.
(Code 1974, § 10-11)

Sec. 86-100. General prohibition against hunting; permit for duck hunting.

(a) There shall be no hunting with firearms or by any other method or means on the lakes or their watersheds, except duck hunting, as authorized by a permit issued by the superintendent of lakes, during the annual duck season as established by federal regulations.

(b) Any person desiring to hunt ducks in accord with subsection (a) shall obtain an annual permit from the superintendent of lakes. The fee for such permit shall be $5.00; provided, that the fee for a combination fishing and duck hunting permit shall be $8.00. A husband and wife may use the same permit. Those persons exempt from payment of the fishing permit fee under section 86-96 shall also be exempt from payment of the fee prescribed by this section.
(Code 1974, § 10-12)

Secs. 86-101-86-110. Reserved.

DIVISION 3. BOATS AND BOATING*

Subdivision I. General Provisions

Sec. 86-111. General authority to use.

Subject to the provisions of this division, sailboats, rowboats, outboard motorboats, inboard motorboats, canoes and kayaks may be placed and used upon the lakes.
(Code 1974, § 10-30)

Sec. 86.112. Responsibility of owner.

All boat owners are fully responsible for the operation of their boats on the lakes, whether being controlled by the owner or used by someone else as the operator, with or without the boat owner's permission.
(Code 1974, § 10.32)

Sec. 86-113. Permit.

(a) It shall be unlawful for any person to place or use any boat on the lakes unless a current permit has been issued for such boat by the superintendent of lakes. The fee for such a permit shall be as follows:

(1) Annual permit for any boat, except an inboard motorboat with more than one cylinder, $10.00.

(2) Annual permit for an inboard motorboat with more than one cylinder, $20.00, plus $1.00 per passenger on rated capacity over and above six passengers.

(3) Daily permit for any boat, $1.00.

(b) An annual permit issued under this section shall be valid for the calendar year, unless sooner suspended or revoked.
(Code 1974, § 10-31)

Sec. 86-114. No restriction on size of outboard motors.

Outboard motors of any size may be used in conjunction with boats on the lakes.
(Code 1974, § 10-33)

Sec. 86-115. Maximum length of boats.

Boats placed upon the lakes shall not be over 18 feet in length.
(Code 1974, § 10-34)

*State law reference-Motorboats and vesse]s, 63 O.S. § 4001 et seq.

Sec. 86-116. Boats must be safe and watertight.

All boats used on the lakes shall be of a safe type and watertight.
(Code 1974, § 10-35)

Sec. 86-117. Lights.

All motorboats used on the lakes at night shall carry proper lights as governed by state law. All rowboats used at night shall have a minimum of one light showing.
(Code 1974, § 10-36)

State law reference-Lights for motorboats, 63 O.S. § 4207.

Sec. 86-118. Speed; interfering with fishermen.

All boats on the lakes shall be operated at a reasonably safe speed and in such a manner as to avoid, as much as possible, interfering with or disturbing persons fishing, either from other boats or from the banks.
(Code 1974, § 10-37)

Sec. 86-119. Operator and passengers shall not drink, nor be under influence of, intoxicating beverages.

It shall be unlawful for any person to drink or be under the influence of intoxicating beverages while operating or riding on or in a boat on the lakes.
(Code 1974, § 10-38)

Sec. 86-120. Overloading.

No boat shall be overloaded while upon the lakes. The superintendent of lakes or his duly authorized representative shall be the sole judge as to whether or not a boat is overloaded, and his decision shall be final.
(Code 1974, § 10-39)

Sec. 86-121. Restrictions pertaining to Lakes No.1 and No.2.

No inboard motorboat or sailboat shall be placed or used upon Lakes No.1 and No.2 for any purpose, and no other boat shall be placed upon or used upon either of such lakes, except for the purpose of fishing.
(Code 1974, § 10-40)

Secs. 86-122-86-130. Reserved.

*Subdivision II. Skiing on Lake McAlester**

Sec. 86-131. Definitions.

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

Lake means Lake McAlester.

Cross reference-Definitions generally, § 1-2.

Sec. 86-132. Privilege granted; conditions.

Water skiing privileges shall be permitted on Lake McAlester, but -only under the terms and conditions prescribed in this subdivision. The city assumes no responsibility for such activities.
(Code 1974, § 10-54)

Sec. 86-133. Permit.

(a) No person shall ski on the lake unless he has a current permit to do so issued by the superintendent of lakes. The fee for such a permit shall be as follows:

(1) Daily permit, $0.50.

(2) Annual permit, $3.00.

(3) Annual permit for husband and wife named on same permit, $4.00.

(b) Any person under 16 years of age may ski at the lake without the purchase of a permit, if he is accompanied by his parent or an adult person with a skiing permit.
(Code 1974, § 10-55)

Sec. 86-134. Prohibited during certain hours.

No skiing will be permitted on the lake between one hour after sunset and one hour before sunnse.
(Code 1974, § 10-56)

.State law reference-Skiing regulations, 63 O.S. § 4212.

Sec. 86-135. Use of designated area required.

Only the area of the lake marked and designated by the superintendent of lakes shall be for water skiing. Skiing outside of the designated area shall be unlawful.
(Code 1974, § 10-57)

Sec. 86-136. Required pattern; takeoffs from beach.

Skiers will use either a clockwise or counterclockwise pattern and ski takeoffs will be permitted from the beach, either east or west of the boat docks, as determined by instructions promulgated by the commodore of the McAlester Boat Club and posted on the ski beaches, boat launching ramp and city hall, and rued with the city clerk and the superintendent of lakes.
(Code 1974, § 10-58)

Sec. 86-137. Proximity of boats to skiers.

No person shall operate a boat on the lake, whether pulling skiers or not pulling skiers, closer than 300 feet behind a skier at any time, or closer than 100 feet to the side of a skier.
(Code 1974, § 10-59)

Sec. 86-138. Parking on or operating boat near ski beach.

No person shall park a boat on the ski beaches of the lake at any time or operate a boat closer than 50 feet to a ski beach in order to pull a skier.
(Code 1974, § 10-60)

Sec. 86-139. No more than three persons towed by same boat.

No more than three skiers will be pulled by any one boat at any time except on designated special occasions, such as water carnivals and other special events.
(Code 1974, § 10-61)

Sec. 86-140. Pulling in towropes.

Towropes must be pulled in immediately after the skier has dropped off, regardless of circumstances.
(Code 1974, § 10-62)

Sec. 86-141. Dropping skis.

No person shall drop a ski on the lake, unless there is another boat present and available to pick it up immediately for the safety of other skiers.
(Code 1974, § 10-63)

Sec. 86-142. Life preservers required.

(a) Any person skiing on the lake must wear a life preserver at all times.

(b) Approved life preservers must be provided for the pilot and all passengers in any boat towing skiers on the lake.
(Code 1974, § 10-64)

Sec. 86-143. Skiers shall not drink or be under influence of intoxicating beverages.

No person shall ski on the lake while he is drinking or under the influence of intoxicating beverages.
(Code 1974, § 10-65)

Sec. 86-144. Right-of.way of towboat.

A boat pulling a skier on the lake will have the right-of-way over a boat without a skier.
(Code 1974, § 10-66)

Chapters 87-89

RESERVED

Chapter 90

SPECIAL ASSESSMENTS*

Article I. In General

Secs. 90-1-90-25. Reserved.

Article II. Cost Sharing Policy

Sec. 90-26. Applicability.
Sec. 90-27. Streets.
Sec. 90-28. Storm drains and culverts.
Sec. 90-29. Paving of parking areas and existing, open alleys.
Sec. 90-30. Sidewalks.
Sec. 90-31. Water main extensions.
Sec. 90-32. Sewer main extensions.

"Cross references-Department of public works, § 2-131 et seq.; engineering department, § 2-146 et seq.; streets, sidewalks and other public places, ch. 94; utilities, ch. 106.

State law reference-Street improvements, 11 O.S. § 36-101 et seq.

ARTICLE I. IN GENERAL

Secs. 90-1-90-25. Reserved.

ARTICLE II. COST SHARING POLICY

Sec. 90-26. Applicability.

This article establishes the city's cost sharing policies for public works construction. All cost sharing is subject to previously established priorities and the availability of city funds. Cost sharing does not apply to new subdivisions, M.M.LA. lines, or outside the city limits.
(Code 1974, § 2-12)

Sec. 90-27. Streets.

(a) *Oil mat (Dust control).* Property owners' cost will be $0.10 cents per front foot of property for each side of street.

(b) *Standard 29-foot street (Existing platted streets).*

(1) Concrete: Property owners are to pay 50 percent of total cost estimate. Curb, gutters and driveways are 100 percent property owners' cost.

(2) Asphalt: Property owners are to pay 100 percent of curbs, gutters and driveways, and for all materials needed for asphalt construction. City to provide labor, equipment, engineering and inspection.

(c) *Arterials and collectors (Wider than 29 feet).* Property owners are to cost share on basis of standard 29-foot residential street. Additional widths, when required, will be paid 100 percent by the city.

(d) *Street openings (Presently platted but unopened).* Property owners shall petition the city council for opening of platted but unopened streets. Upon approval of the city council, such streets shall be opened to permanent grade, 30 feet of roadway with a minimum of four inches of crushed limestone base of full 30 feet. Ditches will be constructed outside of the 30 feet of roadway. Property owners must deposit with the city treasurer 100 percent of the estimated cost of materials (before construction will start), the city will provide labor, equipment, engineering and inspection. Thereafter, these streets come under the regular city cost sharing policy.

(e) *Street cuts and backfills.* All street cuts are to be financed 100 percent by the person requesting the work. All costs will be paid, using city standard costs, before permit is issued. No street cut will be made unless backfill can be completed by noon of the following Friday.
(Code 1974, § 2-12)

Sec. 90-28. Storm drains and culverts.

The city will install storm drain pipe and culverts on city rights-of-way if the property owners buy the materials.
(Code 1974, § 2-12)

Sec. 90-29. Paving of parking areas and existing, open alleys.

Parking areas adjacent to street and located on a dedicated right-of-way, and existing, open alleys can be surfaced by the city for $9.50 per ton of asphaltic concrete, total cost to be paid by the adjacent property owners. Unopened alleys, if opening is approved by the city council, will be opened and gravel base installed upon deposit by the property owners of 100 percent of the cost for all materials. Thereafter, these alleys come under the regular city cost sharing policy.
(Code 1974, § 2-12)

Sec. 90-30. Sidewalks.

(a) *Construction.* Property owners will pay 100 percent of new concrete sidewalk construction. City pays for all engineering, grading and sand cushion. Sidewalks extending five standard city blocks, 1,500 feet in each direction from public schools, are eligible for 50 percent city participation. Only one sidewalk extending in each direction from schools is eligible and such sidewalk shall be continuous.

(b) *Repairs.* Property owners are to pay 50 percent of the city standard cost for repairs of all sidewalks.
(Code 1974, § 2-12)

Sec. 90-31. Water main extensions.

Property owners are to pay 50 percent of the total cost estimate, excluding service line tap fees, for mains six inches in diameter or smaller. (Tap fees shall be paid separately as set forth below.) When required by the city to install a main larger than six inches in diameter, the city is to pay for the additional sizing. A water tap fee in the amount as set forth below shall be paid for tapping existing mains or mains installed under this policy. Water tap fees shall be paid only on those water mains laid under the city's participation policy. Water tap fees in such cases shall be $150.00 per tap or a cost equal to that of the propertyowner, who originally participated in the construction of the water main to be tapped, whichever is greater.

Size of tap in inches	*Fee*
5/8 meter	$ 50.00
3/4 meter	75.00
1 and 11/2 meter	150.00
2 meter	200.00

(Code 1974, § 2-12)

Sec. 90-32. Sewer main extensions.

Property owners are to pay 50 percent of the total cost estimate for sewer main extensions. Sewer tap fees shall be paid only on those sewer mains laid under the city's participation policy. Sewer tap fees in such cases shall be $150.00 per tap or a cost equal to that of the property owner, who originally participated in the construction of the sewer main to be tapped, whichever is greater.

(Code 1974, § 2-12)

Chapters 91-93

RESERVED

Chapter 94

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*

Article I. In General

Sec. 94-1. Encroachments and obstructions generally.
Sec. 94-2. Obstructing by crowds.
Sec. 94-3. Use for sale or advertising of merchandise.
Sec. 94-4. Use of sidewalks for receipt or shipment of merchandise or deposit of building materials.
Sec. 94-5. Street banners prohibited; exception.
Sec. 94-6. Drainage of water, other fluids from businesses onto streets or sidewalks.
Sec. 94-7. Playing on streets and sidewalks.
Secs. 94-8-94-30. Reserved.

Article II. Streets

Division 1. Generally

Sec. 94-31. Construction specifications.
Sec. 94-32. Minimum requirements and specifications for construction and paving of platted and dedicated streets within city limits.
Sec. 94-33. Permit for installation of drainage structures in street ditches.
Sec. 94-34. Median cuts prohibited.
Secs. 94-35-94-45. Reserved.

Division 2. Openings

Sec. 94-46. Authorized openings.
Sec. 94-47. Request for opening in pavement.
Sec. 94-48. Charge for opening in pavement.
Sec. 94-49. Permit for opening in unpaved street or alley.
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Sec. 94-51. Barricades, rails and lights.
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Article III. Sidewalks

Sec. 94-71. Obstruction by trees or shrubs; grass on sidewalks.
Sec. 94-72. Sidewalk planters and decorations.
Sec. 94-'Z3. Duty of abutting property owners and occupants to maintain sidewalks.
Sec. 94-74. Snow and ice removal.
Secs. 94-75-94-95. Reserved.

Article Iv. Driveways

Division 1. Generally

Sec. 94-96. Application.

·Cross references-Department of public works, § 2-131 et seq.; engineering department, § 2-146 et seq.; public intoxication and drinking, § 6-1; moving of buildings, § 18-321 et seq.; closing of public ways and easements, § 62-56 et seq.; opening of public ways and easements, § 62-81 et seq.; special assessments, ch. 90; traffic and vehicles, ch. 102.

State law reference-Municipal streets generally, 11 O.S. § 36-101 et seq.

Sec. 94-97. Interpretation, purpose and administration of article; variances.
Sec. 94-98. Supervision of construction, alteration or repair.
Sec. 94-99. General design standards.
Sec. 94-100. Width.
Sec. 94-101. Angle to street.
Sec. 94-102. - Encroachment on frontage of adjacent property.
Sec. 94-103. Pedestrian safety island between driveways.
Sec. 94-104. Curb openings prohibited in certain areas.
Sec. 94-105. Paving of apron when concrete curb removed.
Secs. 94-106-94-115. Reserved.

Division 2. Permit to Construct, Alter or Repair

Sec. 94-116. Required.
Sec. 94-117. Application.
Sec. 94-118. Fee.
Sec. 94-119. Issuance.

Article V. Street or Public Facility Name Change

Sec. 94-120. Street or public facility name restriction.
Sec. 94-121. Filing petition.
Sec. 94-122. Fees to be paid by petitioner.
Sec. 94-123. Hearing on petition, recommendation.

ARTICLE I. IN GENERAL

Sec. 94-1. Encroachments and obstructions generally.

(a) It shall be unlawful for any person to encroach upon the sidewalks, streets, avenues, alleys or other property of the city by placing thereon any pumps, tanks, vehicles, animals, posts, pillars, awnings, merchandise, structures, implements, or any other thing in such a manner as to obstruct or interfere with the safe and free use of and passage over such sidewalks, streets, avenues, alleys or other public property. This section shall not apply to metal railings placed to prevent people from falling into basements, nor shall it apply to any other article or object placed in accord with any provision of this Code specifically authorizing such placement.

(b) Any unlawful obstruction of any street, sidewalk or alley in the city is hereby declared to be a public nuisance subject to abatement under the provisions of chapter 46, article II of this Code.
(Code 1974, §§ 26.3, 26-4)

State law reference-Authority to prohibit and prevent encroachments, 11 O.S. § 36.107.

Sec. 94-2. Obstructing by crowds.

It shall be unlawful for any person to use the public streets or sidewalks in any manner which causes crowds to gather in such number or in such way as to obstruct traffic and the free use of the streets and sidewalks.
(Code 1974, § 26-5)

Sec. 94-3. Use for sale or advertising of merchandise.

Except as otherwise specifically authorized in this Code, it shall be unlawful for any person to use any portion of the sidewalks, streets, alleys or avenues in the city for the sale of merchandise or the advertising of any merchandise of any kind whatsoever.
(Code 1974, § 26-6)

Sec. 94-4. Use of sidewalks for receipt or shipment of merchandise or deposit of building materials.

Merchants and tradesmen may use the sidewalks, without obstructing the free passage and use thereof, for the purpose of receiving, opening and shipping of goods and merchandise, and persons erecting or repairing a building may occupy the sidewalk for a reasonable time, not to exceed one-third of the width of the sidewalk in front of such building, for the deposit of materials for such purpose.
(Code 1974, § 26-7)

Sec. 94-5. Street banners prohibited; exception.

(a) It shall be unlawful for any person to build, construct, fasten, tie or maintain any banners, streamers or other similar materials anywhere in the city in such a manner that the same shall be above, over and across any public street.

(b) The provisions of this section shall not apply to Christmas and Armed Forces Day decorations maintained by persons engaged in promoting a nonprofit civic enterprise and who have secured approval from the city manager and have furnished a liability insurance policy, issued by an insurance company authorized to do business in the state, in the sum of not less than $10,000.00 covering property and personal injury damages and indemnifying the city from any personal injury or property damage which might result from building, constructing, fastening, tying, disconnecting or maintaining such banners, streamers or other similar materials above, over or across any public street within the city. Upon presenting to the chief of police evidence of approval by the city manager and evidence of the insurance as required above, the chief of police shall issue a permit to any person engaged in placing Christmas and Armed Forces Day decorations above, over and across any public street.
(Code 1974, § 26-9)

Cross reference-Signs, § 62-441 et seq.

Sec. 94-6. Drainage of water, other fluids from businesses onto streets or sidewalks.

It shall be unlawful for any owner or operator of a filling station or other place of business, or any agent or employee thereof, to cause or allow water, grease or other fluid to flow or drain into, upon,

over or across any sidewalk, parking area, street, alley or other public way.
(Code 1974, § 26-12)

Sec. 94-7. Playing on streets and sidewalks.

It shall be unlawful for any person to play on the sidewalks or upon the main-traveled portion of the streets and alleys of the city, except as may be authorized by ordinance.
(Code 1974, § 26-13)

Secs. 94-8-94-30. Reserved.

ARTICLE II. STREETS

DIVISION 1. GENERALLY

Sec. 94-31. Construction specifications.

Nothing in this Code or the ordinance adopting this Code shall affect the validity of Ordinance No. 1493, which provides standard specifications for street construction within the corporate limits of the city and such ordinance is hereby recognized as continuing in full force and effect to the same extent as if set out at length in this article.
(Code 1974, § 26-2)

Sec. 94-32. Minimum requirements and specifications for construction and paving of platted and dedicated streets within city limits.

(a) Construction shall be in accord with Ordinance No. 1493, Part D, Specifications for Rural Development Areas, except subpart D.VI. Double bituminous asphalt pavement shall not be acceptable except for rural development areas. Paving of asphaltic concrete two inches in thickness shall be installed, in accordance with Ordinance 1493, Part C, Specifications for Asphalt Paving, subparts IV and V.

(b) A person desiring to surface a platted and dedicated street within the city limits will submit to the city plans and profile, drainage plan and typical cross section of the proposal.

(c) The applicant will not start construction until his proposal is approved by the city manager or his designee.

(d) The city with its own forces may open and surface streets on a temporary basis to less than these standards for the welfare and safety of the city.
(Code 1974, § 26-16)

Sec. 94-33. Permit for installation of drainage structures in street ditches.

No person shall commence or complete the installation of pipe culverts, bridges of any material, fills, dams, pipes or any other drainage structures to be located on or adjoining drainage ditches located on city streets, alleys or other city property, until a permit is obtained therefor. Any person desiring to install such a drainage structure shall apply to the city manager for such permit. Upon approval of the work by the city manager or his designated representative, such permit shall be issued to the applicant without a fee therefor.
(Code 1974, § 26-11)

Sec. 94-34. Median cuts prohibited.

Center median openings shall be prohibited on any part of Carl Albert Parkway from Main Street East to the east city limits.
(Ord. No. 2005, § 1, 9-14-93)

Secs. 94-35-94-45. Reserved.

DIVISION 2. OPENINGS

Sec. 94-46. Authorized openings.

(a) It shall be unlawful for any person, except duly authorized employees of the city, to make an opening in any pavement in any paved street or alley. Only the city, acting through its officers and employees, may make such openings.

(b) The city will not make openings in unpaved streets or alleys. This will be done by private persons after obtaining a permit provided for in section 94-49.
(Code 1974, § 26-28)

Sec. 94-47. Request for opening in pavement.

(a) Whenever any person desires to have an opening made in the pavement of any street or alley, he shall make a written permit request therefore and file it with the street superintendent. If the street superintendent thinks that the request is reasonable and that the opening should be made, he shall issue a written permit and direct the appropriate city personnel to make the opening. If the street superintendent thinks that it is doubtful whether the request should be granted, he shall refer the application to the public works director, and if the public works director approves it, the street superintendent shall direct the appropriate city personnel to make the opening. If the public works director thinks that the opening should not be made, he shall refuse the request. In this case, the applicant may appeal to the city manager, and if the city manager approves the request, the street superintendent shall direct the appropriate city personnel to make the opening. If the city manager thinks that the opening should not be made, he/she shall refuse the request. In this case, the applicant may appeal to the city council, and if the city council approves the request, the street superintendent shall direct the appropriate city personnel to make the opening.

(b) When the council is to consider a request under this section, whether by reference by the city manager or on appeal by the applicant, the applicant shall mail or deliver to the owner or occupant of all real property within 200 feet of the location of the proposed opening a notice of the proposed hearing by the council, at least five days before the hearing.

(Code 1974, § 26-29; Ord. No. 2201, § 1, 9-13-05)

Sec. 94-48. Charge for opening in pavement.

In any case where a request for the opening of pavement is granted pursuant to section 94-47, the person making the request shall reimburse the city for the actual cost of opening and repairing the pavement.

(Code 1974, § 26-30; Ord. No. 2201, § 1, 9-13-05)

Sec. 94-49. Permit for opening in unpaved street or alley.

It shall be unlawful for any person to make an opening in any unpaved street or alley in the city without first obtaining a permit therefore, giving such relevant information as the street superintendent and/or public works director may require.

(Code 1974, § 26-31; Ord. No. 2201, § 1, 9-13-05)

Sec. 94-50. Backfilling.

The city will make all backfills in openings made under this article whether in paved or unpaved streets or alleys. Prior to the making of any such opening, the person requesting the opening or obtaining the permit therefore shall reimburse the city for the actual cost of such backfill. Such charge is in addition to any other charge provided for in this division.

(Code 1974, § 26-32; Ord. No. 2201, § 1,9-13-05)

Sec. 94-51. Barricades, rails and lights.

Upon the applicant complying with the provisions of this division, the city agrees to place proper barricades, guardrails and lights about the location of any opening made pursuant to this division.

(Code 1974, § 26-33)

Secs. 94-52-94-70. Reserved.

ARTICLE III. SIDEWALKS

Sec. 94-71. Obstruction by trees or shrubs; grass on sidewalks.

It shall be unlawful for the owner or occupant of any lot or premises in the city to permit the branches of any tree or shrub growing upon such lot or premises, or upon the parking adjacent thereto, to grow in such a manner as to obstruct the free passage over or along the sidewalk in front of, or alongside of, such lot or premises, or to allow grass or weeds to grow so as to extend over such sidewalks. The branch of any tree or shrub extending over such sidewalk at a less height than 71/2 feet therefrom shall be termed an obstruction within the meaning of this section.

(Code 1974, § 26-8)

Sec. 94-72. Sidewalk planters and decorations.

(a) Notwithstanding any other provision of this Code or other ordinance, it shall be lawful for civic organizations to place and maintain planters and decorations on the outer or inner edges of sidewalks, for the beautification of the city, provided the terms of this section are complied with.

(b) A plan for planters or decorations referred to in subsection (a) shall be filed with the city clerk and presented to the city council for its approval, such plan to show the location and type of planters and decorations.

(c) If the plan referred to in subsection (b) is approved by the council, the civic organization involved shall then file with the city clerk a liability insurance policy, issued by an insurance company authorized to do business in the state, in the sum of not less than $10,000.00, covering property and personal injury damage and indemnifying the city from any property or personal injury damage which might result from the placing of the planters and other decorations on sidewalks within the city.

(d) Upon the approval above outlined and the filing of the insurance policy as required above, the building inspector shall issue a permit authorizing the placement of such planters and decorations.
(Code 1974, § 26-10)

Sec. 94-73. Duty of abutting property owners and occupants to maintain sidewalks.

(a) It shall be unlawful for the owner of property abutting upon a sidewalk or sidewalk area to permit the sidewalk or sidewalk area adjacent to his property to become a hazard to persons using the sidewalk or sidewalk area.

(b) The abutting property owner and the occupant of the abutting property shall maintain sidewalks and sidewalk areas free and clear of all encroachments and obstructions, such as, but not limited to, those enumerated in section 94-1, which interfere with the free and safe use of and passage over the sidewalks or sidewalk areas.
(Code 1974, § 26-14)

State law reference-Emergency sidewalk repairs, 11 O.S. § 36-104.

Sec. 94-74. Snow and ice removal.

It shall be the duty of the owner and occupant of any property abutting a public sidewalk to remove all snow and ice from such sidewalk within 12 hours after the snow or ice has ceased to fall thereon. Snow and ice not so removed shall constitute a public nuisance subject to abatement in accordance with chapter 46, article II.
(Code 1974, § 26-15)

Secs. 94-75-94-95. Reserved.

ARTICLE IV. DRIVEWAYS

DIVISION 1. GENERALLY

Sec. 94-96. Application.

The provisions and requirements contained in this article shall apply to all driveways providing ingress and egress to any public street which is located within the corporate limits of the city and which has a curb or a curb and gutter.
(Code 1974, § 26-45)

Sec. 94-97. Interpretation, purpose and administration of article; variances.

(a) The provisions of this article shall not be used to deprive or be construed as depriving any person of the right of ingress or egress. Such provisions are intended to insure that driveways connecting with public streets are of such a design that they will not create undue congestion, danger or traffic hazards on or adjacent to the public streets.

(b) The standard designs provided in this article shall be interpreted and administered by the code administrator with the advice and assistance of the director of public works. Under unusual conditions which are not directly covered by the designs provided in this article, the director of public works is hereby authorized to approve the construction of driveway facilities that meet the special requirements needed to serve adjacent property, provided that the conditions of safety and protection of the public streets, as established by the provisions of this article, are maintained.
(Code 1974, § 26-46)

public works is hereby authorized to approve the construction of driveway facilities that meet the special requirements needed to serve adjacent property, provided that the conditions of safety and protection of the public streets, as established by the provisions of this article, are maintained.
(Code 1974, § 26-46)

Sec. 94-98. Supervision of construction, alteration or repair.

All operations in connection with the construction, reconstruction, alteration or repair of any driveway for which a permit is granted under this article shall be under the direction and supervision of the director of public works.
(Code 1974, § 26-47)

Sec. 94-99. General design standards.

(a) The design of a driveway, from its intersection with the public street to the property line, shall be in accordance with the applicable standards set forth in Exhibits A, Band C, attached to Ordinance No. 1012, on file in the city clerk's office, which exhibits are hereby made a part of this section, to the same extent as if set out in full, and with the standards prescribed in this article.

(b) The Standard Designs for Driveway Entrances for Oklahoma Highways, adopted February 1, 1960, by the state highway commission, shall serve as a guide for driveway designs, but only to the extent that such standard designs are not inconsistent with or in conflict with the provisions of this article. In the event of an inconsistency or conflict, the provisions of this article shall govern.
(Code 1974, § 26.48)

Sec. 94.100. Width.

The width of a driveway shall be not less than ten feet nor greater than 40 feet, measured at and parallel to the property line.
(Code 1974, § 26-49)

Sec. 94-101. Angle to street.

The centerline of a driveway shall be at right angles to the centerline of the public street.
(Code 1974, § 26-50)

Sec. 94-102. Encroachment on frontage of adjacent property.

Every driveway shall be so located that no part of the driveway will encroach on the frontage of adjacent property.
(Code 1974, § 26-51)

Sec. 94-103. Pedestrian safety island between driveways.

There shall be located between driveways a pedestrian safety island having a width of not less than 15 feet, measured at and parallel to the property line or sidewalk line, as determined by the director of public works.
(Code 1974, § 26-52)

Sec. 94-104. Curb openings prohibited in certain areas.

No curb openings for driveway purposes shall be permitted within the areas bounded by crosswalk lines at intersections.
(Code 1974, § 26.53)

Sec. 94-105. Paving of apron when concrete curb removed.

When a concrete curb is removed to permit driveway construction, the driveway apron shall be paved with six-inch P.C. concrete from its intersection with the street to the property line.
(Code 1974, § 26-54)

Secs. 94-106-94-115. Reserved.

DIVISION 2. PERMIT TO CONSTRUCT, ALTER OR REPAIR

Sec. 94-116. Required.

No person shall begin to construct, reconstruct, alter or repair any driveway without first obtaining a permit from the director of public works.
(Code 1974, § 26-61)

(3) If the design of the proposed driveway deviates from the standard designs prescribed in this article, attached plans showing such deviations.

(4) Such other information as the director of public works shall find reasonably necessary to the determination of whether the permit should be issued.

(Code 1974, § 26-62)

Sec. 94-118. Fee.

The fee for a permit under this division shall be $2.50. For commercial driveways, there shall be an additional fee of $1.00 for each ten feet, or fraction thereof, based on the width of the driveway, as measured at the curb.

(Code 1974, § 26-63)

Sec. 94-119. Issuance.

Upon the payment of the prescribed fee, the director of public works shall issue a permit applied for under this division, when he finds that:

(1) The applicant has complied with, and that the work shall be done in accord with, the provisions of this article; and

(2) The health, welfare and safety of the public shall not be unreasonably impaired.

(Code 1974, § 26-64)

ARTICLE V STREET OR PUBLIC FACILITY NAME CHANGE

Sec. 94-120. Street or public facility name restriction.

No public street or public facility in the city shall be named for any living individual or individual that has not been deceased for at least five years, or more.

(Ord. No. 2215, § 1, 11-8-05)

Sec. 94-121. Filing petition.

Petition for changing of the name of a public street or public facility within the municipal limits of the city shall hereafter be filed with the planning commission by any person, firm or corporation proposing the name change, or his or their duly authorized representative, on a form furnished by the commission.

(Ord. No. 2215, § 1, 11-8-05)

Sec. 94-122. Fees to be paid by petitioner.

Upon filing a petition for a name change, the person, firm or corporation, or their authorized representative, shall pay a filing fee of $50.00. In addition to the fee, the petitioner shall pay all expenses for all public notification(s).

(Ord. No. 2215, § 1, 11-8-05)

Sec. 94-123. Hearing on petition, recommendation.

(a) The planning commission shall hold one or more public hearings upon a petition filed under this article, notice of which shall be given by the commission as follows:

(1) Notice of the proposed name change shall be given by publication in a newspaper of general circulation in the city two times within a period of two weeks. First notification shall not be less than 15 days, and not more than 30 days prior to such hearing.

(2) The planning commission will forward their recommendation concerning the name change to the city council within 30 days of the final public hearing.

(Ord. No. 2215, § 1, 11-8-05)

Chapters 95-97

RESERVED

Chapter 98

TAXATION*

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ARTICLE I. IN GENERAL

Secs. 98-1—98-25. Reserved.

ARTICLE II. SALES TAX

Sec. 98-26. Title.

This article shall be known and may be cited as the "McAlester Sales Tax Ordinance."
(Code 1974, § 27-16)

Sec. 98-27. 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:

Generally. The definitions of words, terms and phrases contained in the Oklahoma Sales Tax Code (68 O.S. § 1350 et seq.), are hereby adopted by reference and made a part of this article.

Oklahoma Sales Tax Code. Reference to the Oklahoma Sales Tax Code means such code as set out in 68 O.S. art. 13 (68 O.S. § 1350 et seq.), as amended.

Tax collector means the department of the city government or the official agency of the state duly designated according to law or contract authorized by law to administer the collection of the tax levied by this article.
(Code 1974, § 27-19)

Cross reference—Definitions generally, § 1-2.

Sec. 98-28. Purpose.

It is hereby declared to be the purpose of this article to provide revenues for the support of the functions of the municipal government of the city.
(Code 1974, § 27-18; Ord. No. 2068, § 1, 6-10-97)

Sec. 98-29. Levy.

(a) *Citations and codification.* This section shall be known and may be cited as the City of McAlester Three-Quarter Cent Sales Tax Ordinance of 2015, and the same shall be codified and incorporated into the Code of Ordinances of the City of McAlester, Oklahoma (the "city").

(b) *Tax imposed.* There is hereby imposed an excise tax of three-quarter percent, in addition to any and all other excise taxes now in force; said excise tax to be levied upon the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code.

(c) *Purpose of revenues.* It is hereby declared to be the purpose of this section and the excise tax levied hereunder is to provide revenues to be used by the city, or any public trust having the city as beneficiary thereof, for the purpose of funding street construction, repairs, maintenance, and improvements, as well as related infrastructure improvements within the project areas.

(d) *Effective date and no stated termination date.* The provisions of this section and the collection of the excise tax referenced herein shall become effective on and after January 1, 2016, subject to approval by a majority of the qualified electors of the City of McAlester, Oklahoma, voting on the same in the manner prescribed by law. The provisions of this section and the collection of the excise tax referenced herein shall be unlimited in duration.

(e) *Subsisting state permits.* All valid and subsisting permits to do business issued by the Oklahoma Tax Commission pursuant to the Oklahoma Sales Tax Code are, for the purposes of this section, hereby ratified, confirmed and adopted in lieu of any requirement for an additional city permit for the same purpose.

(f) *Payment of tax.* The tax herein levied shall be paid to the tax collector at the time and in the manner and form prescribed for payment of the state sales tax under the state tax law of the State of Oklahoma.

(g) *This tax in addition to taxes currently levied; administrative procedures.* The tax levied hereby is in addition to any and all other excise taxes levied or assessed by the city pursuant to existing city ordinances (the "existing ordinances"); provided, however, that those provisions, if any, of said existing ordinances relating to definitions; tax collector defined; classification of taxpayers - permit to do business; subsisting state permits; the portion of tax rate - sales subject to tax, pertaining to sales subject to tax (not rate of tax);

the provisions of said existing ordinances regarding exemptions and other exempt transfers; the provisions of said existing ordinances regarding tax due when - returns - records; the portion of said existing ordinances regarding tax constituting debt; vendor's duty to collect tax; returns and remittances - discounts; interest and penalties - delinquency; Waiver of interest and penalties; erroneous payments - claim for refund; fraudulent returns; and records confidential shall apply to the excise tax levied and assessed by the ordinance codified herein. For purposes of this section, references in said existing ordinances, to specific provisions of the Oklahoma Statutes shall be deemed to be references to said statutory provisions, as amended.

(h) *Amendments.* The people of the City of McAlester, Oklahoma, by their approval of the ordinance codified in this section at the election hereinabove provided for, hereby authorize the city by ordinance duly enacted to make such administrative and technical changes or additions in the method and manner of administration and enforcing this section as may be necessary or proper for efficiency and fairness or in order to make the same consistent with the Oklahoma Sales Tax Code, as amended, except that the rate of the tax herein provided for shall not be changed without approval of the qualified electors of the city as provided by law.

(i) *Provisions cumulative.* The provisions hereof shall be cumulative and in addition to any and all other taxing provisions of city ordinances.

(j) *Severability.* The provisions of this section are severable, and if any part or provision hereof shall be adjudged invalid by any court of competent jurisdiction, such adjudication shall not affect or impair any of the remaining parts or provisions hereof.

(Code 1974, § 27-22; Ord. No. 1576, § 1, 7-24-79; Ord. No. 1983, § 1, 6-23-92; Ord. No. 2038, § 1, 6-27-95; Ord. No. 2068, § 2, 6-10-97; Ord. No. 2084, § 1, 7-14-98; Ord. No. 2153, § 1, 6-25-02; Ord. No. 2159, § 1, 10-19-02; Ord. No. 2431, §§ 1—10, 8-14-12; Ord. No. 2453, §§ 1—10, 3-12-13; Ord. No. 2541, §§ 1—10, 7-21-15)

State law references—Sales tax authorized, 68 O.S. § 2701; sales subject to tax, 68 O.S. § 1354.

Sec. 98-30. Exemptions.

There is hereby specifically exempted from the tax levied by this article the gross receipts or gross proceeds and the transfers of tangible personal property exempted from the Oklahoma Sales Tax Code (68 O.S. § 1350 et seq.).

(Code 1974, §§ 27-23—27-25)

State law reference—Exemptions for state sales tax, 68 O.S. §§ 1355—1360.

Sec. 98-31. When due and payable.

The tax levied under this article shall be due and payable at the time prescribed for payment of the state sales tax under the Oklahoma Sales Tax Code (68 O.S. § 1350 et seq.).

(Code 1974, § 27-26)

State law reference—When state tax due and payable, 68 O.S. § 1365.

Sec. 98-32. Manner of paying.

The tax levied under this article shall be paid to the tax collector in the form and manner provided for payment of the state sales tax under the Oklahoma Sales Tax Code (68 O.S. § 1350 et seq.).

(Code 1974, § 27-27)

State law reference—Payment of state tax, 68 O.S. § 1365.

Sec. 98-33. Classification of taxpayers.

For the purpose of this article, the classification of taxpayers under this article shall be as prescribed by state law for purposes of the Oklahoma Sales Tax Code (68 O.S. § 1350 et seq.).

(Code 1974, § 27-21)

State law reference—Taxpayers classified, 68 O.S. § 1363.

Sec. 98-34. Collection by vendors.

(a) The tax levied under this article shall be paid by the consumer or user to the vendor, and it shall be the duty of each and every vendor in this city to collect from the consumer or user, the full amount of the tax levied by this article, or an amount equal as nearly as possible or practicable to the average equivalent thereof.

(b) Vendors shall add the tax imposed under this article, or the average equivalent thereof, to the sales price or charge and, when added, such

tax shall constitute a part of such price or charge, shall be a debt from the consumer or user to the vendor until paid, and shall be recoverable at law in the same manner as other debts.

(c) A vendor who willfully or intentionally fails, neglects or refuses to collect the full amount of the tax levied by this article, or willfully or intentionally fails, neglects or refuses to comply with the provisions or remits or rebates to a consumer or user, either directly or indirectly, and by whatsoever means, all or any part of the tax herein levied, or makes in any form of advertising, verbally or otherwise, any statement which infers that he is absorbing the tax, or paying the tax for the consumer or user by an adjustment of prices or at a price including the tax, or in any manner whatsoever, shall be deemed guilty of an offense.
(Code 1974, § 27-28)

State law reference—Similar provisions, 68 O.S. § 1361.

Sec. 98-35. Returns, remittances and discounts generally.

Returns and remittances of the tax levied and collected under this article shall be made to the tax collector at the time and in the manner, form and amount as prescribed for returns and remittances required by the Oklahoma Sales Tax Code (68 O.S. § 1350 et seq.), and remittances of taxes collected under this article shall be subject to the same discount as may be allowed by such code for collection of state sales taxes.
(Code 1974, § 27-29)

State law references—Remittances, 68 O.S. § 1362; discounts, 63 O.S. § 1367.

Sec. 98-36. Penalty and interest on delinquencies; forfeiture of discount.

(a) The city hereby adopts and makes a part hereof 68 O.S. § 217, and the interest and penalties at the rates and in the amounts as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this article; provided that, the failure or refusal of any taxpayer to make and transmit the reports and remittances of tax in the time and manner required by this article shall cause such tax to be delinquent. In addition, if delinquency continues for a period of five days, the taxpayer shall forfeit his claim to any discount allowed by this article.

(b) The interest or penalty or any portion thereof accruing by reason of a taxpayer's failure to pay the tax levied by this article may be waived or remitted in the same manner as provided for such waiver or remittance as applied in the administration of the state sales tax provided in 68 O.S. § 220, and to accomplish such purposes, the applicable provisions of such section are hereby adopted by reference and made a part hereof.
(Code 1974, § 27-30)

Sec. 98-37. Failure to make reports and remittances; false or fraudulent reports.

In addition to all civil penalties provided by this article, the willful failure or refusal of any taxpayer to make reports and remittances required by this article, or the making of any false and fraudulent report for the purposes of avoiding or escaping payment of any tax or portion thereof rightfully due under this article shall be an offense punishable as prescribed by section 1-8 of this Code.
(Code 1974, § 27-31)

Sec. 98-38. Money due under article constitutes superior claim; collection by suit.

Taxes, penalties and interest due under this article shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors, and may be collected by suit as any other debt.
(Code 1974, § 27-32)

State law references—Authority of city to enforce payment of taxes by civil action, 68 O.S. § 2703; lien for municipal taxes, 68 O.S. § 2704.

Sec. 98-39. Refund of erroneous payments.

Refund of erroneous payment of the sales tax levied by this article may be made to any taxpayer making such erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the state sales tax as set forth in 68 O.S. § 227,

and to accomplish such purposes, the applicable provisions of such section are hereby adopted by reference and made a part hereof.
(Code 1974, § 27-33)

Sec. 98-40. Confidentiality of records.

The confidential and privileged nature of the records and files concerning the administration of the city sales tax is legislatively recognized and declared, and to protect the same the provisions of 68 O.S. § 205, and each subsection thereof, are hereby adopted by reference and made fully effective and applicable to the administration of the city sales tax as if herein set forth in full.
(Code 1974, § 27-34)

Sec. 98-41. Amendments to article.

The people of the city by their approval of this article at an election hereby authorize the city council, by ordinances duly enacted, to make such administrative and technical changes or additions in the method and manner of administration and enforcing this article as may be necessary or proper for efficiency and fairness, except that the rate of the tax provided for in this article shall not be changed without approval of the qualified electors of the city as provided by law.
(Code 1974, § 27-35)

Sec. 98-42. Provisions of article cumulative.

The provisions of this article shall be cumulative and in addition to any and all other taxing provisions of city ordinances.
(Code 1974, § 27-36)

Sec. 98-43. Article does not require city permit to do business in addition to state permit.

All valid and subsisting permits to do business issued by the state tax commission pursuant to the Oklahoma Sales Tax Code (68 O.S. § 1350 et seq.) are, for the purposes of this article, hereby ratified, confirmed and adopted in lieu of any requirement for an additional city permit for the same purpose.
(Code 1974, § 27-20)

State law reference—Permits to do business, 68 O.S. § 1364.

Secs. 98-44—98-65. Reserved.

ARTICLE III. USE TAX

Sec. 98-66. Short title.

This article shall be known and may be cited as "City of McAlester Use Tax Ordinance."
(Code 1974, § 27-50)

State law reference—Local use tax, 68 O.S. § 1411.

Sec. 98-67. Definitions.

The definitions of words, terms and phrases contained in 68 O.S. art. 14 (68 O.S. § 1401 et seq.) are hereby adopted by reference and made a part of this article. In addition thereto, the following words and terms shall be defined as follows:

Transaction means sale.
(Code 1974, § 27-52)

Cross reference—Definitions generally, § 1-2.

Sec. 98-68. Tax collector.

The term "tax collector" as used in this article means the department of the municipal government or the official agency of the state, duly designated according to law or contract authorized by law, to administer the collection of the tax levied in this article.
(Code 1974, § 27-53)

Sec. 98-69. Purpose.

It is hereby declared to be the purpose of this article to provide revenues for the support of the functions of the municipal government of the city, and any and all revenues derived hereunder may be expended by the governing body of the city for any purpose for which funds may be lawfully expended as authorized.
(Code 1974, § 27-51)

Sec. 98-70. Excise tax on storage, use or other consumption of tangible, personal property levied.

There is hereby levied and there shall be paid by every person storing, using or otherwise consuming within the municipality tangible, personal property purchased or brought into this municipality, an excise tax on the storage, use or

other consuming within the municipality of such property at the rate of three and one-quarter percent of the purchase price of such property. Such tax shall be paid by every person storing, using or otherwise consuming, within the municipality, tangible, personal property purchased or brought into the municipality. The additional tax levied hereunder shall be paid at the time of importation or storage of the property within the municipality and shall be assessed to only property purchased outside Oklahoma; provided, that the tax levied herein shall not be levied against tangible, personal property intended solely for use outside the municipality, but which is stored in the municipality pending shipment outside the municipality or which is temporarily retained in the municipality for the purpose of fabrication, repair, testing, alteration, maintenance or other service. Any person liable for payment of the tax authorized herein may deduct from such tax any local or municipal sales tax previously paid on such goods or services; provided, that the amount deducted shall not exceed the amount that would have been due if the taxes imposed by the municipality had been levied on the sale of such goods or services.
(Code 1974, § 27-56; Ord. No. 2089, § 1, 9-22-98; Ord. No. 2242, § 1, 9-12-06)

State law reference—Tax authorized, 68 O.S. § 1411.

Sec. 98-70.1. Additional one-half of one percent excise tax.

(a) Section 98-70, as amended, hereby is further amended to provide for the levy of an additional one-half of one percent excise tax authorized thereby until July 1, 2018.

(b) It hereby is declared to be the purpose of the revenues provided by the one-half of one percent excise tax not to exceed one-half thereof, to provide revenues for the purpose of financing the acquisition, construction and equipment of educational facilities on behalf of the city by the McAlester Public Works Authority (the "authority"), and paying the principal of and interest on indebtedness incurred on behalf of said city for said purpose by the authority and the balance to provide revenue for economic development by said authority and paying the principal of and interest on indebtedness incurred by the authority for said purpose. The incurring of said indebtedness in the principal amount of not to exceed $16,000,000.00 by the authority is hereby approved and competitive bidding thereon is waived. Said one-half of one percent sales tax shall cease to be collected on July 1, 2018. In the event of the incurring of any such indebtedness, this section shall not be subject to repeal until the said indebtedness shall have been paid.

(c) This section shall become and be effective on and after March 5, 2003, and only after approval by a majority of the qualified electors of the City of McAlester, Oklahoma, voting on separate propositions, one relating to a one-fourth of one percent excise tax for education and the other relating to a one-fourth of one percent excise tax for economic development, and approving either or both of the same in the manner prescribed by law. In the event only one proposition is approved, only a one-fourth of one percent excise tax shall be levied for the approved purpose.
(Ord. No. 2241, §§ 1—3, 9-12-06)

Sec. 98-71. Exemptions.

The provisions of this article shall not apply:

(1) In respect to the use of an article of tangible, personal property brought into the city by a nonresident individual visiting in this city for his personal use or enjoyment while within the city.

(2) In respect to the use of tangible, personal property purchased for resale before being used.

(3) In respect to the use of any article of tangible, personal property on which a tax, equal to or in excess of that levied by both 68 O.S. art. 14 (68 O.S. § 1401 et seq.) and the city use tax ordinance, has been paid by the person using such tangible, personal property in the city, whether such tax was levied under the laws of Oklahoma or some other state or municipality of the United States. If any article of tangible, personal property has already been subjected to a tax by Oklahoma or any other state or municipality in respect to its sale or use, in an amount less than the tax imposed by both 68 O.S. art. 14

(68 O.S. § 1401 et seq.) and the city use tax ordinance, the provisions of this article shall also apply to it by a rate measured by the difference only between the rate provided by both the 68 O.S. art. 14 (68 O.S. § 1401 et seq.) and the city use tax ordinance, and the rate by which the previous tax upon the sale or use was computed. No credit shall be given for taxes paid in another state or municipality, if that state or municipality does not grant like credit for taxes paid in Oklahoma and this city.

(4) In respect to the use of machinery and equipment purchased and used by persons establishing new manufacturing or processing plants in the city, and machinery and equipment purchased and used by persons in the operation of manufacturing plants already established in the city. This exemption shall not apply unless such machinery and equipment is incorporated into, and is directly used in, the process of manufacturing property subject to taxation under the sales tax code of the city. The term "manufacturing plants" shall mean those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such.

(5) In respect to the use of tangible, personal property now specifically exempted from taxation under the sales tax code of the city.

(6) In respect to the use of any article of tangible, personal property brought into the city by an individual with intent to become a resident of this city where such personal property is for such individual's personal use or enjoyment.

(7) In respect to the use of any article of tangible personal property used or to be used by commercial airlines or railroads.

(8) In respect to livestock purchased outside Oklahoma and brought into this city for feeding or breeding purposes, and which is later resold.

(Code 1974, § 27-57)

Sec. 98-72. Time when due; returns and payment.

The tax levied by this article is due and payable at the time and in the manner and form prescribed for payment of the state use tax under 68 O.S. art. 14 (68 O.S. § 1401 et seq.).
(Code 1974, § 27-58)

Sec. 98-73. Tax constitutes debt.

Such taxes, penalty and interest due under this article shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors, and may be collected by suit as any other debt.
(Code 1974, § 27-59)

Sec. 98-74. Collection of tax by retailer or vendor.

Every retailer or vendor maintaining places of business both within and without the state, and making sales of tangible, personal property from a place of business outside this state for use in this city shall at the time of making such sales collect the use tax levied by this article from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the tax commission, if the tax commission shall, by regulation, require such receipt. Each retailer or vendor shall list with the tax commission the name and address of all his agents operating in this city and location of any and all distribution or sales houses or offices or other places of business in this city.
(Code 1974, § 27-60)

Sec. 98-75. Classification of taxpayers.

For the purposes of this article, the classification of taxpayers under this article shall be as prescribed by state law for purposes of 68 O.S. art. 14 (68 O.S. § 1401 et seq.).
(Code 1974, § 27-54)

Sec. 98-76. Subsisting state permits.

All valid and subsisting permits to do business issued by the tax commission pursuant to 68 O.S. art. 14 (68 O.S. § 1401 et seq.) are for the purpose

of this article hereby ratified, confirmed and adopted in lieu of any requirement for an additional municipal permit for the same purpose.
(Code 1974, § 27-55)

Sec. 98-77. Collection of tax by retailer or vendor not maintaining place of business within state or both within and without state; permits.

The tax commission may, in its discretion, upon application, authorize the collection of the tax levied in this article by any retailer or vendor not maintaining a place of business within this state but who makes sales of tangible personal property for use in this city and by the out-of-state place of business of any retailer or vendor maintaining places of business both within and without the state and making sales of tangible, personal property at such out-of-state place of business for use in this city. Such retailer or vendor may be issued, without charge, a permit to collect such taxes by the tax commission in such manner and subject to such regulations and agreements as it shall prescribe. When so authorized, it shall be the duty of such retailer or vendor to collect the tax upon all tangible, personal property sold to his knowledge for use within this city. Such authority and permit may be cancelled when at any time the tax commission considers that such tax can more effectively be collected from the person using such property in this city. However, in all instances where such sales are made or completed by delivery to the purchaser within this city by the retailer or vendor in such retailer's or vendor's vehicle, whether owned or leased (not by common carrier), such sales or transactions shall continue to be subject to applicable municipal sales tax at the point of delivery and the tax shall be collected and reported under taxpayer's sales tax permit number accordingly.
(Code 1974, § 27-61)

Sec. 98-78. Revoking permits.

Whenever any retailer or vendor not maintaining a place of business in this state, or both within and without this state, and authorized to collect the tax levied in this article, fails to comply with any of the provisions of this article or the Oklahoma Use Tax Code or any order, rule or regulation of the tax commission, the tax commission may, upon notice and hearing as provided for in 68 O.S. § 1408, by order revoke the use tax permit, if any, issued to such retailer or vendor, and if any such retailer or vendor is a corporation authorized to do business in this state may, after notice and hearing as above provided, cancel the corporation's license to do business in this state and shall issue a new license only when such corporation has complied with the obligations under this article, 68 O.S. art. 14 (68 O.S. § 1401 et seq.), or any order, rule or regulation of the tax commission.
(Code 1974, § 27-62)

Sec. 98-79. Remunerative deductions allowed vendors or retailers of other states.

Returns and remittances of the tax herein levied and collected shall be made to the tax commission at the time and in the manner, form and amount as prescribed for returns and remittances required by 68 O.S. art. 14 (68 O.S. § 1401 et seq.); and remittances of tax collected under this article shall be subject to the same discount as may be allowed by such code for the collection of state use taxes.
(Code 1974, § 27-63)

Sec. 98-80. Interest and penalties; delinquency.

The city hereby adopts and makes a part of this article 68 O.S. § 217, and the interest and penalties at the rates and in the amounts as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this article. The failure or refusal of any retailer or vendor to make and transmit the reports and remittances of tax in the time and manner required by this article shall cause such tax to be delinquent. In addition, if such delinquency continues for a period of five days, the retailer or vendor shall forfeit his claim to any discount allowed under this article.
(Code 1974, § 27-64)

Sec. 98-81. Waiver of interest and penalties.

The interest or penalty or any portion thereof accruing by reason of a retailer's or vendor's failure to pay the municipal tax levied in this article may be waived or remitted in the same manner as provided for said waiver or remittance as applied in administration of the state use tax provided in 68 O.S. § 220, and to accomplish the purposes of this section the applicable provisions of such 68 O.S. § 220 are hereby adopted by reference and made a part of this article.
(Code 1974, § 27-65)

Sec. 98-82. Erroneous payments; claim for refund.

Refund of erroneous payment of the municipal use tax levied in this article may be made to any taxpayer making such erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the state use tax as set forth in 68 O.S. § 227, and to accomplish the purpose of this section, the applicable provisions of 68 O.S. § 227 are hereby adopted by reference and made a part of this article.
(Code 1974, § 27-66)

Sec. 98-83. Fraudulent returns.

In addition to all civil penalties provided by this article, the willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this article shall be an offense, and upon conviction thereof the offending taxpayer shall be punished as provided in section 1-8.
(Code 1974, § 27-67)

Sec. 98-84. Records confidential.

The confidential and privileged nature of the records and files concerning the administration of the municipal use tax is legislatively recognized and declared, and to protect the same provisions of 68 O.S. § 205 and each subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of the municipal use tax as is herein set forth in full.
(Code 1974, § 27-68)

Sec. 98-85. Provisions cumulative.

The provisions of this article shall be cumulative, and in addition to any and all other taxing provisions of the municipal ordinances.
(Code 1974, § 27-69)

Secs. 98-86—98-105. Reserved.

ARTICLE IV. HOTEL TAX

Sec. 98-106. Definitions.

Unless a different meaning clearly appears from the context, for the purposes of this chapter, the following words and phrases shall have the meanings given herein:

Hotel shall mean any building or buildings, trailer or other facility in which three or more rooms are used for the accommodation of such guests, whether such rooms are in one or several structures. The term shall include hotels, apartment hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, trailer houses, trailer motels, dormitory space where bed space is rented to individuals or groups, apartments not occupied by "permanent residents", as that term is hereinafter defined, and all other facilities where rooms or sleeping facilities or space are furnished for a consideration. As defined herein, "hotel" shall not include hospitals, sanitariums or nursing homes.

Occupancy shall mean the use or possession or the right to the use or possession of any room or rooms in a hotel.

Occupant shall mean a person who, for a consideration, uses, possesses or has the right to the use or possession of any room or rooms in a hotel under any lease, concession, permit, right of access, license to use, or other agreement, or otherwise.

Operator shall mean any person operating a hotel in this city, included, but not limited to, the

owner, proprietor, lessee, sublessee, mortgagee in possession, licensee, or any other person otherwise operating such hotel.

Person shall mean an individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any combination of the above acting as a unit.

Rent shall mean the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature, and also any amount for which credit is allowed by the operator to the occupant, without any deduction therefrom whatsoever.

Return shall include any return filed or required to be filed as herein provided.

Room shall mean any room or rooms of any kind in any part or portion of a hotel which is available for, let for the use of, or possessed for the purpose of lodging or sleeping.

Tax collector shall mean the city treasurer or such other department of city government duly designated by the city council, to administer the collection of the tax herein levied.
(Ord. No. 2130, § 3, 4-24-01; Ord. No. 2061, § 1, 2-11-03)

Sec. 98-107. Imposition of tax; exemptions.

(a) There is hereby levied an excise tax of six percent upon the gross proceeds or gross receipts derived from the rent from every occupancy of a room or rooms in a hotel in this city, except that the tax shall not be imposed where the rent is less than at the rate of $5.00 per day. This excise tax shall be in addition to any existing sales tax imposed by the city or the state.

(b) Reserved.

(c) The Government of the United States, state governments or any agencies or divisions thereof, may file an application for refund of tax paid directly by the treasury of either government by sending proof of payment of the hotel tax to the City Treasurer of the City of McAlester, Oklahoma. Upon receipt of appropriate documentation that the tax has been paid, the treasurer shall cause a refund of taxes to be made to the appropriate government agency or division.

(d) The tax to be collected shall be stated and charged separately from the rent and shall be shown separately on any record thereof at the time when the occupancy is arranged or contracted and charged for, and upon every evidence of occupancy or any bill, statement or charge made for such occupancy issued or delivered by the operator. The tax shall be paid by the occupant to the operator as trustees for and on account of the city, and the operator shall be liable for the collection thereof and for the payment of the tax. The operator and any officer of any corporate operation shall be personally liable for the tax collected or required to be collected under this title, and the operator shall have the same right in respect to collecting the tax from the occupant or in respect to nonpayment of the tax by the occupant as if the tax were a part of the rent for the occupancy payable at the same time such tax shall become due and owing, including all rights of eviction, dispossession, repossession and enforcement of any innkeeper's lien that he may have in the event of nonpayment of rent by the occupant; provided, however, that the city shall be joined as a party in any action or proceeding brought by the operator to collect or enforce collection of the tax.

(e) Such taxes, penalty and interest due hereunder shall at all times constitute a prior, superior and paramount claim as against the claim of unsecured creditors and may be collected by suit as any other debt.

(f) Where the occupant has failed to pay and the operator has failed to collect a tax as imposed by this chapter, then, in addition to all other rights, obligations and remedies provided, such tax shall be payable by the occupant directly to the city, and it shall be the duty of the occupant to file a return thereof with the tax collector and to pay the tax imposed thereon to the tax collector, within 15 days after such tax was due.

(g) The tax collector may, whenever he deems it necessary for the proper enforcement of this chapter, provide by regulation that the occupant

shall file returns and pay directly to the tax collector the tax herein imposed at such times as returns are required to be filed and payment over made by the operator.

(h) The tax imposed by this section shall be paid upon any occupancy on or after August 1, 2001, although such occupancy is had pursuant to a contract, lease or other arrangement made prior to August 1, 2001. Where rent is paid, charged, billed or falls due on either weekly or other term basis, the rent so paid, charged, billed or falling due shall be subject to the tax herein imposed to the extent that it covers any portion of the period after August 1, 2001, and such payment, bill, charge or rent due shall be apportioned on the basis of the ratio of the number of days falling within such portion to the total number of days covered thereby. Where any tax has been paid hereunder upon any rent which has been ascertained to be worthless, the tax collector may, by regulation, provide for credit or refund of the amount of such tax upon application as provided herein.

(i) For the purpose of the proper administration of this chapter, and to prevent evasion of the tax hereby imposed, it shall be presumed that all rentals are subject to the tax until facts to the contrary are established; and the burden of providing that a rent for occupancy is not taxable hereunder shall be upon the operator or the occupant.

(j) No operator shall advertise or hold out to the public in any manner, directly or indirectly, that the tax imposed by this chapter is not considered as an element in the rent charged to the occupant.
(Ord. No. 2130, § 4, 4-24-01; Ord. No. 2061, §§ 2, 3, 2-11-03; Ord. No. 2503, § 2, 6-10-14)

Sec. 98-108. Records to be kept.

Every operator shall keep records of every occupancy and of all rent paid, charged or due thereon and of the tax payable thereon in such form as the tax collector may, by regulation, require. Such records shall be available for inspection and examination at any time upon demand by the tax collector or a duly authorized agent or employee of the city, and shall be preserved for a period of three years, except that the tax collector may consent to their destruction within that period or may require that they be kept longer.
(Ord. No. 2130, § 5, 4-24-01)

Sec. 98-109. Returns.

(a) Every operator, on or before the 15th day of each month, shall file with the tax collector a return of occupancy and of rents and of the taxes payable thereon for the preceding calendar month. The date of filing shall be the date of delivery to the tax collector.

(b) The tax collector may permit or require returns to be made by shorter or longer periods and upon such dates as he may specify. The form of return shall be prescribed by the tax collector and shall contain such information as he may deem necessary for the proper administration of this code. The tax collector may require amended returns to be filed within 20 days after notice, containing the information specified in the notice.

(c) If a return required by this chapter is not filed or if a return when filed is incorrect or insufficient on its face, the tax collector shall take the necessary steps to enforce the filing of a return or an amended return.
(Ord. No. 2130, § 6, 4-24-01)

Sec. 98-110. Payment of tax.

At the time of filing a return of occupancy and of rents, each operator shall pay to the city the taxes imposed upon the rents included in such return, as well as all other moneys collected by the operator acting or purporting to act under the provisions of this chapter. All taxes for the period for which a return is required shall be due and payable on or before the date fixed for the filing of the return for such period, without regard to whether a return is filed or whether the return correctly filed shows the amount of rents and the taxes due. If any operator has twice failed to pay taxes on or before the date fixed for payment of such taxes or if any operator refuses to pay the taxes or if the tax collector has reasonable grounds for belief that the operator is about to cease business or leave the state or remove or dissipate assets, or if, for any similar reason he deems it necessary to protect revenues due hereunder, the

tax collector may require an operator to file with the city either a performance and payment bond, as detailed herein, or in lieu of this bond, an escrow account or an irrevocable letter of credit as detailed herein. The performance bond, irrevocable letter of credit or escrow account shall be provided as follows:

(1) A performance and payment bond in a form acceptable to the city, naming the operator as obligee thereof, executed by a surety acceptable to the city and authorized to do business in the state, in a sum equal to the city-wide average daily room rental rate, to be ascertained by the tax collector, times the number of rooms available for rent within the hotel multiplied by a factor of 30 times four percent; or

(2) An irrevocable letter of credit in a form acceptable to the city, executed by the operator and a federally insured financial institution acceptable to the city, providing for a sum equal to the city-wide average daily room rental rate, to be ascertained by the tax collector, times the number of rooms available for rent within the hotel multiplied by a factor of 30 times four percent; or

(3) An escrow account held by the city in a sum equal to the city-wide average daily room rental rate, to be ascertained by the tax collector, times the number of rooms available for rent within the hotel multiplied by a factor of 30 times four percent.

(Ord. No. 2130, § 7, 4-24-01)

Sec. 98-111. Assessment and determination of tax.

If a return required by this chapter is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be assessed by the tax collector from such information as may be obtainable and, if necessary, the tax may be estimated on the basis of external indices, such as number of rooms, location, scale of rents, comparable rents, types of accommodations and services, number of employees, or other factors. Written notice of such assessments shall be given to the person liable for the collection and payment of the tax. Such assessment shall finally and irrevocably fix and determine the tax, unless the person against whom it is assessed, within 90 days after the giving of such assessment, shall apply in writing to the council of the city for a hearing, or unless the tax collector, at his discretion, shall reassess the same. After such hearing, the council of the city shall give written notice of its determination to the person against whom the tax is assessed. If the taxes and interest due are not paid within ten days of assessment or reassessment by the tax collector or determination by the council, in addition to the taxes and interest, the operator shall pay a penalty equal to ten percent of the taxes due.

(Ord. No. 2130, § 8, 4-24-01)

Sec. 98-112. Refunds.

(a) In the manner provided in this section, the tax collector shall refund or credit any tax erroneously, illegally or unconditionally collected if written application to the tax collector for such refund shall be made within two years from the date of payment thereof. For like causes, and in the same period, a refund may be so made upon the initiative and the order of the tax collector. Whenever a refund is made, the reasons therefore shall be stated in writing. Such application may be made by the person upon whom such tax was imposed and who has actually paid the tax. Such application may also be made by the person who has collected and paid such tax to the city, provided that the application is made within two years of the payment by the occupant to the operator; but no refund of money shall be made to the operator until he shall first establish to the satisfaction of the tax collector, under such regulations as the tax collector may prescribe, that he has repaid to the occupant the amount for which the application for refund is made. The tax collector, in lieu of any refund required to be made, may allow credit therefore on payments due from the applicant.

(b) An application for a refund or credit made, as herein provided, shall be deemed an application for a revision of any tax, penalty or interest complained of, and the tax collector may receive evidence with respect thereto. After making his determination, the tax collector shall give notice

thereof to the applicant. Such determination shall be final unless the applicant, within ten days after such notice of determination, shall apply in writing to the council for a hearing. After such hearing, the council shall give written notice of its determination to the applicant.

(c) A person shall not be entitled to revision, refund or credit of a tax under this section if he has had a hearing or an opportunity for a hearing as provided in this chapter and has failed to avail himself of the remedies therein provided.
(Ord. No. 2130, § 9, 4-24-01)

Sec. 98-113. Notices.

Notices provided for under this chapter shall be deemed to have been given when such notices have been delivered personally to the operator or deposited in the United States mail to the last known address of the operator.
(Ord. No. 2130, § 10, 4-24-01)

Sec. 98-114. Remedies exclusive.

The remedies provided by ordinance shall be exclusive remedies available to any person for the review of tax liability imposed by this division.
(Ord. No. 2130, § 11, 4-24-01)

Sec. 98-115. Proceedings to recover tax.

(a) *Civil remedies.*

(1) Whenever any operator, occupant or other person shall fail to collect and/or pay over any tax, or to owe any tax, penalty or interest imposed by this chapter as herein provided, the tax collector may file notice of liens on behalf of the city against the real estate upon which the hotel is located and/or against all franchises, property and rights to property, whether real or personal, then belonging to or thereafter acquired by the person owing the tax pursuant to 68 O.S. § 2701, and 68 O.S. § 2704.

(2) The liens shall, upon proper filing, attach to the real estate and/or personal property then owned or thereafter acquired by the debtor, whether such property is used by the debtor in the operation of business or is under the authority of an assignee, trustee, or receiver for the benefit of creditors, from the date such taxes are due and payable as allowed by 68 O.S. § 2704.

(3) The tax collector shall notify the person owing the tax by personal service or by certified mail that the city will file such liens if any delinquent lodging taxes, interest and/or penalties are not paid within 15 days of receiving such notice.

(4) The tax collector may also request the city attorney to institute an action in personam and in rem to enforce payment and collect any delinquent lodging taxes, penalties and/or interest.

(b) *Criminal penalties.* In addition to all civil penalties provided by this chapter, the willful failure or refusal of any operator, occupant or other person to make reports and/or remittances as herein required or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this chapter shall be an offense and upon conviction thereof the offending operator, occupant or other person shall be punished by a fine of not more than the penalty set out in section 1-8 of this Code, excluding costs.
(Ord. No. 2130, § 12, 4-24-01)

Sec. 98-116. General powers of the tax collector.

In addition to all other powers granted to the tax collector, he is hereby authorized and empowered to:

(1) Make, adopt and amend rules and regulations appropriate to the carrying out of the provisions of this chapter for the purposes thereof;

(2) Extend, for cause shown, the time for filing any return for a period not exceeding 60 days; and for cause shown, to waive, remit or reduce penalties or interest;

(3) Delegate his functions hereunder to a deputy or other employee or employees of the city;

(4) Assess, reassess, determine, revise and readjust the taxes imposed by this chapter; and

(5) Prescribe methods for determining the taxable and non-taxable rents.

(Ord. No. 2130, § 13, 4-24-01)

Sec. 98-117. Administration of oaths and compelling testimony.

(a) The tax collector, or employees or agents of the city duly designated and authorized by him, shall have the power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of their powers and duties under this chapter. The tax collector shall have the power to subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the performance of his duties hereunder and of the enforcement of this chapter, and to examine them in relation thereto.

(b) Any person who shall refuse to testify or to produce books or records, or who shall testify falsely in any material matter pending before the tax collector shall be guilty of an offense punishable by a fine of not more than the penalty set out in section 1-8 of this Code, excluding costs.

(Ord. No. 2130, § 14, 4-24-01)

Sec. 98-118. Discount, delinquent taxes.

(a) At the time of filing the returns required under this chapter with the tax collector, the operator shall remit therewith to the tax collector, except as hereinafter provided, 97 percent of the tax due under the provisions of this chapter; provided that the tax is delivered to the tax collector before the 15th of the month for the preceding calendar month's return, or if transmitted by mail, that the date of postmark by the U. S. Postal Service is before the 15th day of the month for the preceding month's return. In the event that payment of any tax due is not made before the 15th of the month, the operator forfeits his claim to the three percent discount and must remit to the tax collector 100 percent of the taxes due. If the filing of the return and remittance of the taxes due are received by the tax collector after the 15th day of the month, the taxes are then delinquent and the operator shall pay, in addition to 100 percent of the taxes due, interest and penalties as prescribed in subsection 98-119(a).

(b) The discount granted by this section shall remunerate the operator for keeping tax records, filing reports and remitting the tax when due as required by this chapter.

(Ord. No. 2130, § 15, 4-24-01)

Sec. 98-119. Interest and penalties.

(a) If an operator fails to file a return or remit the taxes due prior to the 15th day of the month, the operator shall pay, in addition to 100 percent of the taxes due, the following interest and penalties:

(1) One and one-half percent interest per month on the total amount of taxes due from the 15th day of the month to the date of filing; and

(2) A penalty of ten percent of the total amount of the taxes due.

(b) In addition to the penalties provided herein, the following persons shall be guilty of an offense and upon conviction thereof shall be punished by a fine of not more than the penalty set out in section 1-8 of this Code, excluding costs:

(1) Any operator or occupant who willfully fails to file a return as required by this chapter, or who files or causes to be filed, or makes or causes to be made, or causes to be given any return, certificate, affidavit, representation, information, testimony or statement required or authorized by this chapter which is willfully false;

(2) Any operator who willfully fails to file a bond required by this chapter or who willfully fails to file a registration certificate and such data in connection therewith as the tax collector may require, by regulation or otherwise, or who fails to display or surrender the license as required by this chapter, or who assigns or transfers such license;

(3) Any operator who willfully fails to charge separately from the rent the tax herein

imposed, or who willfully fails to state such tax separately on any evidence of occupancy and on any bill, statement or receipt of rent issued or employed by the operator, or who willfully fails or refuses to collect tax from the occupant;

(4) Any operator who willfully refers or causes reference to be made to this tax in a form or manner other than that required by this chapter; and

(5) Any operator who willfully fails to keep the records required by this chapter.

(c) The affidavit of the tax collector to the effect that a tax has not been paid, that a return, bond, or registration certificate has not been filed, or that information has not been supplied pursuant to the provisions of this chapter, shall be presumptive evidence thereof.
(Ord. No. 2130, § 16, 4-24-01)

Sec. 98-120. Confidential records.

The confidential and privileged nature of the records and files concerning the administration of this tax is legislatively recognized and declared, and to protect the same, the provisions of 68 O.S. § 205, and each subsection thereof, are hereby adopted by reference and made fully effective and applicable to administration of this tax as if they were herein set forth in full.
(Ord. No. 2130, § 17, 4-24-01)

Sec. 98-121. Amendments.

The people of the city shall by their approval of this chapter at the election herein provided, authorize the city council by ordinance duly enacted, to make such changes or additions in the method and manner of administration and enforcing this chapter as may be necessary or proper for efficiency and fairness, except that the rate of the tax herein provided shall not be changed without approval of the qualified electors of the city as herein provided.
(Ord. No. 2130, § 18, 4-24-01)

Sec. 98-122. Provisions cumulative.

The provisions hereof shall be cumulative and in addition to any and all other taxing provisions of the city.
(Ord. No. 2130, § 19, 4-24-01)

Sec. 98-123. Purpose of revenues.

It is hereby declared to be the purpose of this division to provide revenues for the following specific purposes, and no others, to-wit:

(1) All taxes collected pursuant to the provisions of this article shall be set aside and used exclusively for the purpose of encouraging, promoting and fostering the convention and tourism development of the City of McAlester. Examples of authorized purposes include, but are not limited to:

a. Acquiring sites for and/or constructing, enlarging and maintaining convention centers and/or visitor information centers;

b. Advertising and promotional programs to attract tourists and participants to sports and arts and humanity events; and

c. Building, restoring, preserving and promoting parks or historic sites or museums that will attract tourists.

(Ord. No. 2130, § 20, 4-24-01; Ord. No. 2503, § 3, 6-10-14)

Chapter 99

TELECOMMUNICATIONS

Article 1. In Gcneml

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Artic1e II. Towers nnd AntennOIl

Sec. 99.5l. Pllrpo~e.
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ARTICLE I. IN GENERAL

Secs. 99-1-99-50. Reserved.

ARTICLE ll. TOWERS AND ANTENNAS

Sec. 99-51. Purpose.

The purposes of these regulations for telecommunications facilities are:

(1) To facilitate the provisions of telecommunications services throughout the city;

(2) To enhance the ability to provide telecommunications services to the community quickly, effectively, and efficiently;

(3) To encourage the location of towers in non-residential zone districts;

(4) To minimize the total number oftawers in the community;

(5) To encourage the joint use of new and existing tower locations;

(6) To ensure that towers are located in areas that minimize adverse impacts;

(7) To ensure towers and antennas are configured in a way that minimizes adverse visual impacts by careful design and appropriate siting;

(8) To encourage the attachment of antennas to existing structures;

(9) To consider public health and safety of telecomm unications facili ties;

(10) To avoid damage to adjacent properties from tower failure through careful engineering and locating of tower structures; and

(11) To protect residential areas and lands by minimizing adverse impacts of towers.

(Ord. No. 2116, § 1, 5-23-00)

Sec. 99.52. Definitions.

Accessory support facilities shall mean support buildings, structures and equipment cabinets for telecommunications facilities containing electrical and mechanical equipment and devices used for tbe reception of or transmission of voice, data, image, graphic and video programming information between or among points by wire, cable, fiber optics, laser, microwave, radio, satemte, or similar facilities.

Alternative tower structure shall mean manmade trees, clock towers, bell steeples, building structures. or building equipment normally maintained above the roof line of a structure, light poles and similar alternative design-mounting structures. An alternative tower structure must be compatible with the natural setting and surrounding structures, and must camouflage or conceal the presen.ce of antennas and/or towers. This term also includes any antelma aITay attached to the alternative tower structure.

Antenna shall mean any exterior transmitting or receiving devices mounted on a tower, building or structure and used in commuuications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies, (excluding radar signals), wireless telecommunications signals, or other communication signals.

Bacldwu! network shall mean the lines that connect a provider's tower/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the pubJic switched telephone network.

FAA- Federal Aviation Administration.

FCC: Federal Communications Commission.

Telecommunications facilities shall mean the plant, equipment and property, including but not limited to, cables, wires, conduits, ducts, pedestals, antennae, towers, alternative towel' structures, electronics and other appurtenances used to transmit, receive, distribute, provide or offer telecommunications services.

Telecommunications service shall mean the providing or offering for rent, sale or lease, or in exchange for other value received, of the transmittal of voice, data, image, graphic and video programming infonnation bet'.'/een or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities, with or without benefit or any closed transmission medium.

Tower shall mean any structure designed and constructed prinlarily for the purpose of support-

ing one or more antennas, including self-supporting lattice towers, guy towers, or monople towers. The term includes radio and television transmission towers, microwave towers, com.mon carrier towers, cellular te1ephone towers, and other similar structures. This tenn also includes any antenna or antenna array attached to the tower structure.

Tower height shall mean, when referring to a tower or other alternative tower structure, the distance measured from the lowest point within ten feet of the structure to the highest point on the tower or other alternative tower structure, including the base pad and any antenna.
(Ord. No. 2116, § 2,5-23-00)

Sec. 99-53. Permit required.

Telecommunications facilities shall be regulated and permitted pursuant to this article.

(1) A telecommunications facility shall obtain a permit as a condition for the siting, construction, or operation of the telecommunications facility. The fee for the permit shall be $10.00 for each foot of tower height.

(2) These regulations shall apply to all towers and antennas, as defined, except:

a. Any tower or antenna, not more than 70 feet in height, owned or operated by a federally-licensed amateur radio station operator, if it is used exclusively as a receive-only facility;

b. Any antenna colocated on an existing telecommunications facility, except as expressly provided in this article;

c. A telecommunications facility located or colocated on property, which is owned by the City of McAlester and designated by the City of McAlester as a site suitable for location of a telecommunications facility.

(3) Any violation of this article is hereby declared to be a nuisance. In addition to any other relief or penalty provided by law, the City of McAlester may apply to district court for an injunction to prohibit the continuation of any violation of this article.

COrd. No. 2116, § 3, 5-23-00)

Sec. 99-54. Colocation requirements.

(a) All applicants for a telecommunications facility permit shall colocate on an existing facility if it is feasible to do so. An existing facility shall be deemed available for colocation if:

- The facility is within the search ring of the applicant or within a reasonable distance so as to fit into the applicant's design;
- Space is available on the facility; and
- The applicant and the facility owner will lease space to applicant at a reasonable market rate.

(1) If the app1icant finds that colocation is not feasible, it shall submit to the city a written statement of the reasons for the infeasibility. The city may retain a technical expert in the field of radiofrequency (RF) engineering to determine whether colocation at the site is feasible. The cost for such a technical expert \vill be at the e.xpense of the applicant.

(2) The city may deny the permit unless the applicant demonstrates to the city by substantial evidence that existing telecommunications facilities cannot accommodate the applicant's proposed antenna.

(b) A telecommunications tower shall not be permitted unless the owner of the proposed tower certifies to the city that the tower is available for use by other telecommunications service providers on a reasonable and non-discriminatory basis. Towers shall be designed and built to accommodate a minimum of three telecommunications facilities.

(c) To facilitate colocation and coordination of telecommunications sites, all telecommunications service providers shall, within ninety (90) days of the publication of this article, provide the city with their prospective antenna plans. Said plans shall include detailed maps shO\vil1g the locations of all telecommunications towers serving any por-

tion of the city and indicating coverage areas for current and, to the extent possible, future telecommunications towers.

(d) Providers shall also provide the city with any updates to the above documents within 90 days of their creation.
(Ord. No. 2116, § 4, 5-23-00)

Sec. 99-55. Telecommunications facility standards.

The following telecommunications facility standards shall apply to all towers; provided, however, that the board of adjustment may reduce the standard(s) if the goals of this article would be better served thereby:

(1) *Attractive nuisance.* No tower may be located within 250 feet of a playground, ball field or other area used for active recreation within a park or school. Where such locations are well suited for placement of towers on municipal property, special fencing may be required.

(2) *Compatibility.* Telecommunications facilities shall either maintain a galvanized finish or, subject to applicable standards of the FAA, be painted so as to reduce visual obtrusiveness. Dish antennas shall be of neutral, non-reflective color with no logos. The exterior equipment buildings and/or metal equipment cabinets visible from residential areas or public rights-of-way must have a neutral aggregate finish or be painted to reflect the color and character of adjoining structures or blend with adjacent landscape and other surroundings.

(3) *Guy wires* must be anchored no closer than 25 feet from any property line. Guy wires shall not cross or encroach any overhead telephone or electric power lines.

(4) *Height.* No telecommunications tower shall exceed 200 feet in height, including antenna array.

(5) *Interference.* Applicants shall demonstrate that the planned telecommunications facility will not cause radio frequency interference with other existing or planned equipment. Such interference is prohibited.

(6) *Landscaping.* All telecommunications sites shall be landscaped with non-deciduous trees, at least six feet in height that will attain a height of at least 50 feet in height at maturity. The trees shall be planted on ten-foot centers, on all sides of the site, on the outside of the required fence.

(7) *Lighting.* Illumination of telecommunications towers is prohibited except as required by the FAA. Any required lighting shall be directed upward and away from adjoining properties. Ground level security lighting shall not be more than 20 feet in height.

(8) *Parking.* Each telecommunications site shall have a minimum of one space per provider with no more than three parking spaces per site located adjacent to the ingress/egress point.

(9) *Security fence.* A fence not less than eight feet, nor greater than ten feet, from finished grade shall be installed around the site to completely enclose the towers and anchored location of guy wires, if used. Such fences shall be constructed of chain link, woven wire, or solid metal.

(10) *Setbacks and separation.*

a. *Setbacks.* The following setback requirements shall apply to all new towers:

1. Towers shall be set back a distance equal to at least 100 percent of the height of the tower from its base or 75 feet, whichever distance is greater, from any adjacent public right-of-way, areas with access to the public, or property line of the lot or parcel containing the tower. However, for towers of a monopole design, if an independent structural engineer agreeable to the city specifies in a written document sealed by an

Oklahoma licensed engineer that any collapse of the monopole tower will occur within a lesser distance under all foreseeable circumstances the board of adjustment may approve a shorter setback standard on a case-by-case basis.

2. Accessory buildings shall satisfy the minimum zoning district setback requirements.

b. *Separation.* The following separation requirements shall apply to all new towers and antennas:

1. All new towers shall be located a minimum distance of 300 feet or two times the height of the tower from its base, whichever is greater, from any residential structure or residentially zoned lot or parcel.

2. On nonresidentially zoned lots or parcels or nonresidential uses there shall be no separation requirements; but setbacks requirements shall still apply to all new tower.

(11) *Signs.* Signs on telecommunications towers shall be limited to those displaying the name, registration number and emergency contact number of the tower owner or signs required by the FCC regulations, or signs containing warning or safety instructions. Signs shall be limited to four square feet. Advertising on signs is prohibited.

(12) *Spacing.* No tower shall be located closer than 500 feet from another tower. Any new tower in excess of 100 feet in height shall be located a minimum of one mile from any existing tower in excess of 100 feet in height.

(Ord. No. 2116, § 5, 5-23-00; Ord. No. 2539, § 1, 6-9-15)

Sec. 99-56. Alternative structure standards.

A telecommunications facility may be permitted on an alternative tower structure at least 30 feet tall under the following conditions, which shall be in addition to the requirements of sections 99-55 and 99-57:

(1) The facility and its accessory support facilities comply with all zoning requirements applicable to the alternate structure and the provisions of section 99-55 of this Code;

(2) If the facility or any accessory support facility is located upon the roof of a structure, each such facility shall be set back a distance at least equal to the height of the telecommunications facility unless the facilities are screened or camouflaged in a manner that is compatible with the surrounding property. The top of the antenna or other facility shall not be more than 30 percent of the height of the alternate structure, or 75 feet, whichever is less.

(3) The alternative structure must be similar in color, scale and character to adjoining buildings or structure or blend with the landscaping and other surroundings immediately adjacent to them so as to generally avoid the creation of unique visual objects that stand out in the environment; and

(4) Prior to the installation of any building/roof mounted telecommunications facility, the applicant shall furnish to the city an engineer's certification that the structure will support and not be adversely affected by the proposed antenna and accessory support facility or equipment.

(Ord. No. 2116, § 6, 5-23-00)

Sec. 99-57. Specific standards.

All telecommunications facilities shall be erected and operated in compliance with current FCC and FAA rules and regulations and other applicable federal, state, and local standards. Applicant must provide a copy of its FCC license or, if the applicant is not an FCC license holder, a copy of at least one letter from an FCC license holder to locate at least one antenna on the applicant's tower.

(1) *Environmental standards.* Ground-mounted equipment for personal wireless

service facilities shall not generate noise in excess of 50 db at the property line. Roof-mounted or side-mounted equipment for personal wireless services shall not generate noise in excess of 50 db at ground level at the base of the building closest to the antenna.

(2) *Structural standards.* Telecommunications tower structures must conform to the most current revision of EIA222 standards. Guyed telecommunications towers shall be designed and located such that, if the structure should fall, it will avoid habitable structures and public ways. An engineer's certification of the structural integrity of the tower and associated equipment shall be required.

(3) *Wind standards.* Telecommunications facilities shall be designed and engineered to withstand wind loadings and other design standards as defined by BOCA and ANSI for the county in which the municipality is located.

(Ord. No. 2116, § 7, 5-23-00)

Sec. 99-58. Permit conditions.

(a) *Abandonment.* A telecommunications service provider shall post a bond or other security sufficient to pay for the removal of any abandoned facility. No owner or occupant of property within the city shall permit, leave or cause to be left on any said property any telecommunications facility which has been abandoned or discontinued for use. The provider shall remove its facility within 90 days of the date that it discontinues its use of the facility. If the provider fails to remove the facility within the required time, the facility shall be deemed abandoned. The city shall have the authority to enter the premises and remove the abandoned facilities. All costs of removal that exceed the amount of bond or security posted for that purpose shall be collected from the provider or property owner in the manner provided for summary abatement of nuisances. This requirement shall apply to colocated facilities unless the colocation agreement provides for the removal of abandoned facilities by the tower operator.

(b) *Defective facilities.* Defective or unsafe antennas, telecommunications facilities shall be repaired or removed within three months at the owner or operator's expense. If not removed, the city may remove at the expense of the owner or operator.

(c) *Nonconforming use.* Existing towers that do not comply with the new regulations may continue. They may not be expanded or replaced unless they meet the new regulations. If they are damaged or destroyed, they may be repaired or restored to their former use, location and physical dimensions without complying with the new regulations.

(Ord. No. 2116, § 8, 5-23-00)

Sec. 99-59. Permit approval process.

(a) *Public notification.* Except for a proposed telecommunications facility which colocate on an existing tower, the applicant for a permit shall notify all property owners within 300 feet of the outer boundary of the property proposed for the location of the facility. Such notice shall explain the character and dimensions of the proposed telecommunications facility and give an address for the property owners to submit written comments to the applicant. The notice shall include a drawing or other representation of the visual aspects of the proposed facility.

(b) *Permit term.* The permit issued for any telecommunications facility which has a tower over 50 feet in height shall be valid for 15 years. At the end of that period, the facility shall be removed by the carrier or a new permit shall be required.

(Ord. No. 2116, § 8, 5-23-00)

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Chapter 102

TRAFFIC AND VEHICLES*

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ARTICLE I. IN GENERAL

Sec. 102-1. Definitions.

The definitions in 47 O.S. ch. 1 (47 O.S. 1-101 et seq.) apply to this chapter. In addition, the following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section:

Curb loading zone means a space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

Fire lane means any street or part of a street, or public or private property, upon which any parking is either mandatorily restricted or prohibited for the purpose of facilitating the use of passage of fire department emergency equipment. Such fire lanes will be designated by the fire chief and shall always be of sufficient size (no less than 20 feet in width) to allow access by emergency vehicles.

Freight curb loading zone means a space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight or passengers, but not at any time to include a designated fire lane.

Passenger curb loading zone means a place adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

Public park means a tract of publicly owned land or open space that is developed or intended for development as a recreational area, or set aside as open space for public use.
(Code 1974, § 28-1)

Cross reference-Definitions generally, § 1.2.

Sec. 102-2. Adoption of state statutes.

The provisions of 47 O.S., other than provisions whose violation constitutes a felony, are adopted by reference as if set out at length in this chapter. It is unlawful to violate the provisions adopted by reference in this section.

Sec. 102-3. Persons riding animals or driving animal-drawn vehicles.

Every person riding an animal or driving any animal-driven vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter, except those provisions of this chapter which by their very nature can have no application.
(Code 1974, § 28-24)

State law reference-Similar provisions, 47 O.S. § 11-104.

Sec. 102-4. Application of chapter to persons and equipment engaged in street or public utility work.

Unless specifically made applicable, the provisions of this chapter, except those relating to reckless driving and driving while intoxicated, shall not apply to persons, teams, motor vehicles and other equipment while actually engaged in work upon the surface of a street, or to persons, motor vehicles and other equipment while actually engaged in construction, maintenance or repair of public utilities; provided that, all highway and public utility operations shall be protected by adequate warning signs, signals, devices or flagmen. The provisions of this chapter shall apply to such persons and vehicles when traveling to or from such work.
(Code 1974, § 28-26)

State law reference-Similar provisions, 47 O.S. § 11-105.

Sec. 102-5. Exemptions granted authorized emergency vehicles.

(a) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or ordinance, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

(b) The driver of an authorized emergency vehicle may:

(1) Park or stand, irrespective of the prOVIsions of this chapter.

(2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.

(3) Exceed the maximum speed limits so long as he does not endanger life or property.

(4) Disregard regulations governing direction of movement or turning in specific directions.

(c) The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of any such vehicle is making use of audible and visual signals as required by state law, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of such vehicle.

(d) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.
(Code 1974, § 28-28)

State law reference-Similar provisions, 47 O.S. § 11-106.

Sec. 102-6. Military convoys exempt; right.of. way; exceptions.

The military forces of the United States and organizations of the National Guard, performing any military duty, shall not be restricted by municipal traffic regulations, and shall have the right of way on any street or highway through which they may pass against all, except carriers of the United States mail, fire engines, ambulances and police vehicles in the necessary discharge of their respective duties. Such mounted military moving in convoy shall have lights burning, with lead and trail vehicles prominently marked, and shall travel, while inside the corporate limits in compliance with such speeds as are legally posted within the corporate limits of the city and shall maintain a closed interval of not more than 75 feet.
(Code 1974, § 28-25)

State law reference-Similar provisions, 47 O.S. § 11-107.

Sec. 102-7. Violation constitutes misde. meanor.

It shall be a misdemeanor for any person to do any act forbidden or fail to perform any act required in this chapter.
(Code 1974, § 28-31)

Sec. 102-8. Vehicle owner shall not permit or authorize violation.

It shall be unlawful for any person to authorize or knowingly permit a vehicle registered in his name to be driven or to stand or to be parked in violation of any provision of this chapter.
(Code 1974, § 28-29)

Sec. 102-9. Parent or guardian shall not au. thorize or permit child or ward to violate chapter.

It shall be unlawful for a parent of a child or the guardian of a ward to authorize or knowingly permit any such child or ward to violate any provision of this chapter.
(Code 1974, § 28-30)

Sec. 102-10. Obedience to fire department of. ficers.

No person shall willfully fail or refuse to comply with any lawful order or direction of a fire department official invested with the authority to direct, control or regulate traffic, including the removal of parked vehicles from a designated fire lane.
(Code 1974, § 28-6)

Sec. 102-11. Accident reports.

Every accident reported as required by law shall be investigated by a member of the police department and a report by the investigating officer shall be made on a form prescribed by the police department. Copies of the report of the investigating officer may be obtained by the payment of the fee of $1.00; provided that, the written report of the investigating officer shall not be referred to in any way nor be any evidence of the negligence or

due care of any party at the trial of any action at law to recover damages.
(Code 1974, § 28-23(e))

State law references—Accidents and accident reports, 47 O.S. § 10-101 et seq.; authority of city to require accident reports, 47 O.S. § 10-117.

Sec. 102-12. Riding on portion of vehicle not intended for passengers.

No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty, or to persons riding within truck bodies in space intended for merchandise.
(Code 1974, § 28-17)

Sec. 102-13. Boarding or alighting from moving vehicles.

No person shall board or alight from any vehicle while such vehicle is in motion.
(Code 1974, § 28-19)

Sec. 102-14. Obstructing free passage with vehicle.

It shall be an offense for any person to obstruct or block any street, alley, crosswalk, sidewalk or fire lane with any kind of vehicle, so as to interfere with or obstruct the free passage or access over same.
(Code 1974, § 28-6(b))

Sec. 102-15. Use of roller skates, skateboards, etc., on roadways and sidewalks.

(a) No person upon roller skates, or riding in or by means of a skateboard, coaster, toy vehicle, or similar devices, shall go upon the roadway except as follows:

(1) When crossing a street on a crosswalk;

(2) In residential areas where no sidewalks are provided; and

(3) Upon streets which are set aside as play streets as authorized by ordinances.

(b) No person upon roller skates or riding in or by means of a skateboard, coaster, toy vehicle, or similar device, shall ride upon a hill or street that, by so riding, would constitute an immediate danger to themselves and/or vehicular traffic.

(c) It shall be unlawful for any person upon roller skates, coaster, toy vehicle or similar devices, to ride on the roadways or sidewalks within the central business district of the city, which is defined as the area between "A" street and Strong Boulevard, and Jefferson Avenue and Wyandotte Avenue. This section shall not apply to areas within the above defined central business district which are residential occupancy.

(d) No person shall ride a skateboard upon any sidewalk or sidewalk area where such riding is specifically prohibited by signs.
(Code 1974, § 28-21; Ord. No. 2288, § 1, 4-22-08; Ord. No. 2297, § 1, 8-12-08)

Sec. 102-15.1. Penalty.

Every person convicted of a violation of this chapter shall be punished as prescribed in section 1-8 of this Code, or by impounding of such person's roller skates, coaster, skateboard, toy vehicle, or similar device for a period of not to exceed ten days or by any combination thereof.
(Ord. No. 2297, § 2, 8-12-08)

Sec. 102-16. Transporting alcoholic beverages in opened containers.

No person shall transport in any vehicle upon the public highways, streets or alleys of the city any alcoholic beverage, except in the original container which shall not have been opened and the seal upon which shall not have been broken, and from which the original cap or cork shall not have been removed, unless the opened container is in the trunk or rear compartment, which shall include the spare tire compartment in a station wagon or panel truck, or any outside compartment which is not accessible to the driver or any other person in the vehicle while it is in motion.

Cross reference—Alcoholic beverages, § 6-26 et seq.

State law reference—Similar provisions, 21 O.S. § 1220, 37 O.S. § 537(a)(7).

Sec. 102-17. Careless driving.

The operator of every vehicle, while driving upon the streets and highways of this city, shall devote full time and attention to such driving and the failure to do so shall be deemed careless driving.
(Ord. No. 2060, § 1, 4-8-97)

Sec. 102-18. Driving: licensing of vehicle.

No person shall operate any vehicle upon the streets of the city without that vehicle being licensed in the manner now provided by the law of the State of Oklahoma, which is hereby incorporated into this Code as if fully set out in this section.
(Ord. No. 2124, § 1, 11-28-00)

Sec. 102-19. Mechanical inspections; display of inspection stickers.

No person shall operate any vehicle within the city limits of the city unless that vehicle has been inspected and displays a valid inspection sticker as required by the applicable laws of the State of Oklahoma, which are hereby incorporated into this Code as if fully set out in this section.
(Ord. No. 2124, § 1, 11-28-00)

Secs. 102-20—102-35. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 102-36. Traffic violations bureau created; schedule of fines.

(a) A traffic violations bureau is hereby established as a division of the office of the clerk of the municipal court, to be administered by the clerk, or by subordinates designated by him for the purpose. Persons who are cited for violation of one of the traffic regulatory ordinances of this city, other than a second traffic offense within a 12-month period, or a drivers' license offense, or a violation involving intoxicating drugs or beverages, may elect to pay a fine in the traffic violations bureau according to the following schedule:

(1) All school zones violations: $325.00.

(2) Reckless driving: $500.00.

(3) Fleeing, resisting or attempting to elude officer: $500.00.

(4) Leaving the scene of accident: $500.00.

(5) DWI, driving while impaired: $500.00.

(6) DUI, driving under the influence: $500.00.

(7) Actual physical control: Minimum $100.00, maximum $325.00.

(8) Speeding:

1—10 mph in excess of speed limit: $50.00.

11—20 mph in excess of speed limit: $73.00.

21—30 mph in excess of speed limit: $125.00.

31 mph and over in excess of speed limit: $200.00.

(9) Transporting open container of intoxication beverage (beer): $125.00.

Transporting open container of intoxication beverage (liquor): $200.00.

(10) Driving under suspension of license: $500.00.

(11) Careless driving: $98.00.

(12) Operating vehicle without license plate (having paid all taxes due state): $98.00.

(13) All other weapons violations: $325.00.

(14) Parking in fire lane: $73.00.

Fire zone and all other parking: $73.00; except Handicap parking minimum $150.00, maximum $250.00.

(15) No proof of liability insurance: Minimum $200.00, maximum $325.00.

(16) Failure to appear: $75.00.

(17) All other traffic-related violations: $98.00.

(18) False identification: $325.00.

(b) The municipal court may adopt rules to carry this section into effect. Payment of a fine under this section shall constitute a final determination of the cause against the defendant. If a defendant who has elected to pay a fine under this section fails to do so, prosecution shall proceed under the provisions of chapter 34 of this Code. (Code 1974, § 28-33; Ord. No. 2049, § 2, 4-9-96; Ord. No. 2050, § 1, 5-14-96; Ord. No. 2125, § 1, 11-28-00; Ord. No. 2265, § 1, 8-14-07; Ord. No. 2456, § 1, 3-12-13)

State law reference—Authority of council to prescribe schedule of fines which defendants may pay in lieu of court appearance, 11 O.S. § 27-116.

Sec. 102-37. Affixing citation to vehicle.

If an alleged offense is a violation of an ordinance restricting or regulating the parking of vehicles, including any regulations issued under such an ordinance, and the operator is not present, the police officer shall place on the vehicle a

citation, at a place reasonably likely to come to the notice of the operator. The operator of the vehicle shall be under the same obligation to respond to the citation as if it had been issued to him personally.
(Code 1974, § 28-32(c»

Sec. 102-38. Reserved.

Editor's note-Ord. No. 2263, § 1, adopted August 14, 2007, repealed § 102-38, which pertained to patrol and enforcement on George Nigh Expressway and derived from Code 1974, § 28-93.

Sec. 102-39. Safety council.

(a) There is hereby established a safety council to serve without compensation, consisting of the following ex officio members: the city manager or his representative, the chief of police, the municipal judge, one representative from the city attorney's office and such number of other city officials as may be determined and appointed by the mayor. The mayor, with the consent of the city council, shall determine and appoint representatives of unofficial bodies to compose the membership of the safety council.

(b) Any citizen member of the safety council may be removed by the mayor and the city council at any time for due cause shown. The terms of all appointive members shall expire on December 31 of each year, but they shall continue to serve there after until their respective successors are appointed.

(c) It shall be the duty of the safety council to conduct studies and educational activities for the improvement of traffic, the promotion of traffic safety and the prevention of traffic accidents, and to recommend to the city council and to the city manager ways and means for improving traffic conditions and the administration and enforcement of traffic regulations.
(Code 1974, § 28-7)

Cross reference-Boards and commissions, § 2-166 et seq.

Sec. 102-40. Authority of city manager to promulgate traffic regulations.

The city manager, subject to any directions which the city council may give by motion or resolution, is hereby empowered to make regulations necessary to make effective the provisions of the traffic ordinances of the city and to make and enforce temporary or experimental regulations to cover emergencies or special conditions. No such temporary or experimental regulation shall remain in effect for more than 90 days.
(Code 1974, § 28-2)

Sec. 102-41. General duties of police department with respect to traffic.

It shall be the duty of the police department to enforce the street traffic regulations of the city and all of the state vehicle laws applicable to street traffic in the city, to make arrests for traffic violations, to investigate accidents and to cooperate with other officers of the city in the administration of the traffic laws and in developing ways and means to improve traffic conditions and to carry out those duties specially imposed upon the department by this chapter and any other traffic ordinances of the city.
(Code 1974, § 28-3)

Sec. 102-42. Authority of police officers to direct traffic.

Officers of the police department or such officers as are assigned by the chief of police are hereby authorized to direct traffic by voice, hand or signal in conformance with traffic laws and ordinances; provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as .conditions may require notwithstanding the provisions of the traffic laws and ordinances.
(Code 1974, § 28-4)

State law reference-Authority of city to regulate traffic by means of police officers, 47 O.S. § 15-102(a)(2).

Sec. 102-43. Authority of officers of fire department to direct traffic.

Officers of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.
(Code 1974, § 28-5)

Sec. 102-44. Inspection of vehicles.

Police officers shall have the authority to inspect and test any vehicle upon the streets of the city at any time to determine whether it is safe, whether it is properly equipped and whether its equipment is in proper adjustment and repair. It shall be the duty of the driver of any vehicle to stop, when directed by any police officer, and submit the mechanical condition of the vehicle or its equipment to an inspection or test.
(Code 1974, § 28-13)

Sec. 102-45. Prohibited turns at certain intersections.

The city manager, subject to any directions which the city council may give by motion or resolution, is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right or left turn or V-turn and shall have placed proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours; in which event the same shall be plainly indicated on the signs, or they may be removed when such turns are permitted.
(Code 1974, § 28-54(a»

State law reference-Authority of city to prohibit turning at intersections, 47 O.S. § 15-102(a)(9).

Secs. 102-46-102-55. Reserved.

DIVISION 2. TRAFFIC CONTROL SIGNS, SIGNALS, DEVICES AND MARKINGS

Sec. 102-56. Necessity of signs.

No provision of this chapter for which signs are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place.
(Code 1974, § 28-107)

State law references-Similar provisions, 47 O.S. § 11-20l(b); necessity for signs to enforce city traffic regulations, 47 O.S. § 15-102(c).

Sec. 102-57. Installation and maintenance generally.

The city manager, subject to any directions which the city council may give by motion or resolution, shall have placed and maintained traffic control signs, signals and devices when and as required under the traffic ordinances of the city to make effective the provisions of such ordinances, and may have placed and maintained such additional traffic control signs, signals and devices as he may deem necessary to regulate traffic under the traffic ordinances of the city or under state law or to guide or warn traffic.
(Code 1974, § 28-103)

State law reference-Authority of city to regulate traffic by traffic-control devices, 47 O.S. §§ 15-102(a)(2), 15-106 et seq.

Sec. 102-58. Testing.

The city manager may have traffic control devices tested under actual conditions of traffic.
(Code 1974, § 28-105)

Sec. 102-59. Through streets and stop or yield intersections; designation and marking.

(a) The city council, by motion or resolution, may designate any street or part of a street a through street. Whenever the council so designates and describes a through street, it shall be the duty of the city manager to have placed and maintained a stop sign or, if deemed more appropriate at any intersection, a yield sign, on each and every street intersecting such through street, unless traffic at any such intersection is controlled at all times by traffic control signals; provided, however, that at the intersection of two such through streets or at the intersection of a through street and a heavy traffic street not so designated, stop or yield signs shall be erected at one or more entrances to such intersection, as may be determined desirable by the city manager.

(b) The city manager, subject to any directions given by the city council by motion or resolution, is hereby authorized to determine and designate intersections where a particular hazard exists upon other than through streets and to determine:

(1) Whether vehicles shall stop at one or more entrances to any such intersection,

in which event he shall cause to be erected a stop sign at every such place where a stop is required; or

(2) Whether vehicles shall yield the right-of-way to vehicles on a different street at such intersection, in which event he shall cause to be erected a yield sign at every place where obedience thereto is required.

(Code 1974, § 28-60)

State law references--Stop signs and yield signs, 17 O.S. § 11-703; authority of city to designate through streets and stop and yield intersections, 47 O.S. §§ 15-102(aX6), 15-108.

Sec. 102-60. One-way streets and alleys; designation and marking.

Whenever the city council, by motion or resolution, designates any street or alley or part thereof as a one-way street or alley, the city manager shall have 'placed and maintained signs giving notice thereof, and no such regulation shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

(Code 1974, § 28-68)

State law reference-Authority of city to designate one-way streets, 47 O.S. §§ 11-308, 15-102(aX4).

Sec. 102-61. Marking of traffic lanes.

The city manager, subject to any directions which the city council may give by motion or resolution, is hereby authorized to have traffic lanes marked upon the roadway of any street where a regular alignment of traffic is necessary.

(Code 1974, § 28-72)

Sec. 102-62. Marking of fire lanes.

All designated fire lanes will be marked or striped and posted with official signs and the fire chief will be controlling authority on the designation of the fire lanes.

(Code 1974, § 28-73(4»

Sec. 102-63. Designation, maintenance of crosswalks and safety zones or islands for protection of pedestrians.

The city manager, subject to any directions which the city council may give by motion or resolution, is hereby authorized to:

(1) Designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where, in his opinion, there is particular danger to pedestrians crossing the roadway, and at such other places as he may deem necessary.

(2) Establish safety zones or islands of such kind and character and at such places as he may deem necessary for the protection of pedestrians.

(Code 1974, § 28-218)

Secs. 102-64-102-85. Reserved.

ARTICLE III. OPERATION OF VEmCLES GENERALLY

Sec. 102-86. Vehicle equipment generally.

Every vehicle operated upon the streets of the city shall be equipped as required by state law; and it shall be unlawful for any person to drive or operate a vehicle upon a street of the city which is not equipped as required by law. It shall also be unlawful to fail to use such equipment in the manner required by law, or to use it in a manner prohibited by law. It shall also be unlawful to drive or operate a vehicle which has equipment prohibited by law upon a street of the city.

(Code 1974, § 28-8)

State law reference-Equipment of vehicles, 47 O.S. § 12-101 et seq.

Sec. 102-87. Weight and size of vehicles.

No person shall drive or convey through any public street or alley any vehicle, the width, height, length, weight or load of which exceeds

that authorized by state law, except in accord with a permit issued by state authority or by the city manager.
(Code 1974, § 28-10)

State law reference-s-Size, weight and load of vehicles, 47 O.S. § 14-101 et seq.

Sec. 102-88. Obstructive or dangerous vehicles.

No person shall drive any vehicle which is in such a condition, so constructed or so loaded as to cause delay or be likely to cause delay in traffic, or as to constitute a hazard to persons or property, except by permit issued by the city manager and in accordance with the terms of such permit.
(Code 1974, § 28-11)

Sec. 102-89. Vehicles or objects likely to injure street shall not be driven or moved on street.

No vehicle or object which injures or is likely to injure the surface of a street shall be driven or moved on any street.
(Code 1974, § 28-12)

Sec. 102-90. Speed limits.

Except when a special hazard exists that requires lower speed for compliance with law, the limits specified below, or established as hereinafter authorized, shall be maximum lawful speeds, and no person shall drive a vehicle on a street at a speed in excess of such maximum limits, as follows:

(1) Fifteen miles per hour on any street adjacent to any school between 8:00 a.m. and 5:00 p.m. on days when school is in session;

(2) Thirty miles per hour on other streets and on streets adjacent to schools at other times than that specified immediately above;

provided that, the city manager may reduce or increase this speed limit, and when he does so, appropriate signs shall be placed on such streets or parts of streets indicating the lower or higher speed limit so authorized.
(Code 1974, § 28-52(b))

State law reference-s-Speed regulations and authority of city relative thereto, 47 O.S. § 11-801 et seq.

Sec. 102-91. Limitations on turning around.

(a) The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street in the city except at an intersection; and furthermore, it shall be unlawful for the driver of a vehicle to make such a tum at any intersection:

(1) Where traffic control signals are installed;

(2) Where a police officer is directing traffic except at the latter's direction; or

(3) Where an official no U-turn sign has been placed and is maintained.

(b) When permitted, a U-turn may be made only when it can be made in safety and without interfering with other traffic.
(Code 1974, § 28-55)

Sec. 102-92. Play streets.

(a) The city manager, subject to any directions which the city council may give by motion or resolution, shall have the authority to declare any street or part thereof a play street and to have placed appropriate signs or devices in the roadway indicating and helping to protect the same.

(b) Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof, except drivers of vehicles having business or whose residences are within such closed area, and then any such driver shall exercise the greatest care in driving upon any such street or portion thereof.
(Code 1974, §§ 28-70, 28-71)

Sec. 102-93. Obstructing intersection or crosswalk.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating with-

out obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.
(Code 1974, § 28-78)

Sec. 102-94. Truck routes.

The city manager, subject to any directions which the city council may make by motion or resolution, may prescribe routes through the city for the use of trucks in general or trucks of particular kinds and other vehicles which are not ordinary private passenger vehicles, passing through the city. The city manager shall see that appropriate and adequate signs are placed along such routes so that drivers of such vehicles may follow the routes. When such signs are so erected and in place, the driver of a truck or other vehicle for which a route has been so prescribed, while passing through the city, shall keep on such route and shall not deviate therefrom except in case of emergency. Drivers of such vehicles shall follow such routes, so far as practicable, also when driving within the city and not merely through the city.
(Code 1974, § 28-87)

Sec. 102-95. Motor vehicle operation in public parks.

(a) The city manager, subject to any directions which the city council may give by motion or resolution, shall have the authority to declare any public park or portion thereof restricted by prohibiting the operation of motor vehicles and to have placed appropriate signs to designate such restricted areas.

(b) Whenever authorized signs are erected prohibiting the operation of motor vehicles in public parks, or portion thereof, it shall be unlawful for any person to drive or operate a motor vehicle within the restricted area.
(Code 1974, §§ 28-88, 28-89)

Sec. 102-96. Driving on sidewalks.

The driver of a vehicle shall not drive upon a sidewalk or within any sidewalk area except at a permanent or temporary driveway.
(Code 1974, § 28-77)

Sec. 102-97. Operation of golf carts on city streets.

(a) Golf carts may be operated on the streets and alleys of the city with the following restrictions:

(1) The operation of golf carts are confined to travel to and from the golf course. (Thunder Creek Golf Course not included.)

(2) The operator of the golf cart must have and be in his possession a valid vehicle drivers license.

(3) All operation on city streets and/or alleys must occur during daylight hours.

(b) It shall be unlawful for golf carts to be driven on any city street or alley other than as authorized in subsection (a) of this section.
(Ord. No. 2137, § 1, 7-24-01)

Secs. 102-98-102-115. Reserved.

ARTICLE IV STOPPING, STANDING AND PARKING*

DIVISION 1. GENERALLY

Sec. 102-116. Presumption in prosecutions for standing or parking violations.

In any prosecution charging a violation of any law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such law or regulation, together with proof that the defendant named in the complaint was, at the time of such violation, the registered owner of such vehicle shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred.

*Cross reference-Parking of trailers on streets, § 74-2.
State law references-Stopping, standing and parking, 47 O.S. § 11-1001 et seq.; authority to regulate parking and standing, 47 O.S. § 15-102(a)(l).

Such presumption shall apply only when the procedure prescribed by section 102-37 for giving a citation has been followed.
(Code 1974, § 28-142)

Sec. 102-117. Impoundment of parked or standing vehicles.

(a) Members of the police department are hereby authorized to remove a vehicle from a street to a garage or other place of safety under any of the following circumstances:

(1) When any vehicle is left unattended upon any bridge, viaduct or causeway, or in any tube or tunnel where such vehicle constitutes an obstruction to traffic.

(2) When a vehicle upon a street is so disabled as to constitute an obstruction to traffic and the person in charge of the vehicle is, by reason of physical injury or otherwise, incapacitated to such an extent as to be unable to provide for its custody or removal.

(3) When any vehicle is left unattended upon a street and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic.

(4) When any vehicle has been parked for more than one hour in excess of the time allowed for parking in any place.

(5) When any vehicle which has been involved in two or more violations of this chapter for which citations have been issued and not presented as required, is parked in violation of any provision of this chapter.

(b) A vehicle impounded as provided in this section shall be delivered only after such fine and costs as may be properly assessed by the municipal judge for the violation for which such vehicle was impounded, and any reasonable costs of or charges for impounding and storage, have been paid.
(Code 1974, § 28-143)

State law reference-Removal of illegally stopped vehicles, 47 O.S. § 11-1002.

Sec. 102-118. Angle parking.

(a) The city manager, subject to any directions which the city council may give by motion or resolution, shall determine upon which streets and parts of streets angle parking shall be permitted and shall have such streets marked or signed; provided, however, that angle parking shall not be permitted on any federal-aid or state highway, unless the state department of highways has determined that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

(b) On those streets which have been so signed or marked for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.
(Code 1974, § 28-129)

State law reference-Authority to allow angle parking, 47 O.S. § 11-1004(c).

Sec. 102-119. Parking within marked spaces.

In an area where parking spaces have been marked off on the surface of the street, a driver parking a vehicle shall park it within a parking space as thus marked off, and not on or over a line delimiting a space.
(Code 1974, § 28-130)

Sec. 102-120. Parking so as to leave ten feet of roadway available for traffic.

No person, other than the operator of a United States Postal Service vehicle engaged in collecting or delivering U.S. mail, shall park a vehicle upon a street or alley in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for the free movement of vehicular traffic.
(Code 1974, § 28-131)

Sec. 102-121. Prohibited for certain purposes.

No person shall park a vehicle upon any roadway for the principal purpose of:

(1) Displaying the vehicle for sale; or

(2) Washing, greasing, or repairing the vehicle except for repairs necessitated for an emergency.

No person shall park or stop a vehicle upon any roadway adjacent to a yellow painted curb or on a yellow painted checkered or cross-hatched parking place.
(Code 1974, § 28-127; Ord. No. 2271, § 1, 11-13-07)

Sec. 102-122. Parking more than 24 hours.

No person shall park a vehicle on any street for a period of time longer than 24 hours. This section shall not affect parking limits established for shorter periods.
(Code 1974, § 28-132)

Sec. 102·123. Limited or prohibited parking on specific streets.

(a) The city manager, subject to any directions which the city council may give by motion or resolution, is hereby authorized to establish parking time limits, or to prohibit parking, on designated streets and parts of streets, by having appropriate signs placed thereon.

(b) When such signs are in place, it shall be unlawful for any person to park a vehicle in violation thereof.
(Code 1974, § 28-133)

Sec. 102-124. Parking adjacent to schools.

The city council may authorize the erection of signs indicating no parking upon that side of any street adjacent to any school property when such parking would, in its opinion, interfere with traffic or create a hazardous situation. When such signs are so erected and in place, no person shall park a vehicle in any such designated place.
(Code 1974, § 28-134)

Sec. 102·125. Loading and unloading permits.

(a) It shall be unlawful for any person or company to stop a vehicle in the street for the purpose of loading and unloading merchandise or materials without a current unloading permit.

(b) Each vehicle that stops in the street and at the curbline shall have a current unloading permit clearly visible. Vehicles stopped for loading and unloading shall not block the flow of traffic. In no case shall the loading and unloading exceed 30 minutes.

(c) Each owner or lessor of vehicles engaged in loading and unloading in any area not designated and marked as a loading zone shall pay to the city treasurer a fee of $70.00 per vehicle per year. The permit expires June 30 of each year. The fee shall be prorated for new vehicles at a rate of $10.00 per month for the remaining months in the fiscal year. Monthly permits will not be sold.
(Code 1974, § 28-136)

Sec. 102-126. Designation, marking and use of loading zones.

(a) The city council may, by motion or resolution, determine the location of passenger or freight curb loading zones. Loading zones so designated shall provide for the dayts) and timers) that the location is reserved for the loading of passengers or freight. The city shall have placed and maintained appropriate signs indicating the location, day(s) and timers) that the spacers) are reserved for loading of passengers or freight. By the same authority, such loading zones may be changed or discontinued. The owner or lessor of real property shall pay to the city the sum of$70.00 per year for each space designated as a loading zone.

(b) No person, other than the operator of a *V.S.* Postal Service vehicle engaged in collecting or delivering *V.S.* mail, shall stop, stand or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to such curb loading zone are effective, and then only for a period of time not to exceed three minutes.

(c) No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a freight curb loading zone during the day(s) and houris) when the provisions applicable

to such zones are in effect and so shown on the appropriate signs. Freight loading zones may be used for vehicle parking at all other times.

(d) The driver of a passenger vehicle may stop temporarily at a place marked as a freight curb loading zone for the purpose of and while actually engaged in loading or unloading passengers, when such stopping does not interfere with any motor vehicle used for the transportation of materials which is waiting to enter or about to enter such zone.
(Code 1974, § 28-137; Ord. No. 1998, § 1,2-23-93)

Sec. 102·127. Designation and marking of bus stops, stands for taxicabs and other common carriers.

The city manager, subject to any directions which the city council may give by motion or resolution, is hereby authorized and required to establish bus stops, bus stands, taxicab stands and stands for other passenger common carrier motor vehicles on such public streets, in such places and in such number as he shall determine to be of the greatest benefit and convenience to the public. Every such bus stop, bus stand, taxicab stand or other stand shall be designated by appropriate signs. By the same authority, such stops and stands may be changed or discontinued.
(Code 1974, § 28-138)

Sec. 102·128. Restriction on standing, parking or stopping of buses.

(a) The operator of a bus shall not stand or park such vehicle upon any street at any place other than a bus stand or bus stop designated in accordance with this article.

(b) The operator of a bus shall not stop such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage, other than at a bus stop, bus stand or passenger loading zone designated in accordance with this article, except in case of an emergency.

(c) The operator of a bus shall enter a bus stop, bus stand or passenger loading zone on a public street in such a manner that the bus, when stopped to load or unload passengers or baggage, shall be in a position with the right front wheel of such vehicle not further than 18 inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.
(Code 1974, § 28-139)

Sec. 102·129. Restriction on standing or parking of taxicabs.

The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand designated in accord with this article. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.
(Code 1974, § 28-140)

State law reference-Authority to restrict loading of taxicabs to specified zones, 11 O.S. § 22-118(3).

Sec. 102-130. Unlawful use of bus stop, taxicab stand.

No person, other than the operator of a U.S. Postal Service vehicle engaged in collecting or delivering U.S. mail, shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand, when any such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers, when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone.
(Code 1974, § 28-141)

Sec. 102·131. Unmuffled compression brakes.

(a) Except as provided in this section, no person shall use motor vehicle unmuftled compression brakes within the city. It shall be an affirmative defense that said unmuftled compression brakes were applied in an emergency to protect persons and/or property.

(b) This section shall not apply to vehicles of any municipal fire department, whether or not responding to an emergency.

(c) As used in this section, the term *"compression brakes"* means the use of the engine and transmission to retard the forward motion of a motor vehicle by compression of the engine. "Compression brakes" are also referred to as "jake brakes."

(d) The traffic engineer shall post signs at reasonable locations within the boundaries of the city indicating "unmuffied compression brakes prohibited" or substantially similar wording.

(e) Violation of this section shall constitute a traffic infraction and shall be punishable by a maximum penalty of $144.00.
(Ord. No. 2230, § 1, 4-25-06)

Secs. 102-132-102-140. Reserved.

DIVISION 2. PARKING METERS

Sec. 102-141. Purpose.

The installation and operation of parking meters is hereby declared to be a measure for control and regulation of traffic and parking in the interest of the public safety and welfare. The revenue derived therefrom is secondary and the fees required to be paid for parking in parking meter zones are levied to cover the cost of the purchase, installation, operation, inspection and upkeep of the parking meters and control of parking in the parking meter zones, and to regulate traffic and parking in such zones.
(Code 1974, § 28-152)

Sec. 102-142. Zones; installation; marking of metered spaces.

All parking meter zones heretofore created and existing in the city are hereby approved. The council, by motion or resolution, shall have the power to extend, reduce, abolish and create such zones. When their installation has been thus authorized, the city manager shall have parking meters installed in such areas. Parking in the various zones shall be at an angle of approximately 45 degrees with the curb or parallel to the curb, as the council or the city manager may determine, and the city manager shall have appropriate lines marked on the streets to delimit the individual parking spaces.
(Code 1974, § 28-153)

Sec. 102-143. Coin-operated devices; required information and indications.

Parking meters installed under this division shall be coin-operated devices which shall show on their faces the amount of parking time purchased by the insertion of a coin or coins and which shall indicate, by an appropriate flag or other signal, the expiration of the parking time purchased.
(Code 1974, § 28-154)

Sec. 102-144. Charge determined by type of meter installed.

The charge per hour or for a period of minutes for parking in a parking meter zone shall be determined by the type of meter installed within the respective zone and by the instructions on the meter.
(Code 1974, § 28-155)

Sec. 102-145. Deposit of coins; overtime parking.

(a) When a vehicle is parked or left in any space alongside of or at which a parking meter is installed, the driver or person in charge of such vehicle shall immediately deposit in the meter a coin or coins of the United States of the denomination or denominations indicated by the directions on the meter, unless the meter is already registering time which has not yet expired, in which case the driver or person in charge of the vehicle may purchase additional time by the insertion of an appropriate coin or coins. The driver or person in charge may then leave the vehicle in the space until the time purchased has expired, and may purchase additional parking time by the insertion of an appropriate coin or coins.

(b) Except as otherwise provided by this division, any driver or person in charge of a vehicle who shall park or leave such vehicle in a space alongside or at which a parking meter is installed,

and who fails immediately to insert a proper coin in the meter to purchase parking time when the meter is displaying a signal showing that the parking time has expired, or who leaves such vehicle in such space after the parking time purchased has expired, as shown by such signal, and does not immediately deposit another coin therein, shall be guilty of an offense against the city.
(Code 1974, § 28-156)

Sec. 102-146. Days, hours when meters not in use.

Notwithstanding other provisions of this division, vehicles may be parked in parking meter areas at any time on Sundays and other holidays, and on other days before 8:00 a.m. and after 6:00 p.m. without inserting coins in parking meters; and parking meters shall not be in use during such times.
(Code 1974, § 28-157)

Sec. 102-147. Deposit of slugs; defacing, damaging, etc., meters.

Any person who deposits, or causes to be deposited, in any parking meter installed by the city anything other than a coin of the United States as indicated by the directions on the meter, such as a slug or substitute for a coin ofthe United States, or who defaces, injures, breaks, destroys or tampers with a parking meter, shall be guilty of a misdemeanor.
(Code 1974, § 28-158)

Sec. 102-148. Police department in charge of operation of meters, etc.

The police department shall have charge of the operation, supervision and control of parking meters, shall have supervision of parking and traffic in parking meter zones, as well as in other areas within the city, and shall be responsible for the enforcement of all ordinance provisions relating to parking meters and to parking within parking meter zones.
(Code 1974, § 28-159)

Secs. 102-149-102-170. Reserved.

ARTICLE V. BICYCLES*

DIVISION 1. GENERALLY

Sec. 102-171. Scope.

The provisions of this article shall apply whenever a bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated in this article.
(Code 1974, § 28-171)

State law reference-Similar provisions, 47 O.S. § 11-1201(c).

Sec. 102-172. Application of traffic regulations to riders.

Any person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle under the laws of this state declaring rules of the road applicable to vehicles or by the traffic ordinances of this city applicable to the driver of a vehicle, except as to special regulations in this article and except as to those provisions of laws and ordinances which, by their nature, can have no application.
(Code 1974, § 28-172)

State law reference-Similar provisions, 47 O.S. § 11.1202.

Sec. 102-173. Penalty.

Every person convicted of a violation of any provision of this article shall be punished as prescribed in section 1-8 of this Code, or by impounding of such person's bicycle for a period not to exceed ten days, or by any combination thereof.
(Code 1974, § 28-188)

Sec. 102-174. Riders shall obey traffic control devices.

(a) Any person operating a bicycle shall obey the instructions of official traffic control signals, signs and other control devices applicable to vehicles, unless otherwise directed by a police officer.

(b) Whenever authorized signs are erected indicating that a turning movement is restricted or prohibited, no person operating a bicycle shall disobey the direction of any such sign, except when such person dismounts from the bicycle to make such turn, in which event such person shall then obey the regulations applicable to pedestrians.
(Code 1974, § 28-173)

State law reference-Authority of city to regulate operation of bicycles, 47 O.S. § 15-102(a)(8).

.State law references-Bicycles, 47 O.S. § 11-1201 et seq.; authority to regulate bicycles, 47 O.S. § 15.102(a)(8).

Sec. 102-175. Signal devices.

No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least 100 feet, except that a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle.
(Code 1974, § 28-178)

Sec. 102-176. Identification number on frame.

The police department shall designate and cause a number to be stamped on the frame of any bicycle on which no serial number can be found, or on which such number is illegible or insufficient for identification purposes.
(Code 1974, § 28-180)

Sec. 102-177. Speed.

No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.
(Code 1974, § 28-183)

Sec. 102-178. Emerging from alley, driveway or building.

The operator of a bicycle emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.
(Code 1974, § 28-184)

Sec. 102-179. Riding on sidewalks generally.

(a) No person shall ride a bicycle upon a sidewalk within a business district.

(b) Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.
(Code 1974, § 28-185)

Sec. 102-180. Obedience to signs prohibiting riding on sidewalks or road. ways.

The chief of police is authorized to have erected signs on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person. When such signs are in place, no person shall disobey the same.
(Code 1974, § 28-186)

Sec. 102-181. Operation on walking/jogging trails.

It shaH be unlawful for any person to operate a bicycle on. public walking and/or jogging trails.
(Code 1974, § 28-92)

Sec. 102-182. Parking.

No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at a curb, in such a manner as to afford the least obstruction to pedestrian traffic.
(Code 1974, § 28-187)

Secs. 102-183-102-195. Reserved.

DIVISION 2. LICENSE

Sec. 102-196. Required.

It shall be unlawful for any person to operate or use a bicycle upon any of the streets, alleys or public highways of the city, without first obtaining from the police department a license therefor and having a tag and seal placed thereon as provided in this division.
(Code 1974, § 28-194)

Sec. 102-197. Application.

Application for a bicycle license shall be made in writing to the police department.
(Code 1974, § 28-195)

Sec. 102-198. Investigation of applicant's ownership.

Before issuing any bicycle license or registering the ownership of a bicycle, the police department

shall use reasonable diligence in ascertaining whether the facts set forth in the application for the license and registration are true and shall not issue a license and register ownership unless satisfied that the applicant is the lawful owner of such bicycle or otherwise entitled to have the same registered and licensed in his name.
(Code 1974, § 28-196)

Sec. 102-199. Fee.

The annual fee to be paid for a bicycle license shall be $5.00 and shall be paid in advance. Such fee shall be paid to the city treasurer and is hereby levied as a police regulation and inspection fee.
(Code 1974, § 28-197)

Sec. 102-200. Issuance; term; effect.

The police department is hereby authorized and directed to issue, upon proper application and upon presentation of a receipt covering the license fee, bicycle licenses, which shall be effective until the next succeeding December 31. Such license shall entitle the licensee thereunder to operate the bicycle, for which the same is issued, upon all the streets (exclusive of sidewalks), alleys and public highways within the city for the duration of the license.
(Code 1974, § 28-198)

Sec. 102-201. License tag, registration card generally.

The police department shall provide each year bicycle license tags and seals having registration numbers stamped thereon, commencing with the number 1 and indicating the year for which the same is issued, suitable for attachment upon the frame or rear mudguard of each bicycle. It shall be the duty of the police department to attach one of such tags to the frame or rear mudguard of each bicycle, upon the issuance of a license for the bicycle, and seal the same thereon. Such tag shall, at all times during the license year for which it is issued, remain so attached. At the time of the issuance of the license, the police department shall also issue to the person obtaining the license a registration card, which card shall bear the license and registration number of such bicycle.
(Code 1974, § 28-199)

Sec. 102-202. Removal, alteration, etc., of license tag.

It shall be unlawful for any person to remove, destroy, mutilate or alter any bicycle license tag or seal during the time in which the same is operative.
(Code 1974, § 28-200)

Sec. 102-203. Transfer.

(a) It shall be the duty of every person who sells or transfers ownership of any bicycle to report such sale or transfer by returning to the police department the registration card issued to such person as the licensee thereof, and giving the name and address of the person to whom the bicycle was sold or transferred. Such report shall be made within five days of the sale or transfer. It shall be the duty of the purchaser or transferee of such bicycle to apply for a transfer of the registration thereof and license thereon, within five days of the sale or transfer and to pay a transfer fee of $1.00 to the city treasurer, which fee is hereby levied as a police regulation and inspection fee. The city treasurer's receipt for such fee shall be presented to the police department with the application for transfer.

(b) Before transferring any bicycle license, the police department shall investigate the ownership of the bicycle as in the case of applications for the original license.

(c) No license shall be transferred from one bicycle to another.
(Code 1974, § 28-201)

Sec. 102-204. Surrender of old license tag and registration card upon renewal.

In cases where licenses and registrations are applied for on bicycles licensed and registered for a preceding year, the applicant shall be required to surrender the license tag and registration card

for the preceding year, or by affidavit satisfy the police department that the same has been stolen or lost.
(Code 1974, § 28-202)

Sec. 102-205. Refusal or revocation.

If the police department shall determine at any time that an applicant for a license on and registration of a bicycle or for transfer of the same is not the lawful owner of such bicycle, or is not entitled to have the same licensed and registered in his name, or to have the license and registration transferred to his name, it may refuse to issue the license and to register the bicycle or make the transfer and may, for a like reason and after notice and hearing, revoke the license and registration or transfer of the same already acquired on any such bicycle. Such notice shall be served in person or by registered mail, shall be in writing, and shall give the holder of the license and registration or the transferee of the same at least three days' notice of the time of the hearing.
(Code 1974, § 28-203)

Sec. 102-206. Repair work on unlicensed bicycle.

It shall be unlawful for any person to do any repair work on any bicycle which is not properly licensed and registered as required by this division, and it shall be the duty of any such person to see that any such bicycle has the city license tag attached thereto before doing any repair work on the same.
(Code 1974, § 28-204)

Sec. 102-207. False statements in application for license or transfer.

Any person who shall knowingly make any false statement of a material fact, either in his application for a license for a bicycle, or for a transfer of the same, or in any assignment thereof, shall be guilty of an offense.
(Code 1974, § 28-205)

Sec. 102-208. Records.

The police department shall keep a record of the date of the issuance of each bicycle license and the name and address of the person to whom the same is issued and the number thereof, together with a description of the bicycle licensed.
(Code 1974, § 28-206)

Secs. 102-209—102-230. Reserved.

ARTICLE VI. PEDESTRIANS*

Sec. 102-231. Application of article.

Pedestrians shall be subject to traffic control signals as provided in this chapter, but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this article.
(Code 1974, § 28-217)

State law reference—Similar provisions, 47 O.S. § 11-501(c).

Sec. 102-232. Crossing roadways at right angles; exception.

No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb, except in a crosswalk.
(Code 1974, § 28-223)

Sec. 102-233. Pedestrians soliciting rides, business or donations from vehicle occupants.

(a) No person shall stand in a public roadway, or stand in a traffic median, shoulder, improved shoulder, sidewalk, roadway right-of way or the improved portion of any public roadway for purpose of soliciting a ride, donations, employment or business from the occupant of any vehicle.

(b) No person shall stand in any street, roadway traffic median, shoulder, improved shoulder, sidewalk, roadway right-of-way or the improved portion of any public roadway and stop or attempt to stop and engage any person in any vehicle for the purpose of soliciting contributions or donations; or sell or attempt to sell anything to any person in any vehicle; or hand or attempt to hand to any person in any vehicle any circular, adver-

*State law reference—Pedestrians, 47 O.S. § 11-501 et seq.

tisement, handbill or any political campaign literature, or any sample, souvenir or gift; or in any other manner, while standing in the street or roadway or above-described areas, attempt to interfere with the normal flow of traffic for any other similar purpose.
(Code 1974, § 28-225(b); Ord. No. 2470, § 1, 6-25-13)

State law reference—Soliciting rides or business in streets, 47 O.S. § 11-507.

Sec. 102-234. Obedience to railroad signals.

No pedestrian shall pass through, around, over or under any crossing gate or barrier at a railroad grade crossing while such gate or barrier is closed or is being opened or closed.
(Code 1974, § 28-226)

Secs. 102-235—102-255. Reserved.

ARTICLE VII. PARADES AND PROCESSIONS*

DIVISION 1. GENERALLY

Sec. 102-256. 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:

Parade means any parade, march, ceremony, show, exhibition, pageant or procession of any kind, or any similar display, in or upon any street or other public place.
(Code 1974, § 28-14)

Cross reference—Definitions generally, § 1-2.

Sec. 102-257. Identification of vehicles in funeral procession.

A funeral composed of a procession of vehicles shall be identified as such by having the lights on all vehicles turned on dim or by the display, upon the outside of each vehicle, of a pennant or other identifying insignia or by such other method as may be determined and designated by the police department.
(Code 1974, § 28-15)

Sec. 102-258. Driving in processions.

Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practicable and shall follow the vehicle ahead as close as is practicable and safe.
(Code 1974, § 28-82)

Sec. 102-259. Driving through processions.

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required. This provision shall not apply at intersections where traffic is controlled by traffic control signals or police officers.
(Code 1974, § 28-83)

Secs. 102-260—102-270. Reserved.

DIVISION 2. PARADE PERMIT

Sec. 102-271. Exemptions.

This division shall not apply to:

(1) Funeral processions.

(2) Students going to and from school classes or participating in educational activities, providing such conduct is under the immediate direction and supervision of the proper school authorities.

(3) A governmental agency acting within the scope of its functions.

(Code 1974, § 28-14)

Sec. 102-272. Required.

No person shall engage in, participate in, aid, form or start any parade, without a parade permit issued by the chief of police.
(Code 1974, § 28-14)

*State law reference—Authority of city to regulate processions, 47 O.S. § 15-102(a)(3).

Sec. 102-273. Application.

(a) A person desiring a parade permit shall file an application with the chief of police on forms provided by such officer. Such application shall be filed not less than seven days nor more than ten days before the date on which it is proposed to conduct the parade.

(b) The application for a parade permit shall set forth the following information:

(1) The name, address and telephone number of the person seeking to conduct such parade.

(2) If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization.

(3) The name, address and telephone number of the person who will be the parade chairman and who will be responsible for its conduct.

(4) The date when the parade is to be conducted.

(5) The route to be traveled, the starting point and the termination point.

(6) The approximate number of persons who, and animals and vehicles which, will constitute such parade; the type of animals and description of the vehicles.

(7) The hours when such parade will start and terminate.

(8) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed.

(9) The location by streets of any assembly areas for such parade.

(10) The time at which units of the parade will begin to assemble at any such assembly area.

(11) The interval of space to be maintained between units of such parade.

(12) If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for such permit shall file with the chief of police a communication in writing from the person proposing to hold the parade, authorizing the applicant to apply for the permit on his behalf.

(13) Any additional information which the chief of police shall find reasonably necessary to a fair determination as to whether a permit should be issued.

(c) The chief of police, where good cause is shown therefor, shall have the authority to consider any application under this division which is filed less than seven or more than ten days before the date such parade is proposed to be conducted. (Code 1974, § 28-14)

Sec. 102-274. Standards for issuance.

The chief of police shall issue a parade permit when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that:

(1) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route.

(2) The conduct of the parade will not require the diversion of so great a number of police officers of this city to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to this city.

(3) The conduct of such parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of this city other than that to be occupied by the proposed line of march and areas contiguous thereto.

(4) The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas.

(5) The conduct of such parade will not interfere with the movement of firefighting equipment en route to a fire.

(6) The conduct of the parade is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance.

(7) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route.

(Code 1974, § 28-14)

Sec. 102-275. Notice of denial.

If the chief of police disapproves the application for a parade permit, he shall mail to the applicant, within three days after the date upon which the application was filed, a notice of his action.

(Code 1974, § 28-14)

Sec. 102-276. Alternative permit.

The chief of police, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time, or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within five days after notice of the action of the chief of police, file a written notice of acceptance with the chief of police. An alternate parade permit shall conform to the requirements of and shall have the effect of a parade permit under this division.

(Code 1974, § 28-14)

Sec. 102-277. Contents.

Each parade permit shall state the following information:

(1) Starting time.

(2) Minimum speed.

(3) Maximum speed.

(4) Maximum interval of space to be maintained between the units of the parade.

(5) The portions of the streets to be traversed that may be occupied by the parade.

(6) The maximum length of the parade in miles or fractions thereof.

(7) Such other information as the chief of police shall find necessary to the enforcement of this division.

(Code 1974, § 28-14)

Sec. 102-278. Revocation.

The chief of police shall have the authority, after a hearing affording due process, to revoke a parade permit issued under this division upon application of the standards for issuance as set forth in this division.

(Code 1974, § 28-14)

Sec. 102-279. Compliance with laws, regulations.

A person holding a parade permit shall comply with all permit directions and conditions and with all applicable laws and ordinances.

(Code 1974, § 28-14)

Chapters 103-105

RESERVED

Chapter 106

UTILITIES*

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ARTICLE I. IN GENERAL

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Editor's note-Ord. No. 2257, § 1, adopted June 12,2007, repealed § 106-1, which pertained to minimum rates for certain persons and derived from Code 1974, §§ 31-52, 31-53.

Secs. 106-2-106-25. Reserved.

ARTICLE II. WATER SUPPLY SYSTEM*

DIVISION 1. GENERALLY

Sec. 106-26. Application for service.

(a) Any person desiring to have a premises connected with the water supply system of the city shall make the application therefor at the city treasurer's office upon a form to be furnished for that purpose. The application shall contain the location of the premises where such water is to be used and such other reasonable information as the city treasurer may require, shall be signed by the person desiring water service or his duly authorized agent, and shall be filed in the city treasurer's office.

(b) The application for water service shall contain a contract on the part of the person making the application, the terms of such contract to be set out on the application form approved by motion or resolution of the city council.
(Code 1974, § 31-14)

Sec. 106-27. Deposits.

A deposit shall be paid by any customer requesting water service as follows:

(1) Construction..... ..... $25.00

(2) Single-family residences, apartments (per unit), rooming houses, duplexes, churches, schools and business establishments (with the exception of those listed below):

Renters. 100.00

Owners..... . 80.00

Realtors (clean-up only) 45.00

(3) Motel:

a. Zero to 150 units . 300.00

b. Over 150 units . 500.00

(4) Rest home . 200.00

(5) Restaurants:

a. Zero to 40 seating capacity . 45.00

b. Forty-one to 150 seating capacity . 90.00

c. Over 150 seating capacity . 135.00

(6) Carwash . 300.00

(7) Ice plant . 300.00

(8) Laundromat . 300.00

(9) Industrial, 20 percent of estimated usage but no less than $200.00.

(Code 1974, § 31-14.1; Ord. No. 2207, § 1,9-27-05)

Sec. 106-28. Connection prohibited until prior city claims paid.

If any water consumer ceases to be a water consumer for any reason and is indebted to the city for water in any amount, and again becomes a user of water or seeks again to have a water connection, the city shall enforce collection for any sum due the city for water previously furnished and refuse the connection until all such claims are paid.
(Code 1974, § 31-15)

Sec. 106-29. Applicant to pay cost of running pipe to property not served by water.

Where the premises to be connected are not served by water, the applicant for service shall pay the entire cost of running the pipe of the specified size to the property to be served.
(Code 1974, § 31-16)

*Cross references-Plumbing code, § 18-171 et seq.; McAlester water district, § 78-26 et seq.

State law reference-Municipal water supply systems, 11 O.S. § 37-101 et seq.

Sec. 106-30. Multiple connections on same premises; each premises to have separate connection.

No premises shall be allowed to have more than one service connection, unless a special permit therefor shall be given by the superintendent of utilities. Every separate premises supplied by city water must have its own separate service connection and meter and the premises so supplied must not be allowed to supply water to any other premises.
(Code 1974, § 31-17)

Sec. 106-31. Connections on premises supplied with water from other sources.

No water service connection may be allowed from the city water mains to any premises supplied by water from any other source, unless the city manager grants permission. The city manager may terminate such permission at any time. The city manager shall have power to prescribe reasonable regulations for the use of water from another source on premises having a connection with the city water system.
(Code 1974, § 31-18)

Sec. 106-32. Cross connections.

It shall be unlawful for any person to cause a connection to be made or to allow one to exist for any purpose whatsoever between the city water supply and any other source of water supply upon his premises. Every person having any other source of water supply upon his premises is required to make a customer's declaration of nonexistence of a cross connection upon a form supplied by the city before he shall be permitted to obtain or continue to use water from the city water system. City water services shall be discontinued upon any premises upon which there is found to be a connection between the city water supply and another water supply, and such service shall not be restored until such cross connection has been discontinued.
(Code 1974, § 31-19)

Sec. 106-33. Meter required prior to connection.

It shall be unlawful for a plumber or any other person to make a connection to or use water from the city water system until a meter has been set.
(Code 1974, § 31-20)

Sec. 106-34. Meters set and connected by city; ownership of meters.

All water meters shall be set and connected to the city mains by employees of the city. All meters installed by the city shall belong to the city.
(Code 1974, § 31-21)

Sec. 106-35. Meter installation fee.

At the time application for water service is made pursuant to section 106-26, the applicant shall pay to the city treasurer a meter installation fee in the following amount:

(1)	For a 5fs-inch by 3/4-inch meter	$ 365.00
(2)	For a 3J4-inch by 3/4-inch meter	420.00
(3)	For a I-inch by 1¥2-inch meter	470.00
(4)	For a 1¥2-inch meter.	825.00
(5)	For a 2-inch meter.	985.00
(6)	For a meter larger than 2 inches, the cost shall be determined by the utility superintendent by the actual cost of all necessary materials and meter, plus the estimated labor and equipment.	

There shall be no meter installation fee if the meter is to be connected to a water line or main which has been installed without cost to the city.
(Code 1974, § 31-22)

Sec. 106-36. Meter relocation fee.

If any water customer applies to the city to have a meter moved from one location to another location on the same premises, he shall pay a fee therefor as follows:

(1) For a 5/s-inch, 3/4-inch, I-inch or 1¥2-inch meter, the sum of $300.00.

(2) For a meter larger than 1¥2 inches, $300.00 plus the cost of the meter and additional parts and materials.

If the applicant requests the connection of a meter of a different size than the meter to be disconnected, he will be required to pay $300.00 plus the cost difference in meter sizes and any additional parts and materials.
(Code 1974, § 31-23)

Sec. 106-37. Testing meters.

When the accuracy of a five-eighths-inch, three-fourths-inch, one-inch or 1¥2-inch water meter is questioned by a water customer, and all routine checking procedures have been exhausted, reasonably showing no malfunction, the customer, upon his request, will receive a meter replacement upon paying the sum of $35.00.
(Code 1974, § 31-24)

Sec. 106-38. Charges for reconnection and rereading of meter.

A service fee of $25.00 shall be charged for reconnection of water service after water has been turned off due to relocation of residency within the city, and/or temporary discontinuance of service occasioned for the convenience of the customer. The fee shall also be levied when the city is requested by the customer to re-read the meter due to questioned error in original reading and upon re-reading, the original readings were found to be valid. A re-read charge will not be levied in the event an error was made by the city on the original reading, provided further that no charge will be levied for the first re-reading in a 12-month period of time.
(Code 1974, § 31-50.5; Ord. No. 2207, § 1, 9-27-05)

Sec. 106-39. Galvanized pipe required; depth of pipe.

All persons connected with the city water system or laying their own private pipe shall be required to use standard galvanized pipe up to and including two inches in size. All pipe shall be laid not less than two feet below the surface of the ground, except that, in streets where the grade is already established, the pipe shall be laid at least two feet below the established grade.
(Code 1974, § 31-25.1)

Sec. 106-40. Maintenance of service lines; replacement of inadequate service lines.

(a) All service lines between the main and the property line shall be maintained by and at the expense of the city. If a meter is not set at the end of the lead service, the service line and connection between the end of the lead service and the meter shall be maintained by the city.

(b) When it is found that the service line from the main to the property line is inadequate to furnish standard water service to the property owner, the city shall replace the service line at no

cost to the property owner. At the discretion of the city, the replacement service line may be connected to a larger or more adequate main, if one exists in the alley or street adjacent to the property. This new connection will be at no cost to the property owner.
(Code 1974, § 31-26)

Sec. 106-41. Maintenance of private lines.

All private water lines shall be maintained by and at the expense of the owner. When the city notifies the owner that there is a leak in his private line, the owner shall have the same repaired immediately, and in case offailure to do so, the water will be cut off until the line has been repaired.
(Code 1974, § 31-27)

Sec. 106-42. Keys forcurb cocks.

The superintendent of utilities may permit any properly licensed and registered plumber to have a service key, which he shall keep in his possession and with which he may shut off the curb cock for 1.1e] purpose of making repairs on the premises. No person other than such plumber shall use the key. Plumbers shall leave a curb cock in the condition in which it was found.
(Code 1974, § 31-28)

Sec. 106-43. Service for fire protection generally.

Water service for fire protection must be fitted for such fixtures only as are needed for fire protection and entirely disconnected from those used for other purposes.
(Code 1974, § 31-29)

Sec. 106-44. Connection to sprinkler systems.

The following provisions shall apply to buildings having fire sprinkler systems connected to the city water systems:

(1) The valve shall be placed between the city main and the building in a place designated by the city engineer.

(2) The city shall make all connections from the main to the sprinkler service line valve. The charge for this connection will be $50.00, plus the cost of all material required, including replacement of pavement, if any.

(3) There shall be a one-time charge of$100.00 for plan review, review of test results, inspection and certification of system.

(4) No connections for water use other than the fire sprinkler system will be permitted on the sprinkler system waterline.

(5) City representatives shall at all times be permitted to go on the premises for the purpose of inspecting the fire sprinkler system and the connections thereto.

(6) All repairs to the system will be made by the owner or occupant ofthe building. The city will make any repairs to the city main servicing the sprinkler line.

(7) If there are any leaks in the fire sprinkler system, the city will notify the property owner and/or occupant. Repairs are to be made within 48 hours from the time of such notice, or within such time as may be given in writing by the city manager. If deemed necessary the city will cut off the water supplying the system and any cost related to reestablishing service will be born by the owner of the sprinkler system.

(Code 1974, § 31-30)

Sec. 106-45. Fluoridation of water supply.

In order to protect the health and welfare ofthe citizens of the city, the quantity of fluoride in the public water supply shall be controlled in such a manner that the amount present in the water served to the public shall be in conformity with the policy established by the state department of health.
(Code 1974, § 31-31)

Sec. 106-46. Right of entry to inspect connections and lines; badge, credentials of inspectors.

(a) Officers and employees of the city, whose duty it may be to enter upon private premises to make inspections of pipes and fixtures or attachments used in connection with the city's water

lines, will be provided with a badge or other credentials to identify them as such officers and employees. Any such officer or employee shall, upon presentation of his badge or other credentials, have free access at all reasonable hours to any premises supplied with city water, for the purpose of making any inspection of a water connection or line upon the premises. In case any employee is refused admittance to any premises or is prevented from making such inspection, the city may cause the water to be turned off from the premises forthwith.

(b) It shall be the duty of every officer or employee issued a badge or other credentials under this section to forthwith surrender and deliver the same to the utility superintendent's office upon his leaving the employ of the city.
(Code 1974, § 31-32)

Sec. 106-47. Unlawful reconnection of service after cutoff.

When water has been shut off from any premises by application of the owner thereof or for the nonpayment of water charges or for any other cause, it shall be unlawful for any person again to connect such premises with water except when authorized to do so by the superintendent of utilities. When water is turned off by the city and the city discovers water is on at the residence without the cities or superintendent's authority, a fee of $100.00 will be charged to the homeowner or applicant. Additionally, when water is so turned on without such authority, the superintendent may then shut off the water at the main or remove a portion of the service connection at the cock, and if the water was so turned on by the consumer or by his authority, he shall be charged $100.00 for reinstallation of the meter. Each day or part of a day during which such violation is continued or repeated shall constitute a separate offense. These fees are in addition to any other penalties for violation of code or legal offenses.
(Code 1974, § 31-33; Ord. No. 2207, § 1, 9-27-05; Ord. No. 2496, 4-22-14)

Sec. 106-48. Damaging, disturbing, etc., system property generally.

It shall be unlawful for any person, unless duly authorized by the superintendent of utilities, to disturb, displace, interfere with, cover up, damage or destroy any water main, water pipe, meter, meter box, machinery, tool, building, curb cock, curb box or any other property belonging to, connected with or under the control of the city water supply system. If meter reader is unable to read a meter due to intentional blockage or damage then the city shall apply a $100.00 fee to the utility account. Each day or part of a day during which such violation is continued or repeated shall constitute a separate offense. These fees are in addition to any other penalties for violation of code or legal offenses.
(Code 1974, § 31-34; Ord. No. 2497, 4-22-14)

Sec. 106-49. Responsibility of owner or occupant to repair or replace damaged meters.

In all cases where water meters or boxes are lost, injured or broken by willful action or as a result of carelessness or negligence of owners or occupants of premises, they shall be replaced or repaired at the expense of the owner or occupant. In case of nonpayment, the water shall be cut off and will not be turned on until such charges are paid.
(Code 1974, § 31-35)

Sec. 106-50. Opening, interfering with, obstructing, etc., fire hydrants or stopcocks.

(a) It shall be unlawful for any person, except one duly authorized by the superintendent of utilities or a member of the fire department, to open, turn on or off, interfere with, damage, destroy, attach any pipe or hose to, or connect any thing with, any fire hydrant to a stopcock belonging to the city.

(b) It shall be unlawful for any person to obstruct access to any fire hydrant by placing around or thereon brick, lumber, dirt or other things, or in any other manner.
(Code 1974, § 31-36)

Sec. 106-51. Climbing ladder or appurtenances to standpipe, reservoir or water tower.

It shall be unlawful for any person not an employee of the city to ascend the ladder or

ladders, or any of the appurtenances attached to the standpipe, reservoirs or water tower of the city, which standpipe is located on Third Street, between Adams Avenue and Jefferson Avenue, and which water tower is located on the easterly 90 feet of Lot 4 in Block 532, and which reservoir is located on the Skyline Drive.
(Code 1974, § 31-37)

Sec. 106-52. Posting bills, signs on or defacing standpipe or water tower.

It shall be unlawful for any person to post any bills or attach any advertising matter or signs to the standpipe or water tower referred to in section 106-51, or any of the appurtenances attached thereto, or to write or print any matter thereon, or by any other means injure or deface the same.
(Code 1974, § 31-38)

Secs. 106-53—106-70. Reserved.

DIVISION 2. SERVICE CHARGES*

Sec. 106-71. Rates established.

(a) The rates to be charged for water furnished by the city water system shall be as follows:

Cubic feet	*Inside city users*	*Outside city users*
1—300	$10.50 (minimum)	$15.91 (minimum)
Over 300	$3.81/100 cubic feet	$5.70/100 cubic feet

(b) These rates shall be reviewed at the end of the current fiscal year, which is June 30. Each January 1 thereafter, the above rates shall be adjusted to reflect increases in the Consumer Price Index (CPI). The city shall post and make available to the public a schedule of the adjusted rates to be charged.

(c) *Low volume discount.*

(1) Using the official poverty guidelines published by the U.S. Department of Health and Human Services each year, households with proof of income less than this poverty level shall be granted an adjustment on their monthly utility bill, but in no case shall the bill be adjusted below the basic minimum. The current adjustment rate as of January 1, 2012 is $11.00. Each January 1 thereafter, the above adjustment rate of $11.00 shall be amended based on the analysis of the Consumer Price Index (CPI).

(2) To qualify for the low income discount, the customer must provide a copy of his or her latest officially filed federal income tax return, or proof of income in lieu thereof. This form must be filed on the first of June of each year. Income shall mean total income, not adjusted income. The discount period shall expire on June 30th of each year and shall be renewed by the customer.

(3) This discount provision shall not apply to landlords or commercial enterprises. Discounts shall apply to the low income individual's occupied residence.

(Ord. No. 1987, § 1(31-45), 7-28-92; Ord. No. 2062, § 1, 5-13-97; Ord. No. 2213, § 1, 10-25-02; Ord. No. 2214, § 1, 11-8-05; Ord. No. 2235, §§ 1, 2, 6-27-06; Ord. No. 2439, §§ 1, 2, 9-25-12)

Sec. 106-72. Special contracts, rates for large users.

The city council is authorized to enter into a special contract with any industrial concern or corporation or another municipal government for water services where the use will be in excess of 300,000 gallons per month. The rates established in those contracts shall be established by the city council and will not necessarily be those in effect for other residential or industrial users. This section shall not be so construed as to annul any valid contract which the city may have heretofore entered into or may have assumed, nor shall it invalidate any valid bonus agreement made to secure location of any business or manufacturing concern in or near the city.
(Code 1974, § 31-46)

Sec. 106-73. Charged against applicant for service.

All charges for water shall be charged against the person who signed the application for service.
(Code 1974, § 31-47)

*State law reference—Authority to prescribe water rates, 11 O.S. § 37-109.

Sec. 106-74. Separate minimum charge for each premises served by same meter.

When more than one building or apartment or other subdivision of space in any residence or commercial building is served through one water meter, each such additional building, apartment or subdivision of space shall be deemed a separate water service, and a separate minimum charge shall be made therefor and collected by the city treasurer. In any case, such minimum charge shall be the regular minimum charge at the current rates in effect at the time of billing.
(Code 1974, § 31-48)

Sec. 106-75. When due and payable; delinquency.

Charges for water service by meter and otherwise shall be due and payable monthly on dates to be determined by the city, and each bill will be stamped with a past due date. If such bill is not paid on or before the past due date stamped thereon, a ten percent penalty will be added. If the bill is not paid within ten days after the past due date stamped thereon, a ten percent penalty will be added. If the bill is not paid within ten days after the past due date stamped thereon, the connection will be cut off, without notice, by the city. In this event, an additional charge of $25.00 for first offense shall be added to the bill for turning the water off and for repeat offenses a $45.00 charge will be added for turning the water off. When water is turned off by the city for nonpayment and the city discovers water is on at the residence, without the city's or superintendent's authority, an additional fee of $100.00 will be charged to the homeowner or applicant on the account. When an account has been off and locked and the lock has been tampered with or removed, a fee of $100.00 will be assessed to the account and the meter will be re-locked or removed from the location. An additional fee of $100.00 shall be charged to pull the meter. Each day or part of a day during which such violation is continued or repeated shall constitute a separate offense. These fees are in addition to any other penalties for violation of code or legal offenses.
(Code 1974, § 31-49; Ord. No. 2207, § 1, 9-27-05; Ord. No. 2499, 5-13-14)

Sec. 106-76. Estimate in case of defective meter.

If a water meter is out of order or fails to register properly, the consumer shall be charged on an estimate made of the average monthly consumption during the last three months when the meter was in good condition or from what the city may consider to be the most reliable data for making such estimate.
(Code 1974, § 31-50)

Sec. 106-77. Raw water sales.

(a) Raw water sales shall be allowed from any city-owned water source as approved by the city manager or his representative.

(b) The rate of the raw water furnished shall be a minimum of $0.25 per barrel with the city manager or his representative having authority to negotiate a higher price, a barrel being established as 42 gallons. The minimum rate shall be increased three percent annually beginning January 1, 2011, and adjusted each January 1 of every year thereafter.

(c) All connections, piping, meters, and other accessories shall be furnished by the customer.

(d) Meters provided shall be adequate for the flow utilized and approved by the city manager or his representative. Meters shall have been calibrated and certified within one year of date of use and shall be within plus or minus two percent accuracy. Certification shall be provided to the city manager or his representative.

(e) All connections shall provide a backflow prevention device at the withdrawal location and an air gap at the discharge location. Each connection will be subject to the approval of the city manager or his representative.

(f) All fuel, oil, or other potential contaminants of the water source shall have a containment system adequate to contain any potential spill. The containment system shall be subject to the approval of the city manager or his representative.

(g) The customer shall be responsible for the raw water once removed from the city's water source and responsible for meeting all state and federal regulations.

(h) The customer shall provide the city water office all required billing information prior to installing water connection. Meter reading shall also be provided to the McAlester Water Office prior to installing connection to the raw water source and monthly meter readings shall also be provided. Payment for raw water usage shall meet the requirements of section 106-75.

(i) In the event of a shortage of water, or the supply of water available to the city is otherwise diminished in the city's determination to make performance of the sale impossible, such sale may be cancelled.

(j) Meters provided by customer shall be nonresettable or shall be contained in a locked canister controlled by the city.
(Ord. No. 2344, § 1, 1-12-10)

Secs. 106-78—106-90. Reserved.

DIVISION 3. WATER EMERGENCIES

Sec. 106-91. 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:

Essential use means the use of water for commercial purposes or for bodily needs and general household purposes.

Nonessential use means the use of water for the watering of lawns, hedges and gardens or for any other purpose not herein defined as an essential use.
(Code 1974, § 31-57)
Cross reference—Definitions generally, § 1-2.

Sec. 106-92. Division binding on all water users.

This division is binding upon all water users of the city, whether residing or having business or being within the city limits or out of the city limits.
(Code 1974, § 31-58)

Sec. 106-93. Authority to proclaim and direct conservation of water.

In view of the inadequacy of the city water system to produce enough water during drought periods and times of breakdown in equipment and the transportation system to satisfy all demands of the users thereof, the city manager is hereby granted the right, power and authority to determine and declare an emergency when, in his judgment, such action is necessary, and to direct, by proclamation, the water users of the city to conserve water in accordance with the terms of his proclamation.
(Code 1974, § 31-59)

Sec. 106-94. Specific emergency orders authorized.

(a) The city manager shall have the right, power and authority, without limitation, in accordance with the emergency then existing, to order the proration of water or the discontinuance of use of water from the city mains, or to take such other and additional measures as he deems necessary in accordance with the needs of the public, provided that he, in the proclamation published pursuant to this division, shall clearly and distinctly state his orders, so that the public may intelligently comply therewith.

(b) Without limitation on the general powers granted to the city manager to declare an emergency in times of peril, drought, mechanical breakdown or other emergencies, he is hereby granted the express authority, during times of drought, or when the water supply of the city is limited by any cause, to order by proclamation as provided for in this division, that during the extent of such emergency the nonessential use of water shall be permitted only on alternate days of the week; each day to begin at 12:01 a.m. and end at 12:00 p.m. He may provide, among other regulations,

that during the period of such emergency, all persons occupying or possessing premises bearing even-numbered street numbers shall be permitted to use water for such nonessential uses only on the even-numbered days of the calendar; that all persons occupying or possessing premises bearing odd-numbered street numbers shall be permitted to use water for nonessential uses only on the odd-numbered days of the calendar. If such tract of ground so occupied has no street number, or is without the corporate limits of the city, then such premises shall be deemed to be even-numbered houses or premises, if they are on the same side of the street or avenue, or extension thereof, as numbered premises having an even number; and those being on the same side of the street or avenue or extension thereof as odd-numbered houses shall be deemed to be odd numbered.
(Code 1974, § 31-60)

Sec. 106-95. Publication of proclamation; when proclamation effective.

When the city manager shall determine that the city water system is unable, at any one time, to supply the full commercial and domestic needs of the users thereof, he shall cause his proclamation of such emergency to be published in one issue of a newspaper having general circulation in the city. Within 24 hours after such publication, the emergency shall be in force and effect, and the water uses shall be bound by the terms of conservation of water as set forth in the proclamation.
(Code 1974, § 31-61)

Sec. 106-96. Duration.

An emergency proclaimed in accordance with this division shall continue and the terms of such proclamation shall be in force until such time as the city manager shall again cause to be published in a newspaper, for one issue thereof, his proclamation that the state of emergency has ended.
(Code 1974, § 31-62)

Sec. 106-97. Appeals to council by persons aggrieved by proclamation.

Any person feeling aggrieved by a proclamation of the city manager issued and published in accord with this division shall have the right to present the matter to the next regular or special session of the city council, and the ruling of the city council, by a majority vote of the quorum in attendance, shall be final and binding as to the continuance of the terms of the proclamation. Until and unless the action of the city manager is expressly modified or revoked by action of the city council, all water users, their servants, agents, officers and employees shall be bound by the proclamation of the city manager in accordance with the terms of this division.
(Code 1974, § 31-63)

Sec. 106-98. Violations.

Any person violating in any manner any of the terms of a proclamation issued and published in accordance with this division, directly or indirectly, in person or by agent, and any person guilty of negligently permitting others to violate the terms of such a proclamation, shall be deemed guilty of a misdemeanor. Each separate day of illegal water use shall constitute a separate offense, and each separate illegal use of water on the same day, but on separate premises, shall constitute a separate offense.
(Code 1974, § 31-64)

Secs. 106-99—106-110. Reserved.

DIVISION 4. WATER SUPPLY AND DISTRIBUTION LINES

Subdivision I. General Provisions

Sec. 106-111. Penalty.

Any person violating or failing to comply with the provisions of this division shall be deemed guilty of a misdemeanor and shall be punished as provided for in section 1-8.
(Code 1974, § 31-25(C))

Secs. 106-112—106-120. Reserved.

Subdivision II. Excavations, Trenching and Backfilling

Sec. 106-121. Scope.

The work covered by this subdivision consists in furnishing all labor, equipment, appliances and

materials, and in performing all operations in connection with the excavation, trenching and backfilling for water supply and distribution lines, in strict accordance with this section of specification, as indicated on the plans and subject to the terms and conditions of the contract, at no cost to the city.
(Code 1974, § 31-25(A)(1))

Sec. 106-122. Excavation.

(a) *Generally.* The developer shall perform all excavations of every description and of whatever substances encountered, to the depths indicated on the drawings. During excavation, material suitable for backfilling shall be piled in an orderly manner a sufficient distance from the banks of the trench to avoid overloading and to prevent slides or cave-ins. All excavated materials not required or suitable for backfill shall be removed and disposed of as directed by the engineer. Such grading shall be done as may be necessary to prevent surface water from flowing into trenches or other excavations, and any water accumulating therein shall be promptly removed by pumping or by other approved method. Excavation shall be by open cut, except at driveways and walks. Where driveways or walks intersect the ditch alignment, excavations shall be by pushing and/or boring methods approved by the engineer. Earth excavation shall comprise all materials not classified as rock excavation, and shall include clay, silt, sand, muck, gravel, hardpan, loose shale, broken concrete, loose stone in masses, and boulders measuring less than one-half cubic yard in volume. All service connections or stub outs beneath paved areas will be installed by pushing or boring. Any deviation from the requirements above must be approved by the engineer in writing.

Rock excavation shall comprise the following: boulders measuring one-third cubic yard or more in volume; rock material in ledges, bedded deposits, and unstratified masses and conglomerate deposits so firmly cemented that they possess the characteristics of solid rock, which cannot be removed without systematic drilling and blasting; and concrete or masonry structures, except sidewalks and paving. Shale shall be considered to be rock.

Blasting for excavation will be allowed only with permission of the engineer during hours approved by the engineer. Damage resulting from blasting operations shall be repaired by the developer at no expense to the city. Methods used in blasting operations shall be in accordance with state and municipal laws, rules and/or regulations.

(b) *Trench excavation.* Trenches shall be of necessary width for the proper laying of the pipe, the banks shall be as nearly vertical as practicable, and the maximum width shall be 30 inches. The bottom of the trenches shall be accurately graded to provide uniform bearing and support for each section of the pipe on undisturbed soil at every point along its entire length. Bell holes shall be excavated by hand after fine grading of the trench bottom. Care shall be taken not to excavate below the depth indicated. Where rock excavation, as defined above, is required, the rock shall be excavated to an overdepth from four to six inches and backfilled to grade with sand as directed by the engineer. Unauthorized overdepths shall be backfilled with loose, granular, moist earth, thoroughly tamped at the developer's expense. Where soft, spongy or otherwise unstable material is encountered, which will not provide a firm foundation for pipe, the unstable soil shall be removed, replaced and tamped. The engineer shall determine the depth of removal of unstable soil.

(1) *Sanitary sewers.* Sanitary sewer service connections encountered during excavation for water mains shall be reconstructed as shown on the drawings or as nearly as possible as existing conditions permit and approved by the engineer. The width of the trench at and below the top of the sewer pipe shall be such that the clear space between the barrel of the pipe and the trench wall shall not exceed eight inches on either side of the pipe. The width of the trench above that level may be as wide as necessary for sheeting and bracing and the proper performance of the work. The bottom of the trench shall be rounded so that at least the bottom quadrant ofthe pipe shall rest firmly on undisturbed soil for as nearly the full length of the barrel as proper jointing operations will permit. This part of the excavation shall be done manually only a few feet in advance of the pipe-laying by people skilled in this type of work.

(2) *Storm sewers.* Storm sewers, at such depth as to require laying waterlines thereunder, shall be preserved and maintained in place; if damaged, shall be replaced; and disturbed joints shall be repaired to the satisfaction of, and as directed by, the engineer.

(3) *Water supply and distribution lines.* Trenches for waterlines shall be of a depth

that will provide a minimum cover over the top of the pipe of three feet from the finished grade, and avoid interference of the waterlines with other utilities.

(c) *Excavation for appurtenances.* Excavation for valves, hydrants and similar structures shall be in accordance with the recommendations of the manufacturer of such appurtenances or a minimum of 12 inches in the clear between their outer surfaces and the embankment or timber which may be used to hold and protect the banks. Any over-depth excavation below such appurtenances that has not been directed by the engineer shall be considered as unauthorized and shall be filled with sand, gravel or concrete as directed, and at the expense of the developer.

(d) *Bracing and shoring.* The developer shall do all bracing, sheeting and shoring necessary to perform and protect all excavations as indicated on the plans, as required for safety, as directed by the engineer, or to conform to governing laws.

(e) *Traffic safety.* The developer shall provide temporary bridges, barricades, lights and torches as may be required for the protection of pedestrian and vehicular traffic.
(Code 1974, § 31-25(A)(2))

Sec. 106-123. Protection of existing utilities.

(a) *Location.* The developer, prior to excava. tion, shall determine the location of all existing utilities adjacent to or intersecting the alignment of the trench, and shall exercise all due caution to prevent damage thereto during excavation and backfilling of trenches. Any utility damaged during excavation or backfilling shall be repaired by the developer at his expense.

(b) *Gas distribution lines.* Due caution shall be exercised by the developer to prevent damage to existing gas distribution lines and gas service connections. It shall be the responsibility of the de. veloper to notify the owner of said utility lines prior to excavation in areas where damage, whether accidental or through negligence, might occur. Where gas distribution lines and/or gas service connections are in conflict with the grade and/or the alignment of the waterline, either the gas line shall be relocated by the owner of the gas line at no cost to the city, or the grade and/or alignment of the waterline shall be modified by the developer at no additional cost to the city. Any such modification to the waterline shall be contingent upon written request from the developer and approval, in writing, of the engineer.

(c) *Tests.* Tests for workmanship on utility lines shall be conducted in accordance with applicable utility specifications before backfilling.
(Code 1974, § 31-25(A)(3))

Sec. 106.124. Backfilling.

(a) *Generally.* The trenches shall not be completely backfilled until all required pressure tests are performed and until the utilities systems as installed conform to the requirements specified in the several sections covering the installation of the various utilities. Backfilling materials, and the method of placing and compacting these materials, shall comply with the applicable portions of the subparagraphs contained herein. Any trench improperly backfilled, or where settlement occurs, shall be reopened to the depth required for proper compaction, then refilled and compacted, with the surface restored to the required grade and compaction. No backfilling shall take place in freezing weather except with the permission of the engineer, and no backfill shall be made with frozen material.

(b) *Backfilling materials.*

(1) Around pipe. The backfill material to be placed around the pipe shall consist of the excavated or borrow materials approved for backfilling, consisting of loam, sandy clay, sand and gravel, soft shale, or other approved materials, free from stones over three inches in diameter or large clods of earth.

(2) Remainder of backfill. The remainder ofthe backfill shall consist of selected material from excavation or borrow, consisting of loam, sandy clay, sand and gravel, soft shale, or other approved materials, free from large stones over three inches in diameter, or other hard, bulky material.

(c) *Placement and compaction.*

(1) Bedding of pipe. The material for backfilling around the pipe shall be deposited in six-inch layers and carefully compacted to a degree of compaction at least equal to that of the surrounding soil until the pipe has a cover of not less than one foot for water mains. Where the pipe is specially coated for protection against corrosion, care shall be taken not to damage the coating.

(2) Beneath unpaved areas and sidewalk. After completing the bedding of the pipe as specified above, the remainder of the backfill material shall be placed by hand or by approved mechanical means in layers and tamped. The thickness of the layers shall be one foot beneath unpaved areas. Each layer shall be compacted to a degree of compaction at least equal to that of the surrounding earth. Moistening or aerating of the backfill to obtain the required compaction will be required where necessary. The trench shall be left with the backfill neatly mounded over the trench.

(3) Beneath areas to be paved. Open trenches under road surfacing and adjacent areas to a point eight feet from the edge of the paved road surface shall be backfilled as described except that the entire depth of the trench shall be backfilled in six-inch layers. Each layer, except the upper six inches or subgrade underlying the pavement, shall be spread uniformly and tamped with a hand tamper or other approved device until thoroughly compacted to at least 90 percent of the maximum density obtainable at optimum moisture content. The upper six-inch layer, forming the subgrade for pavements, shall be compacted to at least 95 percent of the maximum density obtain. able at optimum moisture content for flex. ible pavements and to at least 90 percent of the maximum density obtainable at optimum moisture content for rigid pave. ments. Density of backfill shall be determined by the requirements of the Modified AASHO Standard Method T99-49, Grading.

(Code 1974, § 31-25(A)(4))

Sec. 106-125. Replacement of paving and other surfaces.

After completing the compaction of the backfill as described above, the developer shall replace the disturbed surfaces to the original grade or two inches below grade, with concrete eight inches thick and to the depths and limits as indicated to the plans or as directed by the engineer.

(Code 1974, § 31-25(A)(5))

Secs. 106-126-106-135. Reserved.

Subdivision III. Mains and Connections

Sec. 106-136. Scope.

The work covered by this subdivision consists in furnishing all labor, equipment, appliances and materials, and in performing all operations in connection with the construction of water mains, the connection and reconnect ion to intersecting mains, buildings, hydrants, and at all structures to which service is required, the tapping of existing water mains, and installation of railroad crossings as called for on the plans and subject to the terms and conditions of the specifications.

(Code 1974, § 31-25(B)(1))

Sec. 106-137. Applicable specifications.

The following specifications and standards of the American Water Works Association, American National Standards Institute, Inc., American Society for Testing and Materials, and federal specifications of the issues listed below but referred to thereafter by basic designation only, form a part of this specification to the extent indicated by the references thereto:

Description	*AWWA*	*ANSI*	*ASTM*	*Federal Specifications*
Calcium hypochlorite	B300-75			
Liquid chlorine	B301-51			

Description	*AWWA*	*ANSI*	*ASTM*	*Federal Specifications*
Thickness design for cast iron pipe	C101-67	A21.1-1967		
Cement mortar lining for cast iron and ductile iron pipe and fittings for water	C104-74	A21.4-1974		
Polyethylene encasement for gray and ductile cast iron piping for water	C105-72	A21.5-1972		
Cast iron pipe centrifugally cast in metal molds for water	C106-75	A21.6-1975		
Gray-iron and ductile iron fittings 2 inches through 48 inches for water	CllO-71	A21.10-1971		
Rubber-gasket joints for cast iron and ductile iron pressure pipe and fittings	C111-72	A21.11-1972		
Flanged cast iron and ductile iron pipe with threaded flanges	C1l5-75	A21.15-1975		
Thickness design of ductile iron pipe	C150-71	A21.50-1975		
Ductile iron pipe centrifugally cast in metal molds	C151-71	A21.51-1975		
Gate valves 3 inches through 48 inches for water	C500-71			
Dry barrel fire hydrants	C502-73			
Rubber-seated butterfly valves	C504-74			
Ball valves shaft- or trunion-mounted 6 inches through 48 inches	C507-73			
Installation of cast iron water mains	C600-64			
Copper water tube seamless, type C		H23.1	B88-74a	WW-T-799D-1971
Polyvinyl chloride (PVC) pressure pipe, 4 inches through 12 inches, for water, with rubbing ring joints and cast iron pipe equivalent outside dimensions	C900-75			

(Code 1974, § 31-25(B)(2))

Sec. 106-138. General standards.

Piping for water mains and building-service connections may be any of the types and materials specified herein. The pipe and accessories shall be new and unused unless otherwise approved. The interior of the pipe shall be thoroughly cleaned of foreign matter before being lowered into the trench, and shall be kept clean during laying operations by plugging or other approved method. The full length of each section of pipe shall rest solidly upon the pipe bed, with recesses excavated to accommodate bells and joints. Any pipe that has the grade or joint disturbed after laying shall be taken up and relaid. Pipe shall not be laid in water, or when trench or weather conditions are unsuitable for the work, except when otherwise expressly permitted. Water shall be kept out of the trench until the material in the joints has hardened, or until caulking is completed. When work is not in progress, open ends of pipe and fittings shall be securely closed so that no trench water, earth or other substances will enter the pipes or fittings. Any section of pipe found to be defective before or after laying shall be replaced. The water pipe shall not be laid closer horizontally than ten feet from a sanitary sewer except where bottom of water pipe will be at least 12 inches above the top of the sewer pipe, in which case the water pipe shall not be laid closer horizontally than six feet from the sewer. Where waterlines cross under gravity sewer lines, the sewer shall be reconstructed, for a distance of ten feet each side of the crossing, of cast iron, steel, or other acceptable pressure pipe, with no joint located within three feet of the crossing. Where sewage force mains or inverted siphons cross water mains, the water mains shall in all cases be installed at least two feet above the sewer mains. Fittings at bends in the pipeline shall be firmly wedged against the vertical face of the trench by means of concrete blocks as shown on the drawings to prevent the fittings from being blown off the lines when under pressure. Where pipe ends are left for future connections, they shall be valved, plugged, or capped, blocked and wedged, as indicated on the plans. Where connections are made between new work and existing mains, the connections shall be made by using specials and fittings to suit the actual conditions. Upon completion of the construction of the water distribution system improvements and incidental work, all debris and surplus materials resulting from the work shall be removed.
(Code 1974, § 31-25(B)(3))

Sec. 106-139. Excavation, trenching and backfilling.

Excavation, trenching and backfilling shall conform to the section titled, "Excavation, Trenching and Backfilling for Water Distribution System" of the specifications.
(Code 1974, § 31-25(B)(4))

Sec. 106-140. Cast iron pipe.

(a) *Material.*

(1) *Pipe.* Cast iron bell-and-spigot pipe shall be Enamelline as produced by the American Cast Iron Pipe Company, or equal, furnished with mechanical type joints in conformance with the latest revisions of ASA Standard Specifications A 21.11, A 21.2, A 21.6 or A 21.8 or Federal Specification WW-P-421b Class 150, Type III.

(2) *Cement lining.* The pipe shall have a three-coat lining applied to the interior surface. The first two coats shall consist of a mortar made up of Portland cement mixed with clean silica sand, and the third coat shall consist of an asphalt paint. The cement lining shall be in accordance with ASA Specification A 21.4.

(3) *Tests.* The pipe shall be tested in accordance with applicable sections of Federal Specification WW-P-421b. Certified records of the tests made by the manufacturer and/or by a commercial laboratory, approved by the engineer, shall be submitted with each shipment of pipe.

(4) *Cast iron specials and fittings.* Specials and fittings shall be in strict conformance with the latest revisions of AWNA Standard Specifications C-100 Class, DASA Standard Specifications A 21.11, and shall be in accordance with ASA Specification A 21.4.

a. All connections, other than individual service connections, to city water lines

four inches and larger, shall be made with cast iron tees or crosses approved by the utilities superintendent. Wet connections shall be made with mechanical joint cast iron tapping sleeve or tapping cross and appropriate tapping valve. The cross or sleeve shall be equipped with duct-tipped end gaskets and shall be similar and equal in quality and working principles to Mueller H-615 (taping sleeve) or Mueller H-715 (tapping cross).

(5) Joints. Bell-and-spigot pipe joints shall be of the mechanical, bolted stuffing box type, and shall conform to ASA Standard Specification A 21.11.

a. *Glands.* The annular surfaces of the gland lip and the bolt circle shall be concentric. The surfaces of the gland shall be smooth, and free from defects of every nature which would unfit them for the use intended. Glands shall be coated with a bituminous dip or paint.

b. *Bolt holds.* Bolt holds for pipes and fittings may be drilled or cored. All bolt holes shall be free of sand or projections of iron that would interfere with the fit of the bolts.

c. *Bolts and nuts.* High-strength, heat-treated cast iron tree-head bolts with hexagon nuts shall be the standard bolts. Bolt dimensions required for nominal pipe diameter of six inches, eight inches, ten inches, and 12 inches shall be three-fourths inch by ten-inch coarse, Class 2 fit, four inches long. Bolts and nuts shall conform to dimensions and tolerances specified in Federal Specification WW-P-421b.

d. *Gaskets.* Gaskets shall be made ofa vulcanized crude-rubber compound. The rubber shall be first-grade plantation rubber. All surfaces of the gaskets shall be smooth, except for the specified markings, free from imperfections, and the gaskets shall be free from any porosity. The gaskets shall be furnished with lead tips in conformance with and as described by paragraph 3.12.3 figure 8 (4" by 48" lead tip) of Federal Specification WW-P-42 Lb.

(b) *Installation.*

(1) Handling. Pipe and accessories shall be handled in such manner as to insure delivery to the work in sound, undamaged condition. Particular care shall be taken not to injure the pipe coating. No other pipe or material of any kind shall be placed inside of a pipe or fitting after the coating has been applied.

(2) Cutting. Cutting of pipe shall be done in a neat and workmanlike manner without damage to the pipe. Unless otherwise au. thorized by the engineer, cutting shall be done by means of an approved type of mechanical cutter. Wheel cutters shall be used when practicable.

(3) Placing and laying. While suspended in the sling and before lowering into the trench, each length of pipe shall be inspected for defects and tapped with a light hammer to detect cracks. Defective, damaged or unsound pipe will be rejected.

(4) Deflections. Deflections from a straight line or grade, as required by vertical curves, horizontal curves or offsets, shall not exceed the limits set out below:

Maximum Allowable Pipe Deflections

Nominal diameter of pipe {inches}	*Maximum deflection at each joint {degrees/ minutes}*	*Maximum deflection per foot of pipe {feet/inches}*
4, 6	*2°30'*	1/2 inch
8, 10 and 12	*2°30'*	1/2 inch

If the alignment requires deflections in excess of these limitations, the developer shall provide special bonds or a sufficient number of shorter lengths of pipe to provide angular deflections within the limit set forth.

(5) Mechanical joints. The spigot shall be centrally located in the bell. The inside of the bell of the pipe or fitting previously placed,

and the spigot to be received thereby, shall be thoroughly brushed with a wire brush. These surfaces shall be clean and free from all loose rust, scale or foreign material. Immediately prior to the slipping of the rubber gasket over the spigot end and into the bell, these surfaces shall be brushed with soapy water. The gasket will be brushed with soapy water after it is in position on the spigot and just before entering the bell.

Torque for three-fourths-inch coarse thread Class 2 fit shall range between 60 and 90 foot-pounds. This range of torque can be produced by the average man using an eight-inch wrench. Torque wrenches shall be used to check the application of approximate torque loads applied by workmen trained to give an average pull on eight-inch socket wrench.

When tightening bolts, the gland shall be brought up toward the pipe flange evenly, maintaining approximately the same distance between the gland and the face of the flange at all points around the socket. This shall be accomplished by partially tightening the bottom bolt first, then the top bolt, next the bolts at either side and last the remaining bolts. This cycle shall be repeated until all bolts are within the specified torque range. If effective sealing is not attained at the maximum torque of 90 foot-pounds, the joint shall be disassembled and reassembled after thorough cleaning. Overstressing of bolts to compensate for poor installation practice will not be tolerated or allowed.

(Code 1974, § 31-25(B)(5))

Sec. 106-141. Tests.

(a) *Hydrostatic pressure test.* After the pipe is laid, the joints completed, and the trench partially backfilled leaving the joints exposed for examination, the newly laid piping or any valved section of piping shall be subjected to a pressure test of 50 pounds per square inch in excess of what static pressure at the points of reading will be when the system has been put in operation. If this valve is not readily determinable, a hydrostatic pressure of 130 pounds per square inch shall be used for tests. All exposed pipes, joints, fittings, valves and hydrants shall be carefully examined during the open trench test. Joints showing visible leakage shall be disassembled and reassembled until tight. Cracked or defective pipes, fittings, valves or hydrants disclosed in the pressure test shall be replaced by the developer with sound material, and the test shall be repeated until the test results are satisfactory to the engineer.

Where an actual visible inspection of each joint cannot be made because of the necessity for immediate backfilling, where the line is laid below water level and is impracticable to lower the water level by pumping, suitable means shall be provided by the developer for determining the quantity of water lost by leakage under normal operating pressure. No piping installation will be accepted until or unless this leakage (evaluated on a pressure basis of 150 pounds per square inch) is less than 100 U.S. gallons per 24 hours per mile of pipe per inch nominal diameter for pipe in 12-foot lengths; 75 gallons for pipe in 16-foot lengths, and proportionately varied for other lengths of pipe. In calculating leakage the engineer will make allowance for added joints in the pipeline above the normal for unit lengths of pipe. Should any test of combined sections of pipeline disclose leakage per mile greater than that hereinbefore specified, or if individual sections show leakage greater than the specified limit, the developer shall locate and repair the defective joints until the leakage is within the specified limits.

(b) *Air pressure tests.* Air pressure tests, with the approval of the engineer, will be allowed as an alternate to hydrostatic pressure tests. If the developer elects to use this alternate, all joints shall be airtight at a static air pressure of 120 psi.

(Code 1974, § 31-25(B)(6))

Sec. 106-142. Gate valves.

Gate valves shall be Mueller a-Ring Seal packing designed for a minimum water working pressure of not less than 150 pounds per square inch. Valves shall have the proper ends as required for the piping in which they are installed. Gate valves shall have a clear waterway equal to the full nominal diameter of the valve, and shall be opened by turning counterclockwise. The oper-

ating nut or wheel shall have an arrow, cast in the metal, indicating the direction of opening. Each valve shall have the maker's initials, pressure rating and the year of manufacture cast on the body. Prior to shipment from the factory each valve shall be tested by hydraulic pressure equal to twice the specified water working pressure.
(Code 1974, § 31-25(B)(7))

Sec. 106-143. Valve boxes.

Valve boxes will be of cast iron, complete with cover. Cast-iron boxes shall be of extension type with screw- or slide-type adjustment and with flared base. The minimum thickness of metal shall be three-sixteenths inch. The word "water" shall be cast in the cover. Boxes shall be installed over each outside valve, insert valve and valve of "tapping sleeves and valves" installed, as required by the engineer. The boxes shall be of such length as will be adopted, without full extension, to the depth of cover required over the pipe at the valve location.
(Code 1974, § 31-25(B)(8))

Sec. 106-144. Fire hydrants.

Fire hydrants shall be Mueller No. A-24015 (Dry-top Traffic Model) or Equal D-Ring seal with a six-inch bell connection, two 21/2-inch connections with standard pipe thread, and one 41/2-inch pumper connection with national standard thread. The hydrants shall be designed for 150 pounds working pressure or 300 pounds hydrostatic test pressure. Working parts shall be bronze. Hose threads shall be standard pipe thread. Hydrants shall be connected to the mains by six-inch diameter pipes. Where an existing hydrant is to be reconnected, a six-inch gate valve shall be installed in the hydrant service line as directed by the engineer, unless the hydrant connections contain an auxiliary gate valve between the hydrant and the new main. Design, material and workmanship shall be similar and equal to the latest stock pattern ordinarily produced by the manufacturer. Hydrants shall be painted with one coat of red lead paint and two finishing coats of approved aluminum paint. Hydrants shall be dry-barrel type conforming to the American Water Works Standard C-502 with valve opening at least five inches in diameter, with breakaway flange.
(Code 1974, § 31-25(B)(9))

Sec. 106-145. Setting valves, valve boxes and fire hydrants.

Valves, valve boxes and fire hydrants shall be installed where shown on the drawings and directed by the engineer, and shall be set plumb. Valve boxes shall be centered on the valves. Where feasible, valves shall be located outside the area of roads and streets. Earth fill shall be carefully tamped around each valve box to a distance of four feet on all sides of the box, or to the undisturbed trench face if less than four feet. Fire hydrants shall be set at such elevations that the connecting pipe will not have less cover than the distributing mains. The hydrant shall be set upon a slab of stone or concrete not less than four inches thick and 15 inches square. The back of the hydrant, opposite the pipe connection, shall be firmly wedged against the vertical face of the trench to prevent the hydrant from flowing off the line. If the character of the soil is such that in the opinion of the engineer, the hydrant cannot be securely wedged, bridle rods and rod collars of not less than three-fourths inch stock protected by a coat of acid-resisting paint shall be used. Not less than seven cubic feet of broken stone shall be placed around the base of the hydrant to insure drainage. The backfill around hydrants shall be thoroughly compacted to the grade line in a satisfactory manner. Hydrants and valves shall have the interior cleaned of all foreign matter before installation. Stuffing boxes shall be tightened and the hydrant or valve shall be inspected in opened and closed positions to insure that all parts are in working condition. Valve boxes located in roads or sidewalks shall be protected by a concrete slab in accordance with the details shown on the drawings.
(Code 1974, § 31-25(B)(10))

Sec. 106-146. Service connections.

(a) *Corporation stops* shall have waterworks standard thread on the inlet end, with flanged joint couplings and shall conform to applicable requirements of AWWA Standard Specification C800-48.

(b) *Curb stops* shall be waterworks ground-key type, oval flow way, tee handle, without drain. All parts shall be of cast red brass having a nominal composition of 85 percent copper, five percent tin, five percent lead, and five percent zinc, with female iron pipe size connections and shall be designed for a minimum hydraulic pressure of 200 pounds per square inch.

(c) *Meter boxes* for residences will be furnished by the city. Commercial meter boxes where necessary will be furnished and installed by the developer. Rim and cover for new meter boxes will be furnished by the city.

(d) *Copper tubing* shall conform to Federal Specification WW-T-799, Type K soft tubing. Joints for underground work shall be compression pattern, flared, for soft copper water tubing and shall be made with fittings meeting approved standards. The tubing shall be cut off square and expanded with a proper flaring tool. Radii for goosenecks of sufficient magnitude to prevent buckling or collapse of the tubing shall be bent into the tubing by the use of proper tools and equipment.

(e) *Service connection lines* larger than two-inch diameter shall be AWWA standard cast iron pipe and fittings in strict accordance with sections 106-140 and 106-142.
(Code 1974, § 31-25(B)(1l))

Sec. 106-147. Sterilization.

(a) *Pipe to be kept clean.* The interior of all pipes, fittings, and other accessories during installation shall be as free as possible of all foreign matter, in conformance with this subdivision. If, in the opinion of the engineer, the pipe contains dirt that will not be removed during flushing operations, the interior shall be swabbed, as necessary, with a bactericidal solution. Solutions for swabbing shall be made from compounds hereinafter specified. No other compound shall be used unless it is approved by the local and state health authorities.

(b) *Flushing.* The main shall be thoroughly flushed, prior to chlorination, with the water pressure and outlets available. Flushing shall be done after pressure tests have been completed.

It will be assumed that flushing removes only the lighter solids and will not remove heavy material allowed to get into the main during installation.

If no hydrant is installed at the end of the line to be flushed, a tap shall be provided large enough to develop a velocity in the main of at least 2.5 feet per second.

Table I. Required Openings to Flush Pipelines 40 psi Pressure

	2.5 fps Flushing Velocity				*4 fps Flushing Velocity*		
			Hydrant Openings			*Hydrant Openings*	
Pipe size (inches)	*Flow (gpm)*	*Orifice size (inches)*	*No.*	*Size (inches)*	*Flow (gpm)*	*No.*	*Size (inches)*
6	220	13/8	1	21/2	350	1	21/2
8	390	P/8	1	21/2	630	1	21/2
10	610	215/16	1	21/2	980	1	21/2
12	880	213/16	1	21/2	1400	2	21/2

(c) *Chlorination.* Before being placed in service, all new pipelines, tapped, repaired or dewatered portions of existing mains shall be chlorinated so that a chlorine residual of not less than ten ppm remains in the water after a 24-hour contact period. Exemptions and/or modifications of the chlorination requirement may be granted by the engineer provided the chlorine residuals persist throughout the new main, and are of sufficient magnitude so that samples of water delivered by the pipeline under test meet the approval of the engineer. All valves, hydrants and appurtenances

in the lines being sterilized shall be opened and closed several times during the contact period.

(1) *Form of application.* Any of the following forms of applied chlorine may be used subject to the approval of the engineer.

a. Liquid chlorine gas-water mixture.
b. Direct chlorine feed.
c. Calcium or sodium hypochlorite and water mixture.
d. Chlorinated lime and water mixture.

Note: Commercial chlorine-bearing compounds that may be used are:

1. Calcium hypochlorite comparable to products known as HTH, Perchloron and Pittchlor.
2. Chlorinated lime frequently called chloride of lime and known to industry as bleaching powder.
3. Sodium hypochlorite known commerciallyas liquid laundry bleach.

(2) *Procedure.*

a. *Application and feeding devices.* Chlorine gas-water mixture, mixtures of water and chlorine bearing compound of known chlorine content shall be applied by means of a solution-feed chlorinating device, or, if approved by the engineer, the dry gas may be fed directly through approved devices providing proper regulation of flow and effective diffusion. Any or all chlorinating devices shall provide means for preventing the backflow of water into the chlorine cylinder.

b. *Preparation of mixture.* High-test calcium hypochlorite or bleaching powder shall be prepared as a water mixture for introduction into the water mains. (The powder should first be made into a paste and then thinned to approximately a one percent or 10,000 ppm solution.)

Table II. Preparation of a One Percent Chlorine Solution

Product	*Amount of Compound*	*Quantity of Water (gallons)*
High test calcium hypochlorite (65%-70% CI)	lIb.	7.5
Chlorinated lime (32%-35% cn	2 lb.	7.5
Liquid laundry bleach (5.25%cn	1 gal.	4.25

c. *Point of application.* The point of application of the chlorinating agent is at the beginning of the pipeline extension or any valved section thereof, and through a corporation stop in the top of the newly laid pipe. The water injector for delivering the chlorine bearing water into the pipe should be supplied from a tap on the pressure side of the gate valve controlling the flow into the pipeline extension.

Table III. Chlorine Requirements for 100-Foot Lengths of Various Sizes of Pipe

		Amount Required to Give 25 ppm Cl	
Pipe size (inches)	*Volume of 1DO-foot length (gallons)*	*100% chlorine (pounds)*	*1% chlorine water solution (gallons)*
4	65.3	0.0135	'/e
6	146.5	0.0305	3/8
8	261.0	0.054	0/.
10	408.0	0.085	I
12	588.7	0.120	1'/2

d. *Rate of application.* Water from the existing distribution system or other source of supply shall be controlled so as to flow slowly into the newly laid pipeline during the application of chlorine. The rate of chlorine mixture flow shall be in such proportion to the rate of water entering the newly laid pipe that the chlorine dose applied to the

water entering the pipe shall produce at least ten ppm after standing 24 hours.

e. *Retention period.* If circumstances require a shorter contact period than 24 hours with a residual chlorine content of ten ppm as specified in subsection (c) of this section, the chlorine concentration shall be increased accordingly. For instance, for a contact period of one hour, a 100 ppm chlorine concentration is required.

f. *Final flushing.* Following chlorination, all treated water shall be thoroughly flushed from the newly laid pipeline at its extremities until the replacement water throughout its length shall, upon test, be proved comparable in quality to the water served the public from the existing water supply system and approved by the engineer in conformance with local public health regulations. This satisfactory quality of water delivered by the new main should continue for a period of at least two full days as demonstrated by laboratory examination performed by the engineer of samples taken from a tap located and installed in such a way as to prevent outside contamination. Samples shall not be taken from an unsterilized hose or from a fire hydrant.

(3) *Repetition of procedures and tests.* Should the initial treatment fail to result in the conditions specified hereinbefore, the chlorination procedure shall be repeated until satisfactory results are obtained and approved by the engineer.

(Code 1974, § 31-25(B)(12))

Sec. 106-148. Railroad crossing.

(a) *Installation.* Installation of railroad crossings includes furnishing and/or installing all necessary material, labor, equipment and other incidentals required to furnish and install the water main and casing to line and grade as shown on plane and/or approved by the railroad companies whose right-of-way is crossed.

Work shall be done in accordance with requirements set forth on the plans and in these specifications, all of which must be done in strict accordance with the rules and regulations of the railroad company concerned.

(b) *Procedure.* Before the developer commences any operation to execute work on said item, he shall make application to and have the approval of the railroad company concerned. He shall confer with the official representatives of the engineer and the railroad company concerned with regard to any underground or overhead utilities which may be on or near the site of the work. The developer shall furnish the engineer one signed copy of the approval, sketches, drawings, and specifications granted by each railroad company concerned.

(c) *Plans.* Plan sheet entitled "Details" of these plans represents the minimum requirements for this item of work as required by the engineer but does not necessarily reflect the approval of the railroad company concerned. Obtaining the approval of crossing plans is the sole responsibility of the developer and shall not be construed to mean otherwise.

(d) *Construction.* Construction shall be in conformance with the plans and all requirements set forth by the railroad company concerned. The developer shall use the utmost care in order to guard against accidents and cause the least possible interference with the operation of the railroad or the telegraph, telephone or signal lines of the railroad company or the property of any tenant of the railroad company's right-of-way.

(Code 1974, § 31-25(B)(13))

Sec. 106-149. Concrete.

The composition, mixing and placing of concrete shall conform with the applicable provisions of this article.

(Code 1974, § 31-25(B)(14))

Sec. 106-150. Cleanup.

Upon completion of the installation of the water distribution systems and appurtenances, all debris and surplus materials resulting from the work shall be removed.
(Code 1974, § 31-25(B)(15))

Secs. 106-151—106-200. Reserved.

ARTICLE III. SEWERS AND SEWAGE DISPOSAL*

DIVISION 1. GENERALLY

Sec. 106-201. Required facilities for disposal of human excrement.

(a) Every owner of a residence or other building in which humans reside, are employed or congregate within the city shall install, equip and maintain adequate sanitary facilities for the disposal of human excrement. Such facilities shall be of the sanitary water closet type connected to a sanitary sewer; provided that, if the facilities are not within 300 feet of a sanitary sewer and accessible thereto, they may be of the sanitary water closet type connected with a septic tank. It is further provided that if, in the opinion of the city manager or his legally authorized representatives, the public health, welfare and interest is best served, such owner shall be required to connect to a sanitary sewer beyond the foregoing fixed minimum distance, in those instances where:

(1) The city is willing to share in the construction costs of the sewer extension in accordance with existing ordinances permitting cost-sharing;

(2) The individual owner's cost shall not exceed, by more than 20 percent, the estimated cost of an individual septic system; and

(3) The city can complete construction of the extension in a reasonable time without unreasonable delay of the proposed building and occupancy.

If the individual owner involved feels that the decision of the city manager or his legally authorized representatives is arbitrary or unreasonable, he may appeal the decision to the board of adjustment.

(b) A building permit shall not be issued to any person to build or move any building or structure in the city, unless the applicant for the permit satisfies the authority issuing the permit that he can and will provide the sanitary facilities required by this section. The type and location of such facilities shall be noted on the face of the building permit. Such premises shall not be connected with the city water system until this subsection has been complied with.

(c) All human excrement disposed of within this city shall be disposed of by depositing it in closets of the type required by this section. It shall be unlawful for any owner or occupant of property within the city to permit the disposal of human excrement thereon in any other manner, and for any person to dispose of human excrement within the city in any other manner.

(d) All facilities for the disposal of human excrement in a manner different from that required by this section and all such facilities so constructed, situated or maintained as to endanger the public health, are hereby declared to be public nuisances, and may be dealt with and abated as such.

(e) The term "human excrement," as used in this section, means bowel and kidney discharges of human beings. The term "sanitary water closet" means a flush-type toilet which is connected with a sanitary sewer line of such capacity and construction as to carry away the contents at all times or to a septic tank. The term "septic tank" means a septic tank constructed, maintained and operated in accordance with state law and the regulations of the state health department.
(Code 1974, § 31-2)

*Cross reference—Plumbing code, § 18-171 et seq.

Sec. 106-202. Permit to connect structures inside corporate limits.

Any person, firm or corporation desiring to connect with the sanitary sewer system of the city shall pay a fee to connect to the sanitary sewer on the following rate:

(1)	Single-family dwelling:.....	$300.00
(2)	Duplexes, apartment houses, mobile home parks:.....	300.00
	plus $10.00 for each unit in excess of one apartment house, duplex or mobile home park	
(3)	All others, including commercial and industrial:.....	400.00
(4)	Sewer tap fee to existing lines:	100.00

(Code 1974, § 31-75; Ord. No. 2347, § 1, 2-9-10)

Sec. 106-203. Permit to connect structures outside corporate limits.

Any person, firm or corporation desiring to connect with the sanitary sewer system of the city shall pay a fee to connect to the sanitary sewer on the following rate:

(1)	Single-family dwelling:.....	$ 300.00
(2)	Duplexes, apartment houses, mobile home parks:.....	300.00
	plus $10.00 for each unit in excess of one apartment house, duplex or mobile home park	
(3)	All others, including commercial and industrial:.....	400.00
(4)	Sewer tap fee to existing lines:	100.00

(Code 1974, § 31-76; Ord. No. 2347, § 2, 2-9-10)

Sec. 106-204. Supervision of connections; city not responsible for work up to point of connection.

All connections to the sanitary sewerage system shall be made under the supervision of the plumbing inspector. The city is not obligated to, nor responsible for, digging sewer line ditches and laying sewer tile or pipe up to the point of connection.
(Code 1974, § 31-77)

Sec. 106-205. Standard construction specifications.

(a) Ordinance No. 1551, as amended, providing standard specifications for sewer construction applying to all subdividing and developing of land within the corporate limits in the city, and to all new sewer line construction; requiring and regulating materials, construction methods, structures, including manholes and lampholes, field tests and provisions governing the acceptance thereof, including maintenance bond; and prescribing penalties for the violations of its provisions and declaring it an emergency is hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.

(b) Exhibit A attached and made a part thereof, containing standard specifications for sanitary sewer construction dated May, 1978, is hereby in all respects approved.
(Code 1974, § 31-78)

Sec. 106-206. Minimum size of sewers.

No trunk sewer, main sewer or submain sewer shall be constructed or connected within the city which is less than eight inches in diameter. The same size limitation shall apply to laterals when the lateral is new construction running into a submain, trunk or main sewer, or where the lateral is an extension of an existing eight-inch lateral. In no instance shall the city participate in the cost of construction of a sewer of less than six inches in diameter, nor shall there be any connection of a lateral of less than six inches to the sanitary sewerage system of the city.
(Code 1974, § 31-79)

Secs. 106-207—106-220. Reserved.

DIVISION 2. USER CHARGES

Sec. 106-221. Rates established.

(a) For the purpose of providing funds for the maintenance of the sanitary sewer system of the city, and for other purposes, there is hereby es-

tablished a monthly schedule, or a system of fees and charges, for the use of the sanitary sewer system of the city, as follows:

(1) *Normal monthly rates.*

Cubic feet	*Inside city users*	*Outside city users*
1—300	$5.63 (minimum)	$8.56 (minimum)
Over 300	$1.79/100 cubic feet	$2.67/100 cubic feet

The rates stated above shall apply to each dwelling, public building, commercial or industrial use per unit per month of metered water usage.

(2) *Special summer monthly rates (lawn-watering months).* This special summer rate will apply only to residential users located inside the city limits. For usage during the lawn-watering months of June, July and August of each year, in-city residential users will be billed their average monthly sewer rate as calculated for the preceding months of January, February and March. Bills affected by this special summer rate will be those due in July, August and September of each year.

(b) The city manager shall have the authority to adjust sewer rate fees in the following cases:

(1) Dwellings, public buildings or commercial users with inoperative water meters. In such cases, the Manager shall adjust the rate commensurate with the previous average monthly consumption, but in no case shall the rate be less than the minimum monthly rate in effect at that time.

(2) Dwellings, public buildings or commercial use of non-metered water. In such case, the manager shall increase the rate commensurate with the intent of this section and based on demand created on the sanitary sewer system.

(3) Dwellings, public buildings or commercial use of metered water in production. In such cases, the manager shall decrease the rate commensurate with the intent of this section and based on demand created on the sanitary sewer system.

(4) The quality of public buildings or commercial effluent is less than normal and as a result creates additional demand. In such cases, the manager shall increase the rate commensurate with the additional demand created on the sanitary sewer system.

(c) On January 1, 2007, and each January 1 thereafter, the above rates shall be adjusted after a review of the analysis of the Consumer Price Index (CPI).

(Ord. No. 1989, § 1(31-86), 7-28-92; Ord. No. 2063, § 1, 5-13-97; Ord. No. 2211, § 1, 10-25-05; Ord. No. 2237, § 1, 6-27-06)

Sec. 106-222. User charge schedule.

As the BOD, suspended solids and other pollutant concentrations discharged shall be approximately equal for all domestic users, users shall be charged on a volume basis in accordance with the following formula:

$$C_u = C_b + C_t/V_t\ (V_u)$$

(Based on Model #1, 40 CFR 35, Appendix B)

Symbols and definitions:

C_u = A user's charge per unit of time.

C_b = A user's base minimum charge (for debt retirement, billing administration, etc.) per unit of time.

C_t = Total operation and maintenance (O & M) costs per unit of time (may include extraneous flows).

V_u = Volume contribution from a user per unit of time.

(Code 1974, § 31-87)

Sec. 106-223. Excessive strength charges.

For any user, when the BOD exceeds 250 mg/l, the suspended solids exceeds 250 mg/l, or when other pollutant concentrations exceed the range of concentrations of these pollutants in normal domestic sewage, a surcharge shall be added to the basic charge. This surcharge shall be calculated by the following formula:

$$C_s = [B_c(B) = S_c(S) = P_c(P)]V_u$$

(Based on Model No. 2, 40 CFR 35, Appendix B)

C_s = A surcharge for wastewaters of excessive strength.

B_c = O & M cost for treatment of a unit of biochemical oxygen demand (BOD).

B = Concentration of BOD from a user above a base level.

S_c = O & M cost for treatment of a unit of suspended solids (SS).

S = Concentration of SS from a user above a base level.

Pc = 0 & M cost for treatment of a unit of any pollutant.

P = Concentration of any pollutant from a uset" above a base level.

V_u = Volume contribution from a user per unit of time.

(Code 1974, § 31-88)

Sec. 106-224. Review and revision.

The user charge ordinance shall be reviewed not less often than every two years regarding the wastewater contribution of users and user classes, the total costs of the operation and maintenance of the treatment works, and its approved user charge system.. The charges for users or user classes shall be revised to accomplish the following:

(1) Maintain the proportionate distribution of operation and maintenance costs among users and user classes;

(2) Generate sufficient revenue to pay the total operation and maintenance costs necessary to the proper operation and maintenance (including replacement) of the treatment works; and

(3) Apply excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class for the next year, and the rates shall be adjusted accordingly.

(Code 1974, § 31-89)

Sec. 106-225. Toxic pollutants charges.

Each user that discharges any toxic pollutants which cause an increase in the cost of managing the effiuent or the sludge of the treatment works shall pay for such increased costs.

(Code 1974,§ 31-90)

Sec. 106-226. Notification.

Each user shall be notified at least annually, in conjunction with the regular bill, of the sewer use rate and the portion of the user charges which are attributable to wastewater treatment services. Costs shall be broken down to show the operation and maintenance costs attributable to that user.

(Code 1974, § 31-91)

Sec. 106-227. Charges for extraneous flows.

The costs of operation and maintenance for all flows not directly attributable to users (such as infiltration/inflow) shall be distributed among users on the same basis as operation and maintenance charges.

(Code 1974, § 31-92)

Sec. 106-228. Records.

A record-keeping system shall be established and maintained by the city to document compliance with federal regulations pertaining to the user charge ordinance.

(Code 1974, § 31-93)

Sec. 106-229. Billing.

Users will be billed on a monthly basis with payment due by the tenth day of the following month. Users on metered water service will be billed on the same notice as water charges and will be designated as a separate entry. Users of the wastewater system not on metered water service will be billed monthly on an individual notice for wastewater service at the rate established by the city manager. Users with delinquent accounts will be notified in writing by the utility billing department that water and/or wastewater services will be terminated unless the account is paid in full. The city manager will utilize the law enforcement agency to assist as required in the control and management of the user charge system.

(Code 1974, § 31-94)

Sec. 106-230. Disposition of funds.

The funds derived from fees and charges provided for in this division shall be deposited in the general revenues of the city, to be used for the upkeep, maintenance, extension and repair of the sanitary sewer system, and for such other purposes as the city council may deem fit.

(Code 1974, § 31-95)

Secs. 106-231-106-245. Reserved.

DIVISION 3. INDUSTRIAL USE REGULATIONS*

See. 106-246. General provisions.

(a) *Purpose and policy.* This division sets forth uniform requirements for users of the publicly owned treatment works for the city, and enables the city to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code § 1251 et seq.) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403). The objectives of this division are to:

(1) Prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;

(2) Prevent the introduction of pollutants that will pass through the publicly owned treatment works, inadequately treated, into receiving waters or otherwise be incompatible with the publicly owned treatment works;

(3) Ensure quality of sludge to allow its use and disposal in compliance with statutes and regulations;

(4) Protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(5) Promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;

(6) Provide for equitable distribution of the cost of operation, maintenance and improvement of the publicly owned treatment works; and

(7) Enable the city to comply with its state pollutant discharge elimination system permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the publicly owned treatment works is subject.

This division shall apply to all users of the publicly owned treatment works. The division authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; and requires user reporting.

(b) *Administration.* Except as otherwise provided herein, the city manager shall administer, implement, and enforce the provisions of this division. Any powers granted to, or duties imposed upon, the city manager may be delegated by the city manager to other city personnel.

(c) *Abbreviations.* The following abbreviations, when used in this division, shall have the designated meanings:

(1) BOD: Biochemical oxygen demand

(2) CFR: Code of Federal Regulations

(3) COD: Chemical oxygen demand

(4) EPA: U.S. Environmental Protection Agency

(5) gpd: Gallons per day

(6) mg/l: Milligrams per liter

(7) OPDES: Oklahoma Pollutant Discharge Elimination System

(8) POTW: Publicly owned treatment works

(9) RCRA: Resource Conservation and Recovery Act

(10) SIC: Standard Industrial Classification

(11) TSS: Total suspended solids

(12) U.S.C.: United States Code

(d) *Definitions.* Unless a provision explicitly states otherwise, the following terms and phrases, as used in this division, shall have the meanings hereinafter designated:

Act or *the Act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.

*Editor's note-Ord. No. 2140, § 1, adopted Nov. 27, 2001, repealed the former div. 3 and enacted a new division as set out herein. The former div. 3, §§ 106-246-106-255, pertained to similar subject matter and derived from Code 1974, §§ 31-96-31-98 and 31-98.1-31-98.7.

Amenable to treatment means a substance being susceptible to reduction in concentration by treatment normally provided in the city's wastewater treatment plant, to a level which is in compliance with federal and state effluent limitations for discharge into waters of the state.

Approval authority means the State of Oklahoma.

Authorized representative of the user means:

(1) If the user is a corporation:

a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

b. The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure longterm environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) The individuals described in paragraphs (1) through (3), above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

Biochemical oxygen demand or *BOD* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).

Building sewer means a sewer conveying wastewater from the premises of a user to the wastewater facilities.

Categorical pretreatment standard or *categorical standard* means any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 CFR Chapter 1, Subchapter N, Parts 405—471.

Chemical oxygen demand (COD) means a measure of the oxygen consuming capacity of inorganic and organic matter present in the water or wastewater, expressed in mg/l, as the amount of oxygen consumer from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.

City manager means the person designated by the city to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this division, or duly authorized representative.

City officials:

(1) *City council* or *council* means the city municipal service authority or the board.

(2) *McAlester Manager* or *city manager* means the manager of the city municipal service authority or the board.

(3) *McAlester Attorney* or *city attorney* means attorney for the city municipal serviced authority or The Board.

Composite sample means a sample composed of two or more grab samples collected at regular intervals, either based on time intervals or flow intervals. Each individual grab sample being combined with the others and analyzed as one. Time composite samples shall consist of equal portions collected at equal time intervals a minimum of 15 minutes and a maximum of one hour apart. Flow composite samples shall be obtained by either collecting equal aliquots after a specific volume of flow passes the sampling point or by varying the volume of individual aliquots in proportion to the amount of flow that passes the sampling point over a specified time interval.

Control authority means the City of McAlester.

Control manhole or *control point* means a manhole or other facility giving access to a building sewer at some point before the building sewer discharge mixes with other discharges in the public sewer.

Environmental Protection Agency or *EPA* means the U.S. Environmental Protection Agency or, where appropriate, the regional water management division director, or other duly authorized official of said agency.

Existing source means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

Floatable grease means grease, oil, or fat in a physical state such that it will separate or stratify by gravity in water.

Garbage means animal/vegetable wastes and residue from the preparation, cooking, and dispensing of food, and from the handling, processing, storage, and sale of food products and produce.

Grab sample means a sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.

Grease means fatty acids, soaps, fats, waxes, petroleum products, oil, and any material which is extractable by hexane or freon solvent from an acidified sample which is not volatilized during evaporation of the solvent.

Holding tank waste means any waste from holding tanks such as marine vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

Indirect discharge or *discharge* means the introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.

Industrial surcharge means the additional charge made on those persons or industries who discharge into the sanitary sewer, industrial wastes which are amenable to treatment by the city's normal wastewater treatment process, but which exceed the concentration levels of normal domestic sewage.

Industrial user or *user* means a person or establishment which discharges industrial waste.

Industrial waste means the water-borne solids, liquids, and/or gaseous waste (including cooling water) resulting from any industrial, manufacturing, trade, business, commercial, or food processing operation or process, or from the development of any natural resource, or any mixture of these with water or domestic sewage.

Instantaneous maximum allowable discharge limit means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference means a discharge which, either alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal, and is therefore a cause of a violation of the city's OPDES

permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder or any more stringent state or local regulations; Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared, pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

May. The term "may", when used in the context of this division, means permissible.

Medical waste means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

Milligrams per liter (mg/l) means a weight-to-volume ratio; the milligram-per-liter value multiplied by the factor 8.34 (pounds per gallon water) is equivalent to pounds of constituent per million gallons of water. It is the same as parts per million (ppm) for normal wastewater.

New source means:

(1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

a. The building, structure, facility, or installation is constructed at a site at which no other source is located;

b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (1)b. or c. above, but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

a. Begun, or caused to begin, as part of a continuous onsite construction program:

1. Any placement, assembly, or installation of facilities or equipment; or

2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Noncontact cooling water means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Oklahoma pollution discharge elimination system or OPDES permit means a permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

Pass through means a discharge which exists the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's OPDES permit, including an increase in the magnitude or duration of a violation.

Permit means authority, granted by the city, for a person to connect to the city sewer and discharge wastes thereto, according to requirements of this division.

Person means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust estate, governmental entity, or any other legal entity or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

pH means a measure of the acidity or alkalinity of a solution, expressed in standard units.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

Pretreatment requirements means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

Pretreatment standards or *standards* means pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

Prohibited discharge standards or *prohibited discharges* means absolute prohibitions, which appear in section 106-247(a), against the discharge of certain substances.

Publicly owned treatment works or *POTW* means a "treatment works", as defined by Section 212 of the Act (33 U.S.C. Section 1292) which is owned by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

Sanitary sewer means a public sewer which carries domestic wastewater and/or industrial wastes, and to which storm, surface, and ground waters are not intentionally admitted.

Septic tank waste means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Sewage means human excrement and gray water (household showers, dishwashing operations, etc.).

Shall. The term "shall", when used in the context of this division, is mandatory.

Significant industrial user means:

(1) A user subject to categorical pretreatment standards; or

(2) A user that:

a. Discharges an average of 25,000 gpd or more of process wastewater to the

POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);

b. Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

c. Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(3) Upon a finding that a user meeting the criteria in subsection (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the city may, at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

Slug load or *slug* means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in section 106-247(a).

Standard industrial classification (SIC) code means a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

Standard methods means the laboratory procedures set forth in the latest edition, at the time of analysis, of "Standard Methods for the Examination of Water and Wastewater", as prepared, approved, and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

State means the State of Oklahoma.

Storm sewer means a public sewer that carries storm water but excludes sewage and polluted industrial waste.

Storm water means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Suspended solids means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid and which is removable by laboratory filtering.

Trap means a device designed to skim, settle, or otherwise remove grease, oil, sand, flammable wastes, or other harmful substance.

User or *industrial user* means a source of indirect discharge.

Wastewater means liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Wastewater facilities means all facilities of the city for collecting, pumping, treating, and disposing of sewage, sludges and residues.

Wastewater treatment plant or *treatment plant* means that portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

Waters of the state means all stream, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.
(Ord. No. 2140, § 1, 11-27-01; Ord. No. 2389, § 1, 6-14-11)

Sec. 106-247. General sewer use requirements.

(a) *Prohibited discharge standards.*

(1) *General prohibitions.* No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference, constitutes a hazard to humans or animals, and/or creates a hazard in receiving wa-

ters of the wastewater treatment plant effluent. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(2) *Specific prohibitions.* No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

a. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;

b. Wastewater having a pH less than 5.0 or otherwise causing corrosive structural damage to the POTW or equipment;

c. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but not in case solids greater than one inch or 2½ centimeter(s) in any dimension;

d. Any water or wastes which contain grease, oil, plastic, or other substance that will solidify or become discernibly viscous at temperatures between 32 degrees to 150 degrees Fahrenheit;

e. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singularly or by interaction with other pollutants, will cause interference with the POTW;

f. Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C);

g. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;

h. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

i. Trucked or hauled pollutants, except at discharge points designated by the city manager in accordance with section 106-248(d);

j. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singularly or by interaction with other wastes, is capable of causing objectionable odors or hazard to life and property, and which forms solids in concentrations exceeding limits established herein, creates any other condition deleterious to structures or treatment processes, or requires unusual facilities, attention or expense to handle such materials;

k. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's OPDES permit;

l. Radioactive materials exceeding the existing standards of the state department of health or, unless they comply with the Atomic Energy Commission Act of 1954 (68 O.S. 919 as amended and Part 20, Subpart D—Waste Disposal, Subsection 20.303 of the regulations issued by the atomic energy commission, or amendments thereto);

m. Storm water, groundwater, roof runoff, subsurface drainage, or any wa-

ter from down spouts, yard drains, yard fountains and ponds, septic tanks, or lawn sprays into any sanitary sewer. Water from swimming pools, boiler drains, blow-off pipes, or cooling water from various equipment may be discharged into the sanitary sewer by an indirect connection whereby such discharge is cooled, if required, and flows into the sanitary sewer at a rate not to exceed 100 gallons per minute or the capacity of the sanitary sewer, and said discharge is in compliance with all other provisions of this division. Dilution of any waste discharged is prohibited, whether accomplished by the combination of two or more waste streams or by the addition of other liquids solely for the purpose of diluting the quality of the waste discharge;

n. Sludges, screenings, or other residues from the pretreatment of industrial wastes;

o. Medical wastes, except as specifically authorized by the city manager in a wastewater discharge permit;

p. Wastewater causing, either alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;

q. Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;

r. Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l, and, if in the opinion of the city manager, it appears probable that such wastes:

1. Can deposit grease or oil in the sanitary sewer lines in such a manner as to clog the sanitary sewers;

2. Can overload the discharge's skimming and grease-handling equipment;

3. Are not amenable to biological oxidation and will therefore pass to the receiving waters without being affected by normal wastewater treatment process;

4. Can have deleterious effects on the treatment process due to the excessive quantities.

s. Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than 25 percent or any single reading over 50 percent of the lower explosive limit of the meter;

t. Any garbage that has been properly comminuted or shredded;

u. Cyanides or cyanogens compounds capable of liberating hydrocyanic gas on acidification in excess of 0.8 mg/l as CN in the wastes from any outlet into the public sanitary sewers;

v. Reserved.

w. Reserved.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

(b) *National categorical pretreatment standards.* The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated:

(1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the city manager may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c);

(2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the city manager shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e);

(3) A user may obtain a variance from a categorical pretreatment standard if the

user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard;

(4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

(c) *State pretreatment standards.* Pretreatment standards adopted by the state in the Oklahoma Administrative Code 252:605 on file at the office of the secretary of state are hereby incorporated and made a part of this division, and this division shall in all respects be construed in conformity therewith.

(d) *Local limits.* The city will adopt the limits presented in the technically based local limits document as the general discharge limits. The city reserves the right to increase or decrease the limits allowed by permit. The limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The city manager may impose mass limitations in addition to, or in place of concentration-based limitations.

(e) *City's right of revision.* The city reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

(f) *Dilution.* No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation, unless expressly authorized by an applicable pretreatment standard or requirement. The city manager may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.
(Ord. No. 2140, § 1, 11-27-01; Ord. No. 2389, §§ 2, 3, 6-14-11)

Sec. 106-248. Pretreatment of wastewater.

(a) *Pretreatment facilities.* Users shall provide wastewater treatment, as necessary, to comply with this division and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in section 106-247(a) within the time limitations specified by EPA, the state, or the city manager, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the city manager for review and shall be acceptable to the city manager before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities, as necessary, to produce a discharge acceptable to the city under the provisions of this division.

(b) *Additional pretreatment measures.*

(1) Whenever deemed necessary, the city manager may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this division.

(2) The city manager may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the city manager, they are necessary for the proper handling of wastewater containing excessive amounts of grease, oil, or sand, with the exception that such interceptors shall not be required for residential users. All interception units shall be of type and

capacity approved by the city manager and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

(4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(c) *Accidental discharge / slug control plans.* At least once every two years, the city manager shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The city manager may require any user to develop, submit for approval, and implement such a plan. Alternatively, the city manager may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

(1) Description of discharge practices, including non-routine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the city manager of any accidental or slug discharges, as required by section 106-251(i), including any discharge that would violate a prohibition under 40 CFR 403.5(b), with procedures for follow-up written notification within five days; and

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(d) *Hauled wastewater.*

(1) Septic tank waste may be introduced into the POTW only at locations designated by the city manager and at preestablished times. Such waste shall not violate section 106-247 or any other requirements established by the city. The city manager may require septic tank waste haulers to obtain wastewater discharge permits. The city manager may, at his discretion, deny any or all septic tank wastes from discharge into the POTW.

(2) The city manager shall require haulers of industrial waste to obtain wastewater discharge permits. The city manager may require generators of hauled industrial waste to obtain wastewater discharge permits. The city manager also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this division.

(3) Industrial waste haulers may discharge loads only at locations designated by the city manager. No load may be discharged without prior consent of the city manager. The city manager may collect samples of each hauled load to ensure compliance with applicable standards. The city manager may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(4) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(e) *Provisions for fraud and false statements.* The reports and other documents required to be submitted or maintained shall be subject to:

(1) The provisions of 18 U.S.C. Section 1001 relating to fraud and false statements;

(2) The provisions of Section 309(c)(4) of the Act, as amended, governing false statements;

(3) The provisions of Section 309(c)(6) regarding responsible corporate officers.

(Ord. No. 2140, § 1, 11-27-01; Ord. No. 2389, § 4, 6-14-11)

Sec. 106-249. Wastewater discharge permit application.

(a) *Wastewater analysis.* When requested by the city manager, a user must submit information on the nature and characteristics of its wastewater within 30 days of the request. The city manager is authorized to prepare a form for this purpose and may periodically require users to update this information.

(b) *Legal authority.* The city has the authority to deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by industrial users, where such contributions do not meet applicable pretreatment standards and requirements, or where such contributions would cause the POTW to violate its OPDES permit.

(c) *Permit requirement.*

(1) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the city manager, except that a significant industrial user which has filed a timely application pursuant to section 106-247 may continue to discharge for the time period specified therein.

(2) The city manager may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this division.

(3) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this division and subjects the wastewater discharge permittee to the sanctions set out in sections 106-255 through 106-257. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.

(d) *Existing connections.* Any user required to obtain a wastewater discharge permit, who was discharging wastewater into the POTW prior to the effective date of this division and who wishes to continue such discharges in the future, shall, within 30 days after said date, apply to the city manager for a wastewater discharge permit in accordance with section 106-249(f) and shall not cause or allow discharges to the POTW to continue after 60 days of the effective date of this division, except in accordance with a wastewater discharge permit issued by the city manager.

(e) *New connections.* Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with section 106-249(f), must be filed at least 60 days prior to the date upon which any discharge will begin or recommence, unless otherwise specified by the city manager.

(f) *Application contents.* All users required to obtain a wastewater discharge permit must submit a permit application. The city manager may require all users to submit, as part of an application, the following information:

(1) All information required by section 106-251(a)(2);

(2) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

(3) Number and type of employees, hours of operation, and proposed or actual hours of operation;

(4) Each product produced by type, amount, process or processes, and rate of production;

(5) Type and amount of raw materials processed (average and maximum per day);

(6) Site plans, floor plans, mechanical and plumbing plans, details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

(7) Time and duration of discharges; and

(8) Any other information as may be deemed necessary by the city manager to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(g) *Application signatories and certification.* All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(h) *Decisions.* The city manager will evaluate the data furnished by the user and may require additional information. Within 60 days of receipt of a complete wastewater discharge permit application, the city manager will determine whether or not to issue a wastewater discharge permit. The city manager may deny any application for a wastewater discharge permit.
(Ord. No. 2140, § 1, 11-27-01)

Sec. 106-250. Wastewater discharge permit issuance process.

(a) *Duration.* A wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the city manager. Each wastewater discharge permit will indicate a specific date upon which it will expire.

(b) *Contents.* A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the city manager to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(1) Wastewater discharge permits contain:

a. A statement that duration is not to exceed five years;

b. A statement that the wastewater discharge permit is nontransferable without prior notification to the city, in accordance with section 106-250(e), and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

c. Effluent limits based on applicable pretreatment standards;

d. Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and

e. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

f. Requirements to control slug discharges, if determined by the city manager to be necessary.

(2) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

b. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

c. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;

d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

e. Requirements for installation and maintenance of inspection and sampling facilities and equipment;

f. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and

g. Other conditions, as deemed appropriate by the city manager, to ensure compliance with this division and state and federal laws, rules, and regulations.

(c) *Appeals.* The city manager shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the city manager to reconsider the terms of a wastewater discharge permit within ten days of notice of its issuance. Petitioners shall consider the following:

(1) Failure to submit a timely petition for review shall be deemed a waiver of the administrative appeal;

(2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit;

(3) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal;

(4) If the city manager fails to act within 30 days, a request for reconsideration shall be deemed a denial. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review;

(5) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the District Court for Pittsburg County, State of Oklahoma, within 30 days of the final administrative action.

(d) *Modification.* The city manager may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

(3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(4) Information indicating that the permitted discharge poses a threat to the city POTW, the city personnel, or the receiving waters;

(5) Violation of any terms or conditions of the wastewater discharge permit;

(6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(7) Revision of, or a grant of variance from, categorical pretreatment standards, pursuant to 40 CFR 403.13;

(8) To correct typographical or other errors in the wastewater discharge permit; or

(9) To reflect a transfer of the facility ownership or operation to a new owner or operator.

(e) *Transfer.* Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least 30 days advance notice to the city manager, and the city manager approves the wastewater discharge permit transfer. The notice to the city manager must include a written certification by the new owner or operator which:

(1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

(2) Identifies the specific date on which the transfer is to occur; and

(3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

(f) *Revocation.* The city manager may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) Failure to notify the city manager of significant changes to the wastewater prior to the changed discharge;

(2) Failure to provide prior notification to the city manager of changed conditions pursuant to section 106-251(h);

(3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(4) Falsifying self-monitoring reports;

(5) Tampering with monitoring equipment;

(6) Refusing to allow the city manager timely access to the facility premises and records;

(7) Failure to meet effluent limitations;

(8) Failure to pay fines;

(9) Failure to pay sewer charges;

(10) Failure to meet compliance schedules;

(11) Failure to complete a wastewater survey or the wastewater discharge permit application;

(12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

(13) Violation of any pretreatment standard or requirement or any terms of the wastewater discharge permit or this division.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

(g) *Reissuance.* A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with section 106-249(f), a minimum of 60 days prior to the expiration of the user's existing wastewater discharge permit.

(h) *Regulation of waste received from other jurisdictions.*

(1) The city receives wastewater from the City of Krebs. An agreement exists between the two communities granting certain rights and privileges to both parties. The city manager, on behalf of the city, can amend this agreement with council approval.

(2) Prior to entering into future agreements, similar to the one referenced in paragraph (1), above, the city manager shall request the following information from the contributing municipality.

a. A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;

b. An inventory of all users located within the contributing municipality that are discharging to the POTW; and

c. Other such information as the city manager may deem necessary.

(3) An intermunicipal agreement, as referenced in paragraph (1), above, shall contain the following conditions:

a. A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this division and local limits which are at least as stringent as those set out in section 106-247(d). The requirement shall specify that such ordinance and limits must be revised, as necessary, to reflect changes made to the city's ordinance or local limits;

b. A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;

c. A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the city manager; and which of these activities will be conducted jointly by the contributing municipality and the city manager.

d. A requirement for the contributing municipality to provide the city manager with access to all information that the contributing municipality obtains as part of its pretreatment activities;

e. Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;

f. Requirements for monitoring the contributing municipality's discharge;

g. A provision ensuring the city manager access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the city manager; and

h. A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

(Ord. No. 2140, § 1, 11-27-01; Ord. No. 2389, § 5, 6-14-11)

Sec. 106-251. Reporting requirements.

(a) *Baseline monitoring reports.*

(1) Within either 180 days after the effective date of a categorical pretreatment standard or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to, or scheduled to discharge to, the POTW shall submit to the city manager a report which contains the information listed in paragraph (2), below. At least 90 days prior to commencement of their dis-

charge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the city manager a report which contains the information listed in paragraph (2), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(2) Users described above shall submit the information set forth below:

a. *Identifying information.* The name and address of the facility, including the name of the operator and owner.

b. *Environmental permits.* A list of any environmental control permits held by or for the facility.

c. *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

d. *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(c).

e. *Measurement of pollutants.*

1. The pretreatment standards applicable to each regulated process.

2. The results of sampling and analysis identifying the nature and concentration and/or mass, where required by the standard or by the city manager, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 106-251(m).

3. Sampling must be performed in accordance with procedures set out in section 106-251(n).

f. *Certification.* A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

g. *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section 106-251(b).

h. *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with section 106-249(g).

(b) *Compliance schedule progress reports.* The following conditions shall apply to the compliance schedule required by section 106-251(a)(2)g.:

(1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation

of additional pretreatment required for the user to meet the applicable pretreatment standards. Such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation;

(2) No increment referred to above shall exceed nine months;

(3) The user shall submit a progress report to the city manager no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to the established schedule; and

(4) In no event shall more than nine months elapse between such progress reports to the city manager.

(c) *Reports on compliance with categorical pretreatment standard deadline.* Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the city manager a report containing the information described in section 106-251(a)(2)d.—f. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 106-249(g).

(d) *Periodic compliance reports.*

(1) All significant industrial users shall, at a frequency determined by the city manager but in no case than twice per year submit, a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with section 106-249(g).

(2) All wastewater samples must be representative of the user's discharge. Sampling information including date, time, place, method of sampling, (i.e. grab or composite), and person performing the sampling shall be included. Analysis information, including the dates performed, who performed the analyses, and the analytical methods used, shall also be included. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(3) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the city manager, using the procedures prescribed in section 106-251(m), the results of this monitoring shall be included in the report.

(e) *Control authority inspection and sampling of industrial users.* The city shall randomly sample and analyze the effluent from industrial users and conduct surveillance activities in order to identify, independent of information supplied by industrial users, occasional and continuing compliance with pretreatment standards. Inspection and sampling of the effluent from each significant industrial user will be done at least once a year.

(f) *Self-monitoring requirements for significant industrial users.*

(1) Reports shall include results of sampling and analysis of the discharge, including the flow and nature and concentration or

production and mass, where requested by the city, of pollutants contained in the industrial wastewater discharge permit which are limited by the applicable pretreatment standards. This sampling and analysis may be performed by the city in lieu of the industrial user. When the POTW performs the required sampling and analysis in lieu of the industrial user, the user will not be required to submit the compliance certification required under Section 403.12(b)(6) and 403.12(d). In addition, when the POTW itself collects all the information required for the report, including flow data, the industrial user will not be required to submit the report.

(2) If results obtained by an industrial user in accordance with section 106-251(m) indicate a violation, the user shall notify the city within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the city within 30 days after becoming aware of the violation, except the industrial user is not required to resample if:

a. The city performs the sampling at the industrial user's facility at a frequency of at least once per month; or

b. The city performs the sampling at the user's facility between the time when the user performs an initial sampling and the time when the user receives the results of this sampling.

(3) The reports shall be based upon data obtained through appropriate sampling and analysis performed during the reporting period. The city shall require that frequency of monitoring necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements.

(4) All analyses shall be performed in accordance with procedures contained in 40 CFR Part 136 and amendments thereto or with any other approved test procedures.

(5) If an industrial user subject to reporting requirements monitors any pollutant more frequently than required by the city, the results shall be included in the report.

(6) The city shall require appropriate reporting from those industrial users with discharges that are not subject to categorical pretreatment standards.

(g) *Certification and signatory requirements.* All reports must be signed and certified in accordance with section 106-249(g).

(h) *Reports of changed conditions.* Each user must notify the city manager of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 30 days before the change.

(1) The city manager may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 106-249(g).

(2) The city manager may issue a wastewater discharge permit under section 106-249(h) or modify an existing wastewater discharge permit under section 106-250(d) in response to changed conditions or anticipated changed conditions.

(3) For purposes of this requirement, significant changes include, but are not limited to, flow increases of 20 percent or greater, and the discharge of any previously unreported pollutants.

(i) *Reports of potential problems.*

(1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine or episodic nature, a non-customary batch discharge, or a slug load that may cause potential problems for the POTW, the user shall immediately telephone and notify the city manager of the incident. This notification shall include the location of the discharge,

type of waste, concentration and volume, if known, and corrective actions taken by the user.

(2) Within five days following such discharge, the user shall, unless waived by the city manager, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this division.

(3) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph (1), above. Employers shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.

(j) *Reports from unpermitted users.* All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the city manager, as the city manager may require.

(k) *Notice of violation/repeat sampling and reporting.* If sampling performed by a user indicates a violation, the user must notify the city manager within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the city manager within 30 days after becoming aware of the violation. The user is not required to resample if the city manager monitors at the user's facility at least once a month, or if the city manager samples between the user's initial sampling and when the user receives the results of this sampling.

(l) *Notification of the discharge of hazardous waste.*

(1) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA regional waste management division director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent that such information is known and readily available to the user: 1) an identification of the hazardous constituents contained in the wastes; 2) an estimation of the mass and concentration of such constituents in the wastestream discharged during the calendar month; and 3) an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under section 106-251(h). The users subject to categorical pretreatment standards under the self-monitoring requirements of sections 106-251(a), (c), (d), and (f).

(2) Dischargers are exempt from the requirements of paragraph (1), above, during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(c), requires a one-time notification. Subsequent months during which the user dis-

charges more than such quantities of any hazardous waste do not require additional notification.

(3) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the city manager, the EPA regional waste management waste division director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulation.

(4) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(5) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this division, a permit issued thereunder, or any applicable federal or state law.

(m) *Analytical requirements.* All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA. The laboratories providing analytical services must be approved by the state laboratory certification program for the specific pollutants required in the permit.

(n) *Sample collection.*

(1) Except as indicated in subsection (2) below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the city manager may authorize the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(2) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(3) Chain-of-custody. The possession of samples must be traceable from the time they are obtained until they are introduced as evidence in legal proceedings. As samples are collected in the field, they will be preserved in accordance with 40 CFR Part 136 approved methods. Each sample will be distinctly labeled and recorded on the chain-of-custody. The chain-of-custody shall reflect the sample number, collector's name, date, time and method of sampling, sample site, preservative, container type, and analyses requested. Samples will then be placed on ice in a cooler for immediate transport to the locked refrigerator or for transport directly to a commercial laboratory. A chain-of-custody form will be filled out and will accompany the samples to the commercial laboratory. To simplify the chain-of-custody record and eliminate potential enforcement problems, pretreatment samples will be handled by a minimum number of personnel, and samples will be kept in the possession of the person who performed the sampling until they are either submitted or shipped to the commercial laboratory, locked in the refrigerator, and/or until they are given to other personnel for transport to the laboratory (with the chain-of-custody form appropriately signed).

(o) *Timing.* Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(p) *Record keeping.* Users subject to the reporting requirements of this division shall retain, and make available for inspection and copying, all records of information obtained, pursuant to any monitoring activities required by this division and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, the name of the person(s) taking the samples, the dates analyses were performed, who performed the analyses, the analytical techniques or methods used, and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the city manager.
(Ord. No. 2140, § 1, 11-27-01; Ord. No. 2389, §§ 6, 7, 6-14-11)

Sec. 106-252. Compliance monitoring.

(a) *Right of entry: inspection and sampling.* The city manager, or his duly authorized agent bearing credentials and identification, shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this division and any wastewater discharge permit or order issued hereunder. Users shall allow the city manager ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the city manager will be permitted to enter without delay for the purposes of performing specific responsibilities.

(2) The city manager shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

(3) The city manager may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy. These records must be retained according to section 106-251(p).

(4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the city manager and shall not be replaced. The costs of clearing such access shall be born by the user.

(5) Unreasonable delays in allowing the city manager access to the user's premises shall be a violation of this division.

(b) *Search warrants.* If the city manager has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probably cause to believe that there may be a violation of this division, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city, designed to verify compliance with this division or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the city manager may seek issuance of a search warrant from the District Court of Pittsburg County, State of Oklahoma, or the municipal court of the city, if authorized by law.
(Ord. No. 2140, § 1, 11-27-01)

Sec. 106-253. Confidential information.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the city manager's inspection and sampling activities, shall be available to the public without restriction, unless

the user specifically requests, and is able to demonstrate to the satisfaction of the city manager, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but they shall be made available immediately upon request to governmental agencies for uses related to the OPDES program, or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.
(Ord. No. 2140, § 1, 11-27-01)

Sec. 106-254. Publication of users in significant noncompliance.

The city manager shall publish annually, in the largest daily newspaper published in the munic-

the right to enter the premises of any user to determine whether the user is complying with all requirements of this division and any wastewater discharge permit or order issued hereunder. Users shall allow the city manager ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the city manager will be permitted to enter without delay for the purposes of performing specific responsibilities.

(2) The city manager shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

(3) The city manager may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy. These records must be retained according to section 106-251(p).

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(b) *Search warrants.* If the city manager has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probably cause to believe that there may be a violation of this division, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city, designed to verify compliance with this division or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the city manager may seek issuance of a search warrant from the District Court of Pittsburg County, State of Oklahoma, or the municipal court of the city, if authorized by law.
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(Ord. No. 2140, § 1, 11-27-01)

Sec. 106-254. Publication of users in significant noncompliance.

The city manager shall publish annually, in the largest daily newspaper published in the munic-

ipality where the POTW is located, a list of the users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term "significant noncompliance" shall mean:

(1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;

(2) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit, or the average limit, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(3) Any other discharge violation that the city manager believes has caused, either alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

(4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment or has resulted in the city manager's exercise of its emergency authority to halt or prevent such a discharge;

(5) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for startingoonstruction, completing construction, or attaining final compliance;

(6) Failure to provide within 30 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation(s) which the city manager determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. No. 2140, § 1, 11-27-01)

Sec. 106-255. Administrative enforcement remedies.

(a) *Notification of violation.* When the city manager finds that a user has violated, or continues to violate, any provision of this division, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the city manager may serve upon that user a written notice of violation. Within 30 days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the city manager. Submission of this plan in no way relieves the user ofliability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the city manager to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(b) *Consent orders.* The city manager may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to sections subsections (d) and (e) of this section and shall be judicially enforceable.

(c) *Show cause hearing.* The city manager may order a user that has violated, or continues to violate, any provision of this division, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the city manager and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user

specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, nor prerequisite for, taking any other action against the user.

(d) *Compliance orders.* When the city manager finds that a user has violated, or continues to violate, any provision of this division, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the city manager may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional se1£-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, nor a prerequisite for, taking any other action against the user.

(e) *Cease and desist orders.* When the city manager finds that a user has violated, or continues to violate, any provision of this division, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the city manager may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(1) Immediately comply with all requirements; and

(2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, nor a prerequisite for, taking any other action against the user.

(£) *Administrative fines.*

(1) When the city manager finds that a user has violated, or continues to violate, any provision of this division, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the city manager may fine such user in an amount not to exceed $1,000.00 per day per violation. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

(2) Unpaid charges, fines, and penalties shall, after 30 calendar days, be assessed an additional penalty of an amount, as approved by the courts each year, of the unpaid balance, and interest shall accrue thereafter at the allowed interest by the court. A lien against the user's property will be sought for unpaid charges, fines, and penalties.

(3) Users desiring to dispute such fines must file a written request for the city manager to reconsider the fine, along with full payment of the fine amount within ten days of being notified of the fine. Where a request has merit, the city manager may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The city manager may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(4) Issuance of an administrative fine shall not be a bar against, nor a prerequisite for, taking any other action against the user.

(g) *Emergency suspensions.* The city manager may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The city manager may also immediately suspend a user's discharge, after notice and opportunity to respond, which threatens to interfere with the operation ofthe POTW, or which presents, or may present, an endangerment to the environment.

(1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the city manager may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The city manager may allow the user to recommence its discharge when the user has demonstrated, to the satisfaction of the city manager, that the period of endangerment has passed, unless the termination proceedings in subsection (h) of this section are initiated against the user.

(2) A user that is responsible, either in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the city manager prior to the date of any show cause or termination hearing under subsections (c) or (h) of this section.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(h) *Termination of discharge.* In addition to the provisions in section 106-250(f), any user who violates the following conditions is subject to discharge termination:

(1) Violation of wastewater discharge permit conditions;

(2) Failure to accurately report the wastewater constituents and characteristics of its discharge;

(3) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

(4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling;

(5) Violation of the pretreatment standards in section 106-247; or

(6) Failure to pay bill when due.

Such user will be notified of the proposed termination of its discharge and offered an opportunity to show cause under subsection (c) of this section as to why the proposed action should not be taken. Exercise of this option by the city manager shall not be a bar to, nor a prerequisite for, taking any other action against the user.
(Ord. No. 2140, § 1, 11-27-01)

Sec. 106-256. Judicial enforcement remedies.

(a) *Injunctive relief* When the city manager finds that a user has violated, or continues to violate, any provision of this division, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the city manager may petition the District Court of Pittsburg County, State of Oklahoma, through the city attorney, for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this division on activities of the user. The city manager may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, nor a prerequisite for, taking any other action against a user.

(b) *Civil penalties.*

(1) A user who has violated, or continues to violate, any provision of this division, a wastewater discharge permit or order is-

sued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of $1,000.00 per violation per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(2) The city manager may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.

(3) In determining the amount of civilliability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history ofthe user, and any other factor as justice requires.

(4) Filing a suit for civil penalties shall not be a bar against, nor a prerequisite for, taking any other action against a user.

(c) *Criminal prosecution.*

(1) A user who willfully or negligently violates any provision of this division, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than $1,000.00 per violation per day, imprisonment for not more than 90 days, or both.

(2) A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a violation of this division and be punishable by a fine of not more than $1,000.00 per violation per day plus costs, be subject to imprisonment for not more than 90 days, or both. This penalty shall be in addition to any cause of action for personal injury or property damage available under state law.

(3) A user who knowingly makes any false statements, representations, or certifications in any application record, report, plan, or other documentation filed, or required to be maintained, pursuant to this division, wastewater discharge permit or order issued hereunder, or who falsifies, tampers with, or knowingly renders any inaccurate monitoring device or method required under this division shall, upon conviction, be punished by a fine of not more than $1,000.00 per violation per day plus costs, imprisonment for not more than 90 days, or both.

(4) In the event of a second conviction, a user shall be punished by a fine of not more than $1,000.00 per violation per day plus costs or imprisonment for not more than 90 days, or both.

(d) *Remedies nonexclusive.* The remedies provided for in this division are not exclusive. The city manager may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the city manager may take other action against any user when the circumstances warrant. Further, the city manager is empowered to take more than one enforcement action against any noncompliant user. (Ord. No. 2140, § 1, 11-27-01)

Sec. 106-257. Supplemental enforcement action.

(a) *Water supply severance.* Whenever a user has violated or continues to violate any provision of this division, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

(b) *Public nuisances.* A violation of any provision of this division, a wastewater discharge permit or order issued hereunder, or any other

pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the city manager. Any person(s) creating a public nuisance shall be subject to the provisions of sections 26-26 through section 26-31 of this Code governing such nuisances, including reimbursing the city for any costs incurred in removing, abating, or remedying said nuisance.

(c) *Contractor listing.* Users which have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the city. Existing contracts for the sale of goods or services to the city held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the city manager.

(Ord. No. 2140, § 1, 11-27-01)

Sec. 106-258. Mfirmative defenses to discharge violations.

(a) *Upset.*

(1) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(2) An upset shall constitute an affirmative defense to an action brought for noncompliancewith categorical pretreatment standards if the requirements of paragraph (3), below, are met.

(3) A user who wishes to establish the affirmative defense of upset shall demonstrate. through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An upset occurred, and the user can identify the cause(s) of the upset;

b. The facility was, at the time, being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and

c. The user has submitted the following information to the city manager within 24 hours of becoming aware of the upset and filed a written report with the city manager within five working days. The report shall contain the following:

1. A description of the indirect discharge and cause of noncompliance;

2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

3. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(4) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(5) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(6) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(b) *Prohibited discharge standards.* A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in section 601-247(a)(1)

or the specific prohibitions in section 601-247(a)(2)a. through w., if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference, and that either:

(1) A local limit exists for each pollutant discharged, and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its OPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(c) *Bypass.*

(1) For the purposes of this section:

a. "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.

b. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(2) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (3) and (4) of this section.

(3) a. If a user knows, in advance, of the need for a bypass, it shall submit prior notice to the city manager at least ten days before the date of the bypass, if possible.

b. A user shall submit oral notice to the city manager of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause, the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The city manager may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(4) a. Bypass is prohibited, and the city manager may take an enforcement action against a user for a bypass, unless:

1. Bypass was unavoidable to prevent loss oflife, personal injury, or severe property damage;

2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

3. The user submitted notices as required under paragraph (3) of this section.

b. The city manager may approve an anticipated bypass, after considering its adverse effects, if the city manager determines that it will meet the three conditions listed in subsection (4)a. of this section.

(Ord. No. 2140, § 1, 11-27-01)

Sec. 106-259. Reconstruction of public sanitary sewers.

No building, structure, wall or other aboveground obstruction, including additional fill material, shall be placed, erected, installed or permitted directly over any public sanitary sewer. If any of the above obstructions are to occupy the ground immediately above a public sanitary sewer, it shall be necessary to first reroute the public sanitary sewer at the property owner's expense in order to subsequently comply with the above provision. If there is not sufficient grade available in order to perform the rerouting, it shall be necessary for the property owner to present a proposed plan to the city manager, setting forth the necessary construction to safeguard the public sanitary sewer. In any event, the rerouting of the sanitary sewer or reconstruction, as approved by the city manager, shall be carried out through proper contracts and bond with the city.
(Ord. No. 2140, § 1, 11-27-01)

Sec. 106-260. New sewers and connections.

(a) The connection of the building sewer into the public sewer system shall conform to the requirements of the BOCA National Building and Plumbing Codes and other applicable rules and regulations of the city.

(b) All new sanitary sewage works shall be designed and constructed in accordance with the requirements of the state department of health regulations.

(c) When a public sewer becomes available within 300 feet, the building shall be connected to the public sewer within 60 days.
(Ord. No. 2140, § 1, 11-27-01)

Secs. 106-261—106-300. Reserved.

ARTICLE IV. SOLID WASTE*

DIVISION 1. GENERALLY

Sec. 106-301. 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:

Bags means plastic sacks designed to store garbage with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of a bag and its contents shall not exceed 35 pounds.

Bin or *commercial dumpster* means a metal receptacle designed to be lifted and emptied mechanically for use primarily at municipal facilities and large commercial and industrial units.

Bulky waste means stoves, refrigerators (with all CFC removed), water tanks, washing machines, furniture and other similar items, and, materials other than construction debris, large dead animals, hazardous waste or stable matter with weights or volumes greater than those allowed for bins or polycarts, as the case may be.

Bundle means tree, shrub and brush trimmings or newspapers and magazines securely tied together forming an easily handled package not exceeding four feet in length or 35 pounds in weight.

Commercial and industrial refuse means construction debris, garbage, rubbish and stable matter generated by a producer at a large commercial and industrial unit.

Construction debris means waste building materials resulting from construction, remodeling, repair or demolition operations at a residential unit, municipal facility or large commercial and industrial unit.

*State law references—Oklahoma Controlled Industrial Waste Disposal Act, 63 O.S. § 1-2001 et seq.; Oklahoma Solid Waste Management Act, 63 O.S. § 1-2300 et seq.; municipal solid waste management systems, 63 O.S. § 1-2412.

Excluded waste means bulky waste, hazardous waste, large dead animals, offal waste, special waste, stable matter and vegetable waste.

Garbage means any and all small dead animals, every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter (including, but not by way of limitation, used tin cans and other food containers, and all putrescible or easily decomposable waste animal or vegetable matter which is likely to attract flies or rodents), except (in all cases) any matter included in the definition of excluded waste.

Hazardous waste means any radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, biohazardous, toxic or listed or characteristic hazardous waste as defined by federal, state or local law or any otherwise regulated waste. Hazardous waste shall include, but not be limited to, any amount of waste listed or characterized as hazardous by the United States Environmental Protection Agency or any state agency pursuant to the Resource Conservation and Recovery Act of 1976, as amended, and including future amendments thereto, and any other applicable federal, state or local laws or regulations.

House-side handicapped means a location designated by the public works director where there is no able-bodied person residing in a residential unit that can take the polycart to the curb. In such instances when the physical conditions of the resident(s), either permanent or temporary, is such that he/she cannot physically maneuver a polycart to the designated pick-up area, the city, through its duly authorized agent, representative or employee will retrieve the polycart from the side of the house and return it to its original location.

Institutional solid waste means solid waste originating from education, health care and research facilities such as schools, hospitals, nursing homes, laboratories and other similar establishments.

Large commercial and industrial unit means all premises, locations or entities, public or private, requiring garbage and rubbish collection within the corporate limits of the city that are not classified as a residential unit or municipal facility.

Large dead animals means animals or portions thereof equal to or greater than ten pounds in weight that have expired from any cause, except those slaughtered or killed for human use.

Multifamily means all residential dwelling units of more than one unit considered to be condominiums, apartment houses or grouped housing.

Offal waste means waste animal (land or marine) matter from establishments such as butcher shops, slaughterhouses, food processing and packing plants, rendering plants and fertilizer plants.

Permissible solid waste means all nonhazardous, solid waste (including garbage, rubbish, yard waste and recyclable materials) generated at residential units, except any matter included in the definition of excluded waste.

Polycart means a receptacle designed for the purpose of curbside collection of garbage, rubbish and yard waste and is constructed of plastic, metal or fiberglass, having handles of adequate strength for lifting, and having a tight fitting lid. The mouth of a polycart shall have a diameter greater than or equal to that of the base. The weight of a polycart and its content shall not exceed 50 pounds.

Producer means an operator or occupant of a commercial or industrial facility or a residential unit who generates garbage, rubbish, yard waste or recyclable materials.

Refuse means garbage, rubbish, solid waste, small dead animals, vegetable waste and yard waste.

Residential unit means a dwelling within the corporate limits of McAlester occupied by a person or group of persons comprising not more than four families. A residential unit shall be deemed occupied when either water or domestic light and power services are being supplied thereto. A condominium dwelling, whether of single or multilevel construction, consisting of four or less con-

tiguous or separate single-family dwelling units, shall be treated as a residential unit, except that each single-family dwelling within any such residential unit shall be billed separately as a residential unit. For purposes of this article, a residential unit shall include a producer at a small commercial business whose garbage and rubbish is placed in not more than one 95-gallon polycart, per collection day, including but not limited to, offices, stores, service stations, restaurants, amusement centers, schools, churches, etc., located within the boundaries of McAlester.

Rubbish means all waste wood, wood chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging, or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and any and all other waste materials not included in the definition of excluded waste.

Small dead animals means animals or portions thereof less than ten pounds in weight that have expired from any cause, except those slaughtered or killed for human use.

Solid waste means useless, unwanted or discarded materials with insufficient liquid content to be free-flowing, that result from domestic, industrial, commercial, agricultural, governmental and community operations which require proper storage, collection, transportation and disposal to prevent environmental pollution inimical to public health, safety and welfare. Solid waste does not include sewage, earth or material used to fill land in accordance with construction codes, mining residues, slag, dissolved or suspended solids in industrial waste water effluents which are not acceptable for disposal in sanitary sewage treatment systems or any material included in the definition of excluded waste.

Special waste means nonhazardous, solid waste that is subject to additional governmental regulations or special handling requirements in collection, transportation, processing or disposal as a result of the characteristics of, or processes which generate such waste. Special waste includes, but is not limited to:

(1) Waste iron from a commercial or industrial activity;

(2) Waste generated by an industrial process or a pollution control process;

(3) Waste which may contain free liquids;

(4) Waste which may contain residue and debris from the cleanup of a spill of petroleum, chemical or commercial products or wastes, or contaminated residuals;

(5) Articles from the cleanup of a facility which generates, stores, treats, recycles or disposes of chemical substances, commercial products or wastes;

(6) Wastes which are nonhazardous as a result of proper treatment pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 ("RCRA");

(7) Asbestos containing or asbestos bearing material that has been properly secured under existing federal, state and local laws, rules and regulations;

(8) Containers that once contained hazardous substances, chemicals or insecticides so long as such containers are "empty" as defined by RCRA;

(9) Municipal or commercial solid waste that may have come into contact with any of the foregoing;

(10) Filter cake sludge wastes from wastewater treatment processes;

(11) Wastes containing any regulated polychlorinated biphenyls; and

(12) Ash, sludge, tires and powders.

Stable matter means all manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.

Vegetable waste means putrescible solid waste resulting from the processing of plants for food by commercial establishments such as canneries.

This definition does not include waste products resulting from the preparation and consumption of food in places such as cafeterias and restaurants.

Yard waste means grass, leaves, flowers, stalks, stems, tree trimmings, branches, and tree trunks. For yard waste collection services, grass, pine needles, leaves, flowers, stalks, stems, and small tree trimmings (less than two feet in length and less than two inches in diameter) shall be in a container, bag or box the weight of which shall not exceed 35 pounds. Larger tree trimmings shall be laid neatly in piles at curbside. The maximum weight of any item placed out for yard waste collection shall be 35 pounds. Branches in excess of two feet in length may, but are not required to be, in a container, bag or box. City or its duly authorized agents or representatives shall be obligated to collect no more than three bags per week from each residential unit.
(Code 1974, § 24-1; Ord. No. 2417, § 1, 3-13-12)
Cross reference—Definitions generally, § 1-2.

Sec. 106-302. Reserved.

Editor's note—Ord. No. 2276, § 2, adopted Jan. 8, 2008, repealed § 106-3002, which pertained to sanitation department and superintendent generally and derived from Code 1974, § 24-2.

Sec. 106-303. Burning of refuse.

It shall be unlawful for any person to burn any refuse anywhere within the city. This section is hereby declared necessary for the proper protection of the property and health of the citizens of the city, and violation of this section is hereby declared to be a public nuisance and unlawful. The burning of yard waste is permissible after obtaining the proper permits.
(Code 1974, § 24-10; Ord. No. 2210, § 1, 9-27-05; Ord. No. 2417, § 1, 3-13-12)

Sec. 106-304. Unlawful scattering, storing, etc.

(a) The scattering of refuse, the storage of refuse except for permissible solid waste in containers as provided for by this chapter or the accumulation of refuse by reason of nonpayment of fees or charges for its removal, is hereby declared to be a public nuisance and unlawful.

(b) Under no circumstances shall refuse be dumped, swept, thrown or otherwise deposited or stored on any street or in any alley or on any lot, without being placed in proper containers as prescribed in this chapter, nor shall waste material and debris from construction repair work, leaves, trees or tree trimmings be dumped or stored on any street or in any alley.

(c) It shall be unlawful for any person to bury any refuse at any place within the city or to transport any refuse upon any street within the city, except as otherwise provided for in this article.
(Code 1974, § 24-11; Ord. No. 2417, § 1, 3-13-12)
State law reference—Littering, 21 O.S. § 1761.1.

Sec. 106-305. Removal of dead animals.

The bodies of any dead animals within the city shall be promptly removed. In case of small animals, such as dogs and cats, the city shall remove the same. For larger animals, the owner shall pay the cost for removal of such animals. In case the owner of such animal is not known, the occupant or owner of the premises upon which the dead animal is found shall pay the charges for the removal, or if found upon any public street or park, the city shall pay for the removal of such dead animal.
(Code 1974, § 24-12)

Sec. 106-306. Removal of waste material, construction debris.

Waste material and the debris from the construction or repair of buildings, structures or dwellings shall be removed by the owner, tenant or contractor at his expense, and such waste material or debris shall not be stored in receptacles used for permissible refuse collection by the city or its duly authorized agents or representatives.
(Code 1974, § 24-13; Ord. No. 2417, § 1, 3-13-12)

Secs. 106-307—106-320. Reserved.

DIVISION 2. MUNICIPAL COLLECTION SERVICE

Sec. 106-321. City's exclusive right to collect and remove refuse.

The city, through its duly authorized agents, representatives or employees, shall have an exclusive right to collect, remove and haul refuse within the city, and it shall be unlawful for any other person to collect, remove or haul refuse in the city, except as otherwise provided in section 106-322.
(Code 1974, § 24-7; Ord. No. 2417, § 1, 3-13-12)

Sec. 106-322. Private or contract collection and removal of refuse.

(a) Authorization for private or contract refuse collection, removal and hauling may be issued on the basis of convenience and necessity, as determined by the city council, and may be revoked by the city council at any time it becomes evident that such collection, removal and hauling does not comply with the provisions of this article.

(b) The collection and removal of refuse by private or contract haulers shall not relieve the owner or occupant of any premises of responsibility for complying with all the provisions of this article regarding the storage of refuse or the payment of the minimum monthly service fee provided for in section 106-327.
(Code 1974, § 24-8)

Sec. 106-323. General container and storage requirements for permissible solid waste for residential units.

It shall be the duty of every owner, tenant, lessee or occupant of any residential unit to comply with the following provisions pertaining to the storage of permissible solid waste:

(1) All permissible solid waste from residential units shall be properly stored in polycarts provided by the city or its agent or representative for such purpose. Polycarts shall remain the property of city or its agent or representative. Residents shall use polycarts only for their intended purpose and shall not overload (by weight or volume) or alter polycarts.

(2) Unless an additional polycart has been provided for such purpose, each residential unit may place for collection up to three bags of yard waste per week.

(3) Each polycart shall be out front and visible and placed at curbside for collection. Curbside refers to that portion of right-of-way adjacent to paved or traveled city roadways. Polycarts shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians. Polycarts cannot be placed in a fenced area. When construction work is being performed in the right-of-way, polycarts shall be placed as close as practicable to an access point for the collection vehicle. City may decline to collect any polycart not so placed or any solid waste not in a polycart as specified. House-side handicapped service will be provided upon determination of eligibility by the public works director.

(4) Polycarts shall not be placed on the curb earlier than 4:00 p.m. on the day preceding scheduled pick-up.

(5) Polycarts shall be removed from the curb not later than 7:00 p.m. on the day of pick-up.

(6) Excluded waste shall not be placed in a polycart. If excluded waste is discovered before it is collected by city or its authorized agent or representative, city shall take appropriate action to ensure that such excluded waste is removed and properly disposed of by the depositor or generator of the waste. In the event any excluded waste is not discovered before it is collected, city shall bill the depositor or generator of such excluded waste all direct and indirect costs incurred due to removal, remediation, handling, transportation, delivery and disposal of such excluded waste.

(7) Upon termination of solid waste service, a resident will account for the polycart(s) provided by the city or its authorized agent or representative and return the same in good and working condition, normal wear and tear excepted. Failure to comply with this section may result in the total value of the polycart(s) being charged against the resident on his final bill. Resident is required to notify the utility department upon termination of service.

(Code 1974, § 24-3; Ord. No. 2417, § 1, 3-13-12)

Sec. 106-324. Same—Large commercial and industrial units.

It shall be the duty of the owner, tenant, lessee or occupant of each large commercial or industrial unit to comply with the following provisions pertaining to the storage of permissible solid waste:

(1) All permissible solid waste from such establishment shall be stored in commercial dumpsters provided by the city or its agent or representative for such purpose. Commercial dumpsters shall remain the property of city or its agent or representative. Commercial dumpsters shall be used only for their intended purpose and shall not be overloaded (by weight or volume) or be altered.

(2) Excluded waste shall not be placed in a commercial dumpster. If excluded waste is discovered before it is collected by city or its authorized agent or representative, city shall take appropriate action to ensure that such excluded waste is removed and properly disposed of by the depositor or generator of the waste. In the event any excluded waste is not discovered before it is collected, city shall bill the depositor or generator of such excluded waste all direct and indirect costs incurred due to removal, remediation, handling, transportation, delivery and disposal of such excluded waste.

(3) Upon termination of solid waste service, an establishment will account for the commercial dumpster(s) provided by the city or its authorized agent or representative and return the same in good and working condition, normal wear and tear excepted. Failure to account for such commercial dumpster(s) shall result in the total value of the commercial dumpster(s) being charged against the establishment on the final bill.

(4) Polycarts located outside of buildings, shall not be located directly under downspouts or eaves where they will be deluged by water during storms.

(5) Any and all business or industrial establishments which receive refuse collection service by method of an established residential route may be required to comply with standards as established in section 106-323 for residential units.

(Code 1974, § 24-4; Ord. No. 2417, § 1, 3-13-12)

Sec. 106-325. Maintenance, repair and replacement of polycarts and commercial dumpsters.

All polycarts and commercial dumpsters shall be kept in a clean and sanitary condition at all times, and shall be kept free of rodents, pests and stinging insects.

(Code 1974, § 24-5; Ord. No. 2417, § 1, 3-13-12)

Sec. 106-326. Prohibiting the unauthorized deposit of refuse in containers belonging or assigned to someone else.

(a) *Unauthorized depositing of refuse.* No person shall deposit any refuse or cause or permit such to be deposited in, on, or around the containers belonging or assigned to another without that person's consent. No household garbage shall be deposited in city containers. The identification of mail or other material bearing the name(s) of a person identifying such person or entity deposited in, on, or around a container may constitute prima facie evidence of ownership.

(b) *The violation of subsection (a) is hereby declared to be a public nuisance and unlawful.* Any person convicted of a violation of subsection

(a) shall be punished by a penalty in accordance with the Schedule of Fines and Costs of the City of McAlester Municipal Court.
(Code 1974, § 24-6; Ord. No. 2240, § 1, 7-25-06; Ord. No. 2417, § 1, 3-13-12)

Sec. 106-327. Charges for removal of permissable solid waste.

(a) The owner or occupant of each of the following premises shall pay to the city for removal of permissible solid waste the sum of $18.26 per month:

(1) Single-family dwelling.

(2) Duplex and/or apartment.

(3) Church.

(b) Business establishments, industrial concerns and schools shall be charged on the basis of the schedule of minimum fees.

Polycart	1 pickup/week	25.02/Month
2-yard dumpster	1 pickup/week	41.36/Month
2-yard dumpster	2 pickups/week	77.50/Month
2-yard dumpster	3 pickups/week	113.65/Month
2-yard dumpster	4 pickups/week	149.79/Month
2-yard dumpster	5 pickups/week	185.93/Month
2-yard dumpster	6 pickup/week	222.08/Month
2-yard dumpster	7 pickups/week	258.23/Month
4-yard dumpster	1 pickup/week	77.50/Month
4-yard dumpster	2 pickups/week	149.79/Month
4-yard dumpster	3 pickups/week	222.08/Month
4-yard dumpster	4 pickups/week	294.37/Month
4-yard dumpster	5 pickups/week	366.65/Month
4-yard dumpster	6 pickups/week	438.95/Month
4-yard dumpster	7 pickups/week	511.23/Month
6-yard dumpster	1 pickup/week	113.65/Month
6-yard dumpster	2 pickups/week	222.08/Month
6-yard dumpster	3 pickups/week	330.52/Month
6-yard dumpster	4 pickups/week	438.95/Month
6-yard dumpster	5 pickups/week	547.38/Month
6-yard dumpster	6 pickups/week	655.82/Month
6-yard dumpster	7 pickups/week	764.23/Month
8-yard dumpster	1 pickup/week	175.47/Month
8-yard dumpster	2 pickups/week	294.37/Month
8-yard dumpster	3 pickups/week	438.95/Month
8-yard dumpster	4 pickups/week	583.51/Month
8-yard dumpster	5 pickups/week	728.10/Month
8-yard dumpster	6 pickups/week	872.66/Month
8-yard dumpster	7 pickups/week	1,017.25/Month

(c) On January 1, 2008 and each January 1st thereafter, all charges above for removal of refuse shall be adjusted after a review of the analysis of the Consumer Price Index (CPI). The rates shall be adjusted as required.

(d) As long as water service is connected to the premises and billings are rendered therefore, the charges for permissible solid waste removal shall accrue and it shall be conclusively presumed that removal services have been rendered by the city. Payment of such charge shall be made at the same time and in the same manner as water bills are paid, and all rules and regulations governing the collection of water bills shall apply in every particular to the collection of bills for refuse service.

(e) On January 1, 2007 and each January 1st thereafter, the above rates shall be adjusted after a review of the analysis of the Consumer Price Index (CPI).
(Ord. No. 1988, § 1, 7-28-92; Ord. No. 2058, 2-11-97; Ord. No. 2064, §§ 1, 2, 5-13-97; Ord. No. 2163, § 1, 6-24-03; Ord. No. 2212, §§ 1, 2, 10-25-05; Ord. No. 2236, § 1, 6-27-06; Ord. No. 2251, § 1, 2-13-07; Ord. No. 2362, § 1, 6-22-10; Ord. No. 2417, § 1, 3-13-12; Ord. No. 2428, § 1, 7-10-12; Ord. No. 2435, § 1, 8-14-12; Ord. No. 2511, § 1, 7-22-14)

Sec. 106-328. Recycling.

The city hereby establishes a $0.40 recycling fee per month for each and every customer of the City of McAlester to be charged on their monthly utility bill. The basic fee covers costs of recycling drop-off site(s), public education and administration.
(Ord. No. 2362, § 2, 6-22-10; Ord. No. 2417, § 1, 3-13-12)

Sec. 106-329. Administrative procedures.

The public works director is hereby authorized to develop supplemental administrative procedures consistent with the provisions of this division.
(Ord. No. 2417, § 1, 3-13-12)

Secs. 106-330—106-350. Reserved.

DIVISION 3. LANDFILL

Sec. 106-351. 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:

Nonmunicipal user means any person who may use the sanitary landfill who is not employed by the city and performing the duly authorized function of the disposal of solid waste materials from the city.

Nonresident commercial hauler means any person who hauls solid waste materials obtained from outside the corporate limits of the city and who receives monetary compensation from others for his services or hauls materials which are related to his employment.

Nonresident user means any person whose legal habitation is outside the corporate limits of the city who may use the sanitary landfill for the disposal of his own residential dwelling's solid waste materials which are not related to his employment.

One-ton vehicle means any vehicle with a rated carrying capacity of 2,000 pounds.

Resident commercial hauler means any person who hauls solid waste materials obtained from within the corporate limits of the city and who receives monetary compensation from others for his services or hauls materials which are related to his employment.

Resident user means any person whose legal habitation is within the corporate limits of the city who may use the sanitary landfill for the disposal of solid waste materials which are not related to his employment.
(Code 1974, § 32-2)
Cross reference—Definitions generally, § 1-2.

Sec. 106-352. Declaration of purpose.

The purpose of this division shall be to establish procedures and fees for the regulation of all nonmunicipal use of the city sanitary landfill, it being necessary to preserve the health and gen-

eral welfare of the inhabitants of the city through the continuing provision of an approved site for the disposal of solid waste materials.
(Code 1974, § 32-1)

Sec. 106-353. Procedures and fees for resident users.

A qualified resident user of the city may use the sanitary landfill and will be charged a tipping fee according to the following weight schedule:

(1) One ton—$20.00.

(2) Minimum tipping charge for loads less than 50 pounds—$5.00.

(3) Over 500 pounds, but less than one ton—One cent per pound.

In any event, the minimum landfill charge shall be $5.00 for loads less than 500 pounds. The user, upon request, may be required to provide proper identification, verifying residence within the city.
(Ord. No. 1867, § 1(32-4), 7-23-91; Ord. No. 2017, § 1, 6-28-94; Ord. No. 2043, § 1, 12-12-95)

Sec. 106-354. Nonmunicipal landfill usage procedures and fees in general.

Unless otherwise provided for in this division, the following procedure and fees shall be employed in regulating all nonmunicipal solid waste disposal at the sanitary landfill:

(1) The user shall pay the landfill supervisor according to the fee schedule specified below. The landfill supervisor shall issue a receipt to the user at the time of payment.

(2) The user shall be assessed a tipping fee according to the number of pounds of solid waste delivered to the landfill. The charge shall be one cent per pound of solid waste received at the landfill. In any event, the minimum landfill charge shall be $5.00 for loads less than 500 pounds.

(Ord. No. 1865, § 1(32-3), 6-17-91; Ord. No. 2017, § 1, 6-28-94; Ord. No. 2043, § 1, 12-12-95)

Sec. 106-355. Procedures and fees for nonresident users.

(a) Purchase of a one-year permit from the city treasurer. The permit shall be dated from July 1 to June 30 of the following year, and shall be valid for a maximum of 12½ tons of solid waste delivered to the landfill. The permit fee shall be $250.00.

(b) Per load assessment at the landfill, according to the following schedule: One cent per pound of solid waste received at the landfill. In any event, the minimum landfill charge shall be $5.00 for loads less than 500 pounds.
(Ord. No. 1865, § 1(32-5), 6-17-91; Ord. No. 2017, § 1, 6-28-94; Ord. No. 2043, § 1, 12-12-95)

Sec. 106-356. Procedures and fees for resident commercial haulers.

A resident commercial hauler may use the sanitary landfill through either of the following methods:

(1) Purchase of a one-year permit from the city treasurer. The permit shall be dated from July 1 to June 30 of the following year, and shall be valid for a maximum of 12½ tons of solid waste received at the landfill during the 12-month period. The permit fee shall be $250.00; the above permit to include tree trimming, brush hauling, demolition and construction wastes.

(2) Per load assessment at the landfill, according to the following schedule: One cent per pound of solid waste received at the landfill. In any event, the minimum landfill charge shall be $5.00 for loads less than 500 pounds.

The landfill supervisor shall issue a receipt to the user at the time of payment.
(Ord. No. 1865, § 1(32-6), 6-17-91; Ord. No. 2017, § 1, 6-28-94; Ord. No. 2043, § 1, 12-12-95)

Sec. 106-357. Procedures and fees for nonresident commercial haulers.

(a) *Application.* A nonresident commercial hauler shall make written application to the city manager for usage of the sanitary landfill. In the application, the prospective hauler shall set forth the following:

(1) The equipment, including loading capacities, which the hauler will use for disposal at the landfill.

(2) The geographic area which the hauler proposes to service.

(3) The anticipated volume from the proposed service area.

(4) Type of material to be disposed of.

Usage shall not be allowed until application is made as identified herein.

(b) *Action on application.* Upon receipt of a properly completed application, the city council shall review same to determine the character and business experience of the contractor and determine the feasibility of permitting such use. The city council shall, further, fix the amount of a landfill usage depository fee which the contractor must post with the city for the term of the usage period. Upon approval of the application by the council, the contractor shall not be granted use of the landfill for more than 12 months. At the end of the 12 months, the applicant shall reapply for continued use. In allowing such use, the city shall reserve the right of cancellation upon 30 days' written notice to the contractor.

(c) *Certification of actual usage.* The sanitation superintendent shall, at the end of each month, certify to the city treasurer the number of loads the hauler delivered to the landfill during that month. The city treasurer shall, thereupon, notify the hauler or service area of the amount due for that month's usage. Payment shall be due from the hauler or service area within 20 days of receipt of notification.

(d) *Usage rates.* The per load fee assessment for solid waste received at the landfill from nonresident commercial haulers shall be established by the city council.
(Ord. No. 1865, § 1(32-7), 6-17-91)

Sec. 106-358. Establishing a landfill fee to comply with federal mandated subtitle "D" regulations.

Beginning July 1, 2010, there will be established a landfill fee of $4.16 for each and every utility customer of the city.

On January 1, 2011, and each January 1 thereafter, the above "landfill fee" shall be adjusted after a review of the analysis of the Consumer Price Index (CPI).

The only customers exempt from this landfill fee will be any customer who is a qualified recipient of Social Security's Supplemental Security Income (SSI). These SSI recipients will not be required to pay this monthly landfill fee as long as they are qualified SSI recipients.
(Ord. No. 2017, § 2, 6-28-94; Ord. No. 2048, § 1, 4-9-96; Ord. No. 2250, § 1, 2-13-07; Ord. No. 2362, § 3, 6-22-10)

Sec. 106-359. Reserved.

Editor's note—Ord. No. 2362, § 4, adopted June 22, 2010, deleted § 106-359, which pertained to establishing a twenty-five cent fee to comply with state landfill requirements and derived from Ord. No. 2048, § 1, adopted April 9, 1996.

Secs. 106-360—106-400. Reserved.

ARTICLE V. STORMWATER UTILITY PROGRAM

DIVISION 1. GENERALLY

Sec. 106-401. Purpose.

It is the purpose of this article to address the mandates of the federal government and establish a stormwater utility to promote public health, safety and welfare by providing for studying, designing, operating, constructing, equipping, maintaining, acquiring and owning within the city a stormwater drainage system. The establishment of a stormwater utility program will:

(1) Reduce flood and storm losses and inconveniences from uncontrolled stormwater runoff in the city.

(2) Ensure that the movement of emergency vehicles is not prohibited nor inhibited during storm or flood periods.

(3) Preserve the city's watercourses, improve and preserve water quality, minimize water quality degradation, and otherwise facilitate urban water resource management techniques, including both the reduction of pollution and the enhancement of the urban environment, including but not limited to, the NPDES permit requirements and such other requirements of the city, state and federal governments.

(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-402. 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.

Commercial property means all property other than residential property and undeveloped real estate.

Department means the Department of Public Works of the City of McAlester, OK.

Detention facilities means facilities designed to hold stormwater for a short period and then to release it to the natural watercourse.

Developed real estate means real property altered from its natural state by the addition to or construction of any impervious surface such that the hydrology of the property is affected.

Division means the Division of Stormwater Quality Management of the City of McAlester, OK.

Drainage basin plan means a plan adopted by the city for managing surface and stormwater facilities and features within an individual drainage basin.

Impervious surface means any hard-surfaced area which prevents or retards the entry of water into the soil in the manner and to the extent that such water entered the soil under natural conditions, causing water to run off the surface in greater quantities or at an increased rate of flow than was present under natural conditions, such as, but not limited to, rooftops, asphalt or concrete sidewalks, paving, driveways and parking lots, walkways, patio areas, storage areas, and gravel, bituminous substances or other surfaces which similarly affect the natural infiltration or runoff patterns of real property in its natural state.

NPDES permit means the National Pollutant Discharge Elimination System permit issued to the city by the United States Environmental Protection Agency and any addition or amendment thereto.

Residential property means any tract, lot or parcel designed and used principally for the purpose of one residential single-family house or one duplex, developed according to and meeting the bulk and area requirements for residential single-family or duplex zoned property as set forth in the McAlester Municipal Code. However, multiple residential single-family housing or multiple duplexes or any combination thereof on one tract, lot or parcel shall not be deemed residential property.

Retention facilities means facilities designed to hold stormwater for a sufficient length of time to provide for it to be consumed by evaporation, infiltration into the immediate soil or other natural means.

Stormwater drainage system means any facility, structure, improvement, development, equipment, property or interest therein, or other structural or nonstructural element made, constructed, used or acquired for the purpose of collecting, containing, storing, conveying and controlling stormwater wherever located, including, but not limited to, storm sewers, curbs, street drains, conduits, natural and manmade channels, pipes, culverts and detention ponds whether public or private.

Stormwater management program or *program* means an overall strategy and framework for the stormwater management activities of the city.

Stormwater runoff means that portion of the rainfall that is drained into the stormwater drainage system.

Undeveloped real estate means real estate that is unaltered with the construction or addition of

any impervious surface which would change or affect the hydrology of the property from its natural state.

User means the occupant, the owner of the real estate, the owner of any impervious surface or improvement and/or other person or entity benefiting from the stormwater drainage system and facilities.
(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-403. Stormwater program manager.

The program manager shall exercise all lawful powers necessary and appropriate to administer the city's stormwater management program. The manager shall have the authority to:

(1) Develop and administer all phases of a comprehensive program of stormwater management.

(2) Administer the regulations contained in the NPDES permit and in this article.

(3) Perform studies, tests and analyses required to establish or modify the stormwater management program.

(4) Provide for public information and awareness that would improve management and reduce pollution and hazards to life and property.

(5) Coordinate enforcement of the regulations contained in this chapter with other city departments.

(6) Provide an exchange of information between the public and city employees and officers on flooding and stormwater drainage problems in the city.

(7) Recommend to the city manager and the city council a comprehensive stormwater management program.

(8) Recommend from time to time to the city manager and the city council policies for establishing new kinds of stormwater drainage services, preserving and expanding existing service and making changes in service for the benefit of the public.

(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-404. Inspection.

The program manager shall have the right to inspect any on-site detention or retention facility at any time to determine if it is in compliance with the approved design and is capable of functioning properly. The program manager shall have the right to inspect any property within the city to determine the source, quantity, quality or flow rate of stormwater and to determine the source and nature of pollutants, hazards and/or activities creating or promoting same.
(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-405. City council discretion.

The determination of stormwater services to be provided and stormwater facilities and improvements to be constructed will be made at the sole discretion of the city council. The program manager shall recommend the provision of stormwater services and construction of the stormwater facilities and improvements to the city council based upon his engineering analysis.
(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-406. Signatory requirements.

(a) All applications and reports required by this article shall be submitted to the manager and shall be signed as follows:

(1) Responsible party (e.g., developer, owner, contractor) with operational control over the project specifications and daily operations.

(2) Corporation—A president or secretary, treasurer, or vice president of the corporation, as authorized, and in charge of a principal business function, or any other person as authorized to perform similar policy or decision-making functions for the corporation.

(3) Partnership or sole proprietorship by a general partner or the proprietor respectively.

(4) Municipality, state, federal, or other public facility—By either a principal executive officer or the chief executive officer of the agency, or a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(5) Other legal entity recognized by Oklahoma law in accordance with such law.

(b) Any person signing any document above shall make the following certification: "I certify under the penalty of law that I have personally examined and am familiar with the information submitted in the attached document; and based on my inquiry of those individuals immediately responsible for obtaining the information. I believe the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and civil penalties."
(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-407. Land-disturbing activity and erosion and sedimentation control.

All land-disturbing activities shall be in compliance with and permitted under the division of this article. Application must be applied for under the "Oklahoma General OPDES Permit for Stormwater Discharge Associated with Construction Activity". If a general OPDES permit is applied for, a copy of the notice of intent (NOI) must be sent to the manager of the ODEQ Stormwater Quality Management Division. To seek coverage under the Oklahoma Department of Environmental Quality General Permit, the NOI must be submitted to the following address:

Oklahoma Department of Environmental Quality
Water Quality Division
P.O. Box 1677
Oklahoma City, OK 73101-1677
(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-408. Land-disturbing activity regulated.

(a) *[Permit required.]* It shall be unlawful for any person to conduct or to permit another person to conduct any land-disturbing activity upon land without a permit issued under this article. Upon request, any owner of the land and the operator of any land-disturbing activity shall provide a copy of the permit and personal identification to the manager or the manager's representatives. For purposes of this article, the phase "land-disturbing activity" is defined as follows:

Land-disturbing activity is any land change which may result in soil erosion from water and wind and the movement of sediments into community waters or onto lands and roadways within the community, including, but not limited to, clearing, dredging, grading, excavating, transporting, stockpiling, mining, and filling of land, except that the term shall not include the following:

(1) Such minor land-disturbing activities as home gardens and individual home landscaping, home repairs, home maintenance work, and other related activities which result in minor soil erosion.

(2) The construction of single-family residences when built separately on lots [of] less than one acre not within a subdivision or which have been recorded in the office of stormwater quality management and have been issued building permits, provided that excavation is limited to

trenches for the foundation, basements, service and sewer connections, and minor grading for driveways, yard areas and sidewalks, with no offsite discharge of pollutants.

(3) Individual service and sewer connections for single- or two-family residences.

(4) Agricultural practices involving the establishment, cultivation or harvesting of products of the field or orchard, preparing and planting of pasture land, forestry land management practices including harvesting, farm ponds, dairy operations, and livestock and poultry management practices, and the construction of farm buildings.

(5) Any project carried out under the technical supervision of the Soil Conservation Service of the United States Department of Agriculture.

(6) Installation, maintenance and repair of any underground public utility lines when such activity occurs on an existing hard-surface road, street or sidewalk, provided the activity maintains pollution control and is confined to the area of the road, street or sidewalk which is hard-surfaced and a street, curb, gutter, or sidewalk permit has been obtained; and

(7) Construction, repair or rebuilding of tracks of a railroad company.

These activities may be undertaken without a permit; however, the persons conducting these excluded activities shall remain responsible for otherwise conducting those activities in accordance with the provisions of this article and other applicable laws including responsibility for controlling sedimentations and runoff.

(b) *Practices for land-disturbing activities.* The minimum standards for controlling erosion and sedimentation from land-disturbing activities shall be set forth in the "Best Management Practices Manual" as adopted and amended from time to time by resolution approved by the city council.
(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-409. Land-disturbing permit.

No person shall conduct, allow, or permit land-disturbing activity, whether temporary or permanent, on any premises within the city until a land-disturbing permit has been issued by the manager allowing such activity pursuant to the provisions of this article. Such permit shall be available for inspection by the manager or a manager's representative on the job site at all times during which land-disturbing activities are in progress. Such permit shall be required in addition to any building permit or other permit required by the Code for the site.
(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-410. Permit application.

(a) Any application for the issuance of a land-disturbing permit under this article shall include the following:

(1) Name of applicant.

(2) Business or residence address of applicant.

(3) Name and address of owner of subject property.

(4) Address and legal description of subject property.

(5) Name and address of the contractor and any subcontractor(s) who shall perform the land-disturbing activity and who shall implement the erosion and sediment control plan.

(6) A statement setting forth the nature, extent, and purpose of the land-disturbing activity, including, the size of the area for which the permit shall be applicable and a schedule for the starting and completion dates of the land-disturbing activity.

(7) A copy of the NOI and erosion and sediment control plan.

(b) Each application for a land-disturbing permit shall be accompanied by a map or plat of the premises showing the present contour lines and the proposed contour lines resulting from the land-disturbing activity in relation to all parts of the premises and the properties immediately adjacent thereto and in relation to all abutting

street grades and elevations; such map or plat shall show all existing drainage facilities and the proposed permanent disposition of surface waters upon completion of the land-disturbing activity.

(c) Each application for a land-disturbing permit shall be accompanied by an erosion and sediment control plan which shall accurately describe the potential for soil erosion and sedimentation problems resulting from the land-disturbing activity and shall explain and illustrate the measures which are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition and the potential for off-site damage; the plan shall contain a description of the existing site conditions, a description of adjacent topographical features, a description of soil types and characteristics of the area, potential problems of soil erosion and sedimentation, stabilization specifications, stormwater management considerations, a time schedule for completion of the land-disturbing activity and for maintenance after completion of the project, clearing and grading limits, and all other information needed to accurately depict solution to potential soil erosion and sedimentation problems. Any erosion and sediment control plan must meet the Best Management Practices Manual and shall be reviewed for record by the manager prior to the issuance of the land-disturbing permit. The land-disturbing permit shall be issued within 30 days upon arrival of the plan.

(d) At any time the manager determines that an erosion and sediment control plan does not comply with the provision of this article, the manager shall notify the applicant in writing of all deficiencies within said plan.
(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-411. Sediment and erosion control.

No land-disturbing activity shall be conducted within the city except in such manner that:

(a) Stripping of vegetation, regrading and other development activities shall be conducted so as to minimize erosion. Clearing and grubbing must be held to the minimum necessary for grading and equipment operation. Preconstruction vegetative ground cover shall not be destroyed, removed or disturbed more than 20 calendar days prior to grading or earth moving. Construction must be sequenced to minimize the exposure time of cleared surface area.

(b) Property owners shall be responsible, upon completion of land-disturbing activities, for leaving slopes so that they will not erode. Such methods should include revegetation, sodding, mulching, rip-rapping, or guniting. Regardless of the method used, the objective will be to leave the site erosion-free and maintenance-free as practicable.

(c) Whenever feasible, natural vegetation shall be retained, protected, and supplemented.

(d) Permanent or temporary soil stabilization must be applied to disturbed areas to the extent feasible within seven days on areas that will remain unfinished for more than 14 calendar days. Permanent soil stabilization with perennial vegetation shall be applied as soon as practicable after final grading is reached on any portion of the site. Soil stabilization refers to measures which protect soil from the erosive forces of wind, raindrop impact, and flowing water, and includes the growing of grass, sod, application of straw, mulch, fabric mats, and the early application of gravel base on areas to be paved.

(e) A permanent vegetative cover shall be established on disturbed areas not otherwise permanently stabilized.

(f) To the extent necessary, sediment in runoff water must be trapped by the use of debris basins, sediment basins, silt traps or similar measures until the disturbed area is stabilized.

(g) Neighboring persons and property shall be protected from damage or loss resulting from excessive stormwater runoff, soil erosion or deposition upon property or public streets of water transported silt

and debris. Adjacent property owners shall be protected from land devaluation due to exposed bare banks.

(h) Controlled construction entrances/exits shall be maintained in a condition that will prevent tracking or flowing of sediment onto the public right-of-way.

(i) Erosion and sediment control measures must be in place and functional before earth moving operations begin and must be constructed and maintained throughout the construction period. Temporary measures may be removed at the beginning of the workday, but must be replaced at the end of the workday.

(j) Structural controls shall be designed and maintained as required to prevent pollution.

(k) Surfacewater flowing toward the construction area shall, to the extent practicable, be diverted by using berms, channels or sediment traps as necessary. Erosion and sediment control measures shall be designed according to the size and slope of sediment basins and traps must be through a pipe or lined channel so that the discharge does not cause erosion. Muddy water to be pumped from excavation and work areas must be held in settling basins or treated by filtration prior to its discharge into surface waters where practicable. Waters must be discharged through a pipe or lined channel so that the discharge does not cause erosion and sedimentation.

(l) All control measures shall be inspected, and repaired as necessary, bi-weekly in dry periods and within 24 hours after any rainfall of 0.5 inches within a 24-hour period. During prolonged rainfall, daily inspections and repairing is necessary. The permittee shall maintain records of such inspections and repairs.

(m) A specific individual shall be designated to be responsible for erosion and sediment controls on each site.

(n) There shall be no distinctly visible floating scum, oil or other matter contained in the stormwater discharge. The stormwater discharge must not cause an objectionable color contrast in the receiving water. The stormwater discharge must result in no materials in concentrations sufficient to be hazardous or otherwise detrimental to humans, livestock, wildlife, plant life, or fish and aquatic life in the receiving stream.

(o) When the land-disturbing activity is finished and stable and perennial vegetation has been established on all remaining exposed soil, the permittee shall notify the manager of these facts and submit a notice of termination (NOT) of the permit issued under this section. The manager shall then provide a final inspection of the site within 20 days after receipt of such notice, and when advisable, may require additional measures to stabilize the soil and prevent erosion. If such requirements are given by letter, the permittee shall continue to be covered by this provision of this section, until a request for termination of the permit has been accepted by the manager.

(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-412. Stormwater quality management.

The division of stormwater quality management operating under the department of public works is hereby established, whose functions shall be to design and implement compliance programs protecting the city's natural resources.
(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-413. Authority of stormwater quality management.

The division of stormwater quality management shall be headed by a person to be known as the manager of stormwater quality management.

(a) With respect to the city's compliance with environmental laws, the manager and the manager's authorized representatives may do the following:

(1) Carry out all inspections, surveillance, enforcement, and monitoring

procedures necessary to determine compliance, administer the city's compliance with its NPDES MS4 permit to discharge from the municipal separate storm sewer system.

(2) Inspect city and commercial (see SIC codes, 57-146) properties for the presence of hazardous substances and develop and administer whatever remediation programs are required.

(3) Audit city departments to determine whether the city is in compliance with federal and state Clean Water Act laws.

(4) Audit use of herbicides, fertilizers, and pesticides to determine compliance with Clean Water Act laws and to recommend alternative solutions where practicable for the reduction of their use through education and outreach programs.

(5) Control the discharge of spills and the dumping or disposal of materials other than stormwater (e.g. industrial and commercial waste, trash, motor vehicle fluids, leaf litter, grass clippings, animal waste, etc.) into the MS4, provide technical support for hazmat response.

(6) Administer programs to identify and control pollutants from the transportation, storage, treatment, and disposal of hazardous wastes.

(7) Provide assistance to the water and wastewater utilities division regarding the protection of drinking water and surface water bodies, which are a source of the city's drinking water.

(8) Provide assistance to the solid waste division regarding the collection, transportation and disposal of solid waste, compliance with NPDES MS4 permit requirements.

(9) Monitor the city's compliance with all federal, state and local laws; except that:

a. Administering the city's compliance with state and federal laws relating to the production and distribution of drinking water is the responsibility of the utilities department.

b. Administering the city's compliance with state and federal laws relating to the operation of the city's landfill programs is the responsibility of the division of solid waste management.

c. Administering the city's compliance with state and federal laws relating to risk management and safety operations training; programs is the responsibility of the division of human resources.

(b) With respect to enforcement, the manager and his authorized representatives may do the following:

(1) Investigate violations of and enforce those aspects of the Clean Water Act which are within the authority of local governments.

(2) Investigate violations of and enforce this chapter.

(3) Investigate violations of and enforce those provisions that relate to hazardous substances and spills although primary enforcement will remain with the fire department.

(4) Investigate all other violations of and enforce environmental laws within the city and within the city's extended jurisdiction.

(5) Perform other environmental activities as may be required to ensure compliance of environmental regulations by city departments and others within the city.

(c) With respect to other programs, the manager and his authorized representatives may do the following:

(1) Monitor and coordinate with other city departments on the city's response to releases of hazardous substances.

(2) Review and assess the environment hazards of real property involved in city land transactions.

(3) Monitor the use of city rights-of-way, property, and easement by person with use agreements for environmental monitoring.

(4) Establish and supervise a program for the collection of hazardous household waste.

(5) Create, promote, and publicize educational programs for environmental awareness.

(Ord. No. 2321, § 1, 4-28-09)

DIVISION 2. ADMINISTRATION

Sec. 106-414. Monitoring.

The manager or his representative shall monitor the quantity of, and the concentration of pollutants in stormwater discharges from the areas and locations as designated in the city stormwater management plan.
(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-415. Illicit connections and improper disposal.

(a) The manager shall take appropriate steps to detect and eliminate illicit connections to the city stormwater system, including the adoption of a program to screen illicit discharges and identify their source or sources.

(b) The manager shall take appropriate steps to detect and eliminate improper discharges, including programs to screen for improper disposal and programs to provide for public education, public information and other appropriate activates to facilitate the proper management and disposal of used oil, toxic materials, and hazardous household waste.
(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-416. Inspections.

(a) The manager or his designee, bearing proper credentials and identification, may enter and inspect all properties for regular periodic inspections, investigations, monitoring, observation, measurement, enforcement, sampling, and testing to effectuate the provision of this article and the stormwater management program. The manager or his designee shall duly notify the owner of said property or the representative on site and the inspection shall be conducted at reasonable times.

(b) In the event the manager or his designee reasonably believes that discharges from the property into the city's stormwater system may cause an imminent and substantial threat to human health or the environment, the inspection may take place at any location, at any time and without notice to the owner of the property or a representative on site. The inspector shall present proper credentials upon reasonable request by the owner or representative.

(c) Upon refusal by any property owner to permit an inspector to enter or continue an inspection, the inspector shall terminate the inspection or confine the inspection to areas where no objection is raised. The inspector shall immediately report the refusal and the grounds to the manager. The manager may seek appropriate compulsory enforcement.

(d) At any time during the conduct of an inspection or at such other times as the manager or his designee may request information from an owner or representative, the owner or representative may identify areas of the property, facility or establishment, material or processes which contains or might reveal confidential information. If the manager or his designee has no clear or convincing reason to question such identification, the inspector shall none the less inspect; however, the inspection report shall note that confidential information. To the extent practicable and permitted by applicable law, the manager shall not release information which is designated as confidential information by the manager. Should the owner or his representative contend certain information to be confidential which has not been so determined or deemed by the manager, then the owner shall be obligated to seek a declaratory judgment to so protect the alleged confidential information.
(Ord. No. 2321, § 1, 4-28-09)

DIVISION 3. ENFORCEMENT AND ABATEMENT

Sec. 106-417. Unauthorized discharge a public nuisance.

No person shall conduct, allow or permit the discharge of stormwater in any manner in violation of this article or of any condition of a permit issued pursuant to this article or a stormwater discharge permit issued by the State. Such discharge is hereby declared a public nuisance and must be corrected or abated by any owner and by any operator.
(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-418. Illicit discharge and illegal dumping.

No person shall conduct, allow, or permit the direct or indirect discharge of any material other than stormwater into the MS4, the community waters or waters of the state. The following direct or indirect discharges are examples of prohibited discharges.

(a) Sewage dumping or dumping of sewage sludge.

(b) Discharge of any polluted household wastewater, such as, but not limited to laundry wash water and dishwater, except to a sanitary sewer or septic system.

(c) Leaking sanitary sewers and connections.

(d) Leaking water lines.

(e) Commercial, industrial or non-exempt public vehicle wash or power wash discharge and commercial, industrial or non-exempt cosmetic cleaning.

(f) Garbage, rubbish, or sanitary waste disposal.

(g) Dead animals or animal fecal waste.

(h) Nonstormwater discharges, except pursuant to a permit issued by the State and the city.

(i) Dredged or spoil material.

(j) Solid waste and commercial or industrial process byproducts.

(k) Chemical waste.
(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-419. Prohibition of pollutant discharge not covered by the NPDES program.

(a) A permit is a license to conduct an activity, which is regulated by the Clean Water Act, the Water Pollution Control Act, or this article.

(b) Every person who is or who is planning to carry out any of the activities requiring a permit shall obtain such a permit prior to carrying out such activities.

(c) It shall be unlawful for any person to carry out any of the following activities, except in accordance with the conditions of a valid permit.

(1) The alteration of the physical, chemical, radiological, biological, or bacteriological, properties of any of waters of the state or community waters.

(2) The construction, installation, modification, or operation of any treatments works or part thereof, or any extension or addition thereto.

(3) The increase in volume or strength of any wastes in excess of permissive discharges specified under any existing permit.

(4) The development of a natural resource or the construction, installation, or operation of any establishment or any extension or modification thereof or addition thereto; the operation of which will or is likely to cause an increase in the discharge of wastes into the waters of the state or would otherwise alter the physical, chemical, radiological. Biological or bacteriological properties of any waters of the state in any manner not already lawfully authorized.

(5) The construction or use of any new outlet for the discharge of any wastes into the waters of the state.

(6) The discharge of sewage, industrial wastes, or other wastes into waters, or a location from which it is likely that the discharged substance will move into waters.

(7) The discharge of sewage, industrial wastes, or other wastes into a well or a location where it is likely that the discharged substance will move into a well, or the underground placement of fluid and other substance which do or may affect the waters of the state.

(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-420. Accidental discharges.

(a) In the event of any discharge or a hazardous substance in amounts which could cause a threat to public drinking supplies, a "significant spill", or any other discharge which could constitute a threat to human health or the environment, the owner or operator or the facility shall give notice to the manager and the field office of the Oklahoma Department of Environmental Quality as soon as practicable, but in no event later than the close of business on the day following the accidental discharge or the discharger becomes aware of the circumstances. If an emergency response by governmental agencies is needed, the owner or operator should also call 911 immediately to report the discharge. A written report must be provided within five days of the time the discharge becomes aware of the circumstances, unless this requirement is waived by the manager for good cause shown on a case-by-case basis, containing the following particulars:

(1) A reasonably precise description of the discharge,

(2) The exact date and time of discharge, and

(3) Steps being taken to eliminate and prevent recurrence of the discharge.

(b) The owner and operator shall take all reasonable steps to minimize any adverse impact to the community waters or the waters of the state, including such accelerated or additional monitoring as necessary to determine the nature and impact of the discharge.

(c) It shall be unlawful for any person to fail to comply with the provisions of this section.

(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-421. Administrative enforcement remedies.

(a) *Notice of violation.* Whenever the manager finds that any permittee or any person discharging stormwater has violated or is violating this article, or a stormwater permit or order issued hereunder, the manager or his designee may serve upon said person or permittee written notice of the violation. Within ten calendar days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required action, shall be submitted to the manager. Submission of this plan in no way relieves the discharger of liability or criminal prosecution for any violations occurring before or after receipt of the notice of violation.

(b) *Consent orders.* The manager is hereby empowered to enter into consent orders, assurance of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the compliance and for the noncompliance. Such orders will include specific action to be taken by the discharger, operator and owner to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to subsection (d) below.

(c) *Show-cause hearing.* The manager may order any person who causes or contributes to violation of this article or stormwater permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) within ten calendar days prior to the hearing. Such notice may be served on any individual or the individual or the principal executive, general partner or manager of any legal entity or person of legal age at the office or business address of the permittee.

(d) *Compliance order.* When the manager finds that any person has violated or continues to violate directing that, following a specified time period, adequate structures or devices be installed or procedures implemented and properly operated, supervised and administrated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devised, self-monitoring, and best management practices.

(e) *Cease-and-desist orders.* Notwithstanding any other notice, order or administrative process provided by this section, when the manager finds that any person has violated or continues to violate this article or any permit or order issued hereunder, and also finds that such violation may cause an impairment of water quality or that a permit is required and has not been issued, the manager may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

(1) Comply forthwith, or;

(2) Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations or terminating the discharge or both.

(3) Appeal. A person receiving an order may file a written notice of appeal with the manager who issued it, no later than the tenth calendar day after receipt of the order. Such notice shall include an explanation as to why the person believes the enforcement action should not be taken. A person receiving a cease and desist order may file a written notice of appeal with the manager who issued it and obtain relief from such order upon a showing that the alleged violation will not cause an impairment of water quality or that a permit is not required. A hearing on the appeal will be scheduled within a reasonable time after receipt of the notice of appeal and the required explanation. All notices of appeal shall be signed by the owner or operator of the premises or activities in controversy, and shall include name and address of the person filing the notice of appeal. Notice of hearing on the appeal may be served by facsimile or first-class mail to the number or address given in the written notice of appeal.

(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-422. Unlawful acts, misdemeanor.

It shall be unlawful for any person to:

(1) Violate any provision of this article;

(2) Violate the provisions of any permit issued pursuant to this article;

(3) Fail or refuse to comply with any lawful notice to abate issued by the manager within the time specified by such notice;

(4) Violate any lawful order of stormwater quality management or fail to comply with such an order within the time allowed by such order.

Any person who commits any act declared unlawful or fails to perform any act required by or under this article or otherwise violated any provision of this article shall be guilty of a misdemeanor offense against the city. In addition, each and every day on which a violation shall occur or continue to occur shall be deemed a separate offense. For any second or subsequent offense and upon proof of conviction, said person shall be guilty of a misdemeanor offense against the city. For any offense that occurs or is allowed to exist for two consecutive calendar days, each responsible person shall be guilty of a misdemeanor offense. Violation of a cease-and-desist order shall be a misdemeanor offense.

(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-423. Judicial proceedings and relief.

(a) The city may authorize the manager by and through the municipal counselor to initiate proceedings in any court of competent jurisdiction against any person who has or is about to:

(1) Violate the provision of this article.

(2) Violate the provisions of any permit issued pursuant to this article.

(3) Fail or refuse to comply with any lawful order issued by the manager, which has not been timely appealed to the appropriate court within the time allowed by this article.

(4) Violate any lawful order within the time allowed by such order.

(b) Any person who is required by any provision of this chapter [article] or by any other law to obtain a permit prior to engaging in conduct that is regulated by this chapter [article], and who fails or neglects to obtain such a permit, or who fails to exhibit such a permit upon request by a city official, shall be guilty of a misdemeanor offense against the city. Each day on which a violation shall occur or continue to occur shall be deemed a separate offense.

(c) The manager, with consent of the city council, may also initiate civil proceedings in any court of competent jurisdiction seeking monetary damages for any damages caused to publicly owned stormwater facilities by any person, and to seek injunctive or other equitable relief to enforce compliance with the provision of this article or to enforce compliance with any lawful orders.

(d) The manager may petition the Oklahoma Department of Environmental Quality to regulate and prosecute stormwater dischargers which cannot be adequately controlled by municipal resources.
(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-424. Reconsideration.

Any person subject to a denial of a permit issued under this article, a compliance order, a stop-work order, an emergency suspension of utility service or any other enforcement action in this chapter which allows for reconsideration and hearing under this section may petition the [article] manager who took such action to reconsider the basis for the action. In order for the petition to be reconsidered it shall be filed with such manager no later than the tenth calendar day after receipt of the notice/order.

(a) Failure to submit a timely written petition for reconsideration shall be deemed to be a waiver of any further right to administrative reconsideration or review of the action.

(b) In its petition, the petitioner shall indicate the action objected to and the reasons for the objections(s), any facts that are contested, the evidence that supports the petitioner's view of the facts, any alternative terms of an order that he petitioner would accept, whether the petitioner requests a hearing on its petition and the address where notice of hearing will be received and accepted.

(c) The effect of a compliance order to stop work shall be stayed pending the manager's reconsideration of the petition, and any hearing thereon, unless the manager shall expressly makes a written determination to the contrary. The effect of an emergency suspension of utilities shall not be stayed pending the manager's reconsideration or any hearing, unless the manager expressly, and in writing, stays the emergency order.

(d) Within a reasonable time of the submittal of a petition for reconsideration, the manager shall either grant the petition and withdraw or modify the order or modify or grant the permit accordingly; deny the petition if no material issue of fact is raised; or if a hearing has been requested and/or material issue of fact has been raised, set a hearing on the petition.
(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-425. Hearings.

(a) The manager may also set a hearing if the manager determines that a show cause hearing should be conducted, if grounds exist to revoke or suspend a permit issued under this chapter or if grounds exist to terminate utilities on a non-emergency basis.

(b) Written notice of the hearing shall be served on a petitioner/violator at least ten calendar days prior to the hearing. Notice shall be served in person or by fax or mail, return receipt requested.

(c) Notices shall specify the date, time and place of the hearing.

(d) Notice that is mailed shall be deemed received five calendar days after it is placed in a mail receptacle of the United State Postal Service.

(e) No decision may be rendered at a hearing by reason of the petitioner/violator's failure to appear unless proof of service is shown.

(f) For purposes of this section, a manager shall be empowered to administer oaths and to promulgate procedural rules for the conduct of the hearing.

(g) Whenever any deadline specified in this section falls upon a Saturday, Sunday, or a city-recognized holiday, the deadline shall be the next regular city business day.

(h) The date of an order or ruling required to be made under this section shall be deemed to be the date it is signed.

(i) Decisions shall be based on a preponderance of the evidence. The city shall have the burden of proof in all hearings except permit denial hearings. In permit denial hearings, the burden of proof shall be on the petitioner.

(j) The manager shall act as the hearing officer.

(k) After the conclusion of the hearing, the manager shall make written finding of the fact and conclusions of law and shall issue a written decision without undue delay.

(l) A hearing shall exhaust all administrative remedies of the petitioner/violator.
(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-426. Variances.

(a) The manager may grant a revocable variance from the requirements of this article providing to do so would not result in the violation of any state or federal law or regulation and if exceptional circumstances applicable to the site exist such that strict adherence to the provisions of this article will result in unnecessary hardship and will not result in a condition contrary to the intent of the article.

(b) A written petition for a variance shall be required and shall state the specific variance sought and the reasons, with supporting data, why a variance should be granted. The request shall include all information necessary to evaluate the proposed variance. The petition shall be filed with the manager.

(c) The manager shall conduct a review of the request for a variance within ten working days after receipt and may either support the petition or may object to the petition. If the manager objects to the variance, the manager shall state the reasons therefore.

(d) Once the manager's review is complete or the ten working days for review have expired, the petition shall be subject to action at the discretion of the manager.
(Ord. No. 2321, § 1, 4-28-09)

DIVISION 4. SUPPLEMENTAL PERMIT CLASSIFICATIONS AND REQUIREMENTS

Sec. 106-427. Cosmetic cleaning.

Cosmetic cleaning is any system, machine, or substance used to remove undesirable substances from any surface or façade creating free foreign matter.

A person commits an offense if the person knowingly engages in mobile commercial cosmetic cleaning without a valid permit issued by the manager.

A person commits an offense if the person knowingly operates or causes to be operated a mobile commercial cleaning vehicle which is not registered with the manager.
(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-428. Permit application procedures.

(a) A person required to have a permit shall complete and file a permit application on a form prescribed by the manager.

(b) The manager may require any information on an application that the manager believes is necessary to ensure that best management practices are implemented by the permittee and does

not cause contamination of surface, stormwater, waters of state, waters of community, or groundwater within the city.

(c) The application shall include a description and the vehicle license registration number of each vehicle to be registered under the permit. All motor vehicles and trailers used to transport cosmetic cleaning rigs shall be registered. However, a motor vehicle which is used to tow a trailer registered with the manager and which is not used to transport a cosmetic cleaning rig itself, shall not be required to be registered.

(d) Any applicant who utilized wash water recycling units shall list all sanitary sewer discharge locations and other disposal sites the applicant intends to use.

(e) An industrial pretreatment permit may also be required.
(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-429. Issuance of permit and registration certificates.

(a) The manager may issue a permit and registration certificates after the applicant pays all applicable fees, unless the manager has cause to deny such permit, as specified in section 57-178(a)(9). The manager shall provide for procedures to add registered vehicles to a permit during its term.

(b) A permit shall be valid for one year from the date of its issuance, unless suspended or revoked. Registration certificates shall be valid for the term of the permit.

(c) Neither a permit nor a registration certificate shall be transferable.

(d) The city shall set an annual fee for a permit and each registration certificate issued under this division.

(e) The manager will issue a registration number to each vehicle registered under a permit, and listed on the permit. A registration number is not transferable.

(f) The manager will issue a registration certificate for each vehicle registered under a permit. The certificate shall be of a size and design determined by the manager.
(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-430. Permit conditions.

As a condition of receiving and maintaining a permit under this division, a permit holder shall comply with the following:

(a) A permit holder shall immediately notify the manager of any management changes in the business during the time the permit is in effect.

(b) A permit holder shall submit samples of wash water and /or wastewater to the manager or to an authorized representative immediately upon their demand.

(c) A permit holder who utilizes wash water recycling units shall:

(1) Notify the manager in writing of all changes in disposal sites it wants to use during the permit period.

(2) Discharge wash water into the sanitary sewer only at those sites listed in its permit application and its notices.

(3) Before the end of each permit period; test or cause to be tested a certified representative sample of its recycled wash water against the discharge limits set by industrial waste.

(d) A permit holder shall immediately notify the manager when it sells or otherwise disposes of a vehicle registered under its program.

(e) A permit holder shall ensure that all of its employees engaged in mobile commercial cosmetic cleaning are knowledgeable of the discharge prohibitions to the MS4 under this article and shall require all its employees to use best management practices when engaging in mobile commercial cosmetic cleaning. For exterior clean-

ing, best management practices shall include, but not be limited to, the following:

(f) Accumulations of oil and grease which have not dried shall be precleaned with absorbent clay (kitty litter) or a similar material and properly disposed of prior to washing.

(g) Storm sewer entrances which will receive the wash water shall be screened to catch leaves and other debris.

(h) Wash water discharged to the MS4 shall first pass through an oil absorbent boom or pad to absorbent boom or pad to absorb hydrocarbons so that no oil sheen is present on the discharge.

(i) Wash water which does not comply shall be discharged into the sanitary sewer system. Discharge shall be at the job site when possible. Wash water from recycle rigs which does not comply shall be disposed of in compliance with subsection (c). Grit and sludge shall not be disposed of through the sanitary sewer.

(j) A permit holder shall ensure that all of its vehicles registered under the permit display the registration numbers and carry certificates as required by this division, and shall not allow unregistered vehicles or vehicles without certificates to engage in mobile commercial cosmetic cleaning.

(k) A permit holder shall not discharge to the MS4 in violation of this article.

(l) A permit holder shall not discharge wastewater to the sanitary sewer system in violation of this chapter or any other provision of this Code.

(m) A permit holder shall not discharge wastewater into the sanitary sewer, either on a job site or off a job site, without the permission of the owner of the property upon which the sewer inlet is located. The permit holder shall provide proof of such permission to the manager upon demand.

(n) A vehicle transporting cosmetic cleaning wash water or wastewater which is leaking or spilling from such vehicle is hereby declared to be in violation.

(o) A permit holder shall not create or maintain a nuisance, in violation of this section.

(p) The manager may deny a permit, or after notice and hearing, revoke a permit if:

(1) The permit application contains a false or misleading statement of a material fact;

(2) The person engages in operations that do not consist solely of cosmetic cleaning; or.

(3) The permit holder or an employee of the permit holder has violated a permit condition;

An applicant whose permit is denied will be sent notification by the manager, in writing, of the denial and the grounds therefore. Such notice will be sent certified mail, return receipt requested, to the mailing address listed on the application.

An applicant whose permit is denied may request reconsideration no later than the tenth calendar day after receipt of the notice of denial stating the reasons and basis for the appeal filed with the director.

A permit may also be suspended or revoked under the procedures of this chapter [article].
(Ord. No. 2321, § 1, 4-28-09)

Sec. 106-431. Landscape maintenance.

No person shall dump, spill, leak, pump, pour, emit, discharge, leach, dispose or otherwise introduce or cause, allow or permit to be introduced any substance into the MS4 (municipal separate storm sewer system) other than stormwater, including, without limitation, the following common substances.

(a) Garbage;

(b) Rubbish;

(c) Yard waste;

(d) Sediment;

(e) Floatable materials.
(Ord. No. 2321, § 1, 4-28-09)

Chapters 107-109

RESERVED

Chapter 110

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ARTICLE I. IN GENERAL

Secs. 110.1-110.25. Reserved.

ARTICLE II. TAXICABS'"

DIVISION 1. GENERALLY

Sec. 110-26. 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:

Driver means any person who drives or is otherwise in actual physical control of a taxicab.

Taxicab means any motor vehicle operated on, over and upon the public streets and alleys of the city for hire, and not operated over a fIxed route or on a fIxed schedule.
(Code 1974, § 30.11)
Cross reference-Definitions genernlly, § 1.2.

Sec. 110.27. Insurance or bond requirements.

(a) Before any taxicab is operated upon the city streets, avenues and alleys, the owner thereof shall me with the city clerk a policy of public liability and property damage insurance, issued by a good and solvent company authorized to do business in the state, which policy shall cover the taxicab with liability coverage of at least $5,000.00 for the injury or death of one person, $10,000.00 for the injury or death of more than one person and $1,000.00 for property damage, all in anyone accident, which may occur by reason of negligence and carelessness in the operation of the taxicab. Such insurance policy must be approved by the city manager in writing on the policy.

(b) In lieu of filing the public liability and property damage insurance policy, as provided for in subsection (a), the owner of a taxicab may deposit a liability bond in the sum of $10,000.00 acceptable to and approved by the city manager, which bond shall indemnify the owner in the sum of not less than $5,000.00 for the injury or death of one person, $10,000.00 for the injury or death of more than one person and $1,000.00 for property damage, all in anyone accident. Such bond must be secured by either stocks, bonds or cash of current market value, or a mortgage on unencumbered real estate, which shall not be scheduled for more than four times its assessed value, as shown by the roll in the county assessor's office, and shall, in addition, be approved as sufficient, in WTiting, by the city manager. Such mortgage shall be made payable to the city treasurer and his successors in office and shall be filed with the city clerk.

(c) If a real estate mortgage is offered as security for a bond under subsection (b), the taxicab owner shall furnish a current abstract of title. A written opinion shall be furnished by the city attorney, and a certified statement must be fur. nished by the owner as to the assessed valuation of the property offered, as shown by the assessment roll in the county assessor's office. The cost of the abstract and of the recordation of the mort. gage shall be paid by the taxicab owner.

(d) A bond filed under this section shall cover each and every taxicab operated by the indemni. fied owner and shall waive the description of the vehicles indemnified thereunder. Should any claim become a charge or prospective charge under such bond, the city manager may, from time to time, require the owner to furnish additional bond or security in an amount not in excess of the sums required herein, and conditioned as hereinabove provided. Such bond shall also contain a clause obligating the surety thereon to give 30 days' written notice, to the city manager, before cancellation thereof by the surety, and the taxicab license shall expire upon the lapse or termination of the bond or security.

(e) The city treasurer may, with the consent of the city manager, release the security for any bond filed under this section, as to all liability thereafter to be incurred, and substitute therefor other security, provided that such security so substituted complies with all the requirements of this section.

(I) It shall be unlawful to operate a taxicab without depositing the insurance policy, bond or security provided for in this section, or to continue to operate a taxicab after the city manager

.State law reference-Authority to rcgulot.!) tnxjcubs, II O.S. § 22-118.

has required the furnishing of additional bond or security, without so doing.
(Code 1974, § 30-12)

State Inw references-Authority to require bond, insur. ance or other indemnity for taxicabs, 11 O.S. § 22-118(1); taxicab financial responsibiJily, 47 O.S. § 8.104.

Sec. 110.28. Identification.

Each side of a taxicab shall have plainly printed thereon the name of the owner of the taxicab or of the business operating such taxicab, in letters four inches in height.
(Code 1974, § 30-13)

Sec. 110.29. Driver's photograph, schedule of rates posted.

There shall be posted on the inside of each taxicab a photograph of the driver thereof, together with a schedule of rates charged for the use of the taxicab.
(Code 1974, § 30-14)

Sec. 110-30. Limitation on number of passen. gers.

The number of passengers in a taxicab shall be limited to the seating capacity of such vehicle.
(Code 1974, § 30-15)

Sec. 110.31. Suspension or revocation of li. censes issued under article.

All licenses issued under this article may be suspended or revoked for any of the following causes:

(1) When any statement in the license application is found to be false.

(2) Violation of federal or state laws by the licensee.

(3) Driving a taxicab while under the influence of liquor.

(4) Failure to report accidents.

(5) Permitting other persons to use the license.

(6) Obliterating or changing information on the license.

(7) Two convictions of the licensee of a major traffic violation during the license year.

(Code 1974, § 30-16)

Secs, 110-32-110.40. Reserved.

DIVISION 2. VEHICLE LICENSE

Sec. 110-41. Required.

Na person shall operate a taxicab unless a current license therefor has been issued in accord with this division.
(Code 1974, § 30-23)

Sec. 110.42. Not issued to minors or felons.

No taxicab license shall be issued to any person under the age of 21 years, or to any person who has been convicted of a felony.
(Code 1974, § 30-24)

Sec. 110.43. Filing and contents of applica. tion.

Application for a license under this division shall be made, in writing, by the owner of the taxicab. Such application shall be filed with the city treasurer and shall state the following:

(1) The name of the applicant.

(2) The address of the applicant.

(3) The experience of the applicant in the taxicab business.

(4) The number of La.xicabs the applicant de. sires to operate.

(5) The following information concerning each taxicab to be licensed: mechanical and physical condition, seating capacity, state license number, motor number and chassis number.

(Code 1974, § 30-25)

Sec. 110.44. Applicant to present evidence of current inspection of vehicle.

Each applicant for a taxicab license shall, prior Lo issuance or renewal of the license, present evidence to the city treasurer that the taxicab has

passed a current inspection, as required by state law.
(Code 1974, § 30.26)

Sec. 110.45. Fee.

The annual fee for a Hcense under this division shall be $20.00 for each taxicab.
(Code 1974, § 30.27)

Sec. 110.46. Investigation of application; is. suance.

The city treasurer shall investigate the facts stated in an application for a license under this division. Upon approval of the application by the city treasurer, he may issue the license upon the payment of the prescribed fee. No license shall be issued unless the owner of the taxicab has com. plied with section 110-27.
(Code 1974, § 30-28)

Sec. 110-47. Contents.

The serial number of the motor and the number of the chassis of each taxicab licensed under this division shall be listed upon the license. The license shall *also* contain a statement that it is not transferable.
(Code 1974. § 30.29)

Sec. 110.48. Duplicates.

In case a license issued under this division is lost, a duplicate license may be issued by the city treasurer upon the payment of a fee of $2.00.
(Code 1974, § 30-30)

Sec. 110.49. Expiration.

All licenses issued under this division shall expire on *July* 1 next following the date of issuance.
(Code 1974, § 30-31)

Secs. 110.50-110.60. Reserved.

DIVISION 3. DRIVER'S LICENSE

Sec. 110.61. Required.

It shall be unlawful for any person to act or work as a taxicab driver or drive a taxicab without having a license so to do issued by the city treasurer in accordance with this division.
(Code 1974, § 30.38)

Sec. 110.62. Filing and contents of applica. tion.

Application for a taxicab driver's license shall be in writing and filed with the city treasurer, and shall state the following:

(1) The name, residence, age, sex, weight, color of hair and eyes, race, color and nationality of the applicant.

(2) W'hether the applicant has ever been H. censed as a taxicab driver, and if so, where.

(3) W'hether the applicant's license has ever been suspended or revoked and the reason therefor.

(4) The number of times the applicant has been convicted for the violation of traffic law.

(5) The names of three reputable persons residing in the city who can vouch for the fact that the applicant is of good moral character and repute.

(Code 1974, § 30-39)

Sec. 110-63. Applicant's health permit and photograph.

Each application for a license under this division shall have attached thereto a health permit issued to the applicant and a recent photograph of the applicant, which photograph shall be two inches by two inches in size.
(Code 1974, § 30-40)

Sec. 110.64. Investigation and approval of application.

Each application for a taxicab driver's license shall be referred to the chief of police for investi. gation and no such license shall be issued until the chief of police has approved the application.
(Code 1974. § 30.41)

Sec. 110.65. Fee.

The annual fee for a taxicab driver's license shall be $2.00.
(Code 1974, § 30.42)

Sec. 110.66. Issuance.

Upon approval by the chief of police of the application for a license under this division. and upon payment of the prescribed fee, the city treasurer shall issue the license.
(Code 1974, § 30-43)

Sec. 110.67. Posting.

A taxicab driver's license shall be posted on the inside of the taxicab at nll times while such driver is operating the taxicab.
(Code 1974, § 30.44)

Sec. 110.68. Duplicates.

If a taxicab driver's license is destroyed or lost, a fee of $2.00 shall be paid for issuing a duplicate license.
(Code 1974, § 30.45)

Sec. 110-69. Expiration.

Each license issued under this division sha1l expire on July 1 next. following its issuance.
(Code 1974, § 30.46)

CODE COMPARATIVE TABLE

1974 CODE

This table gives the location within this Code of those sections of the 1974 Code, as updated through March 26, 1991, which are included herein. Sections of the 1974 Code, as supplemented, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances adopted subsequent thereto, see the table immediately following this table.

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(This checklist will be updated with the printing of each Supplement)

From our experience in publishing Looseleaf Supplements on a page-for-page substitution basis, it has become evident that through usage and supplementation many pages can be inserted and removed in error.

The following listing is included in this Code as a ready guide for the user to determine whether the Code volume properly reflects the latest printing of each page.

In the first column all page numbers are listed in sequence. The second column reflects the latest printing of the pages as they should appear in an up-to-date volume. The letters "OC" indicate the pages have not been reprinted in the Supplement Service and appear as published for the original Code. When a page has been reprinted or printed in the Supplement Service, this column reflects the identification number or Supplement Number printed on the bottom of the page.

In addition to assisting existing holders of the Code, this list may be used in compiling an up-to-date copy from the original Code and subsequent Supplements.

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SUPPLEMENT NO. 19
December 2015

CODE OF ORDINANCES

City of

McALESTER, OKLAHOMA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2541, enacted July 21, 2015.

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SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code and are considered "Includes." Ordinances that are not of a general and permanent nature are not codified in the Code and are considered "Omits."

In addition, by adding to this table with each supplement, users of this Code of Ordinances will be able to gain a more complete picture of the Code's historical evolution.

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2342	1-12-10	Omit	16
2343	1-12-10	Omit	16
2344	1-12-10	Include	16
2345	1-26-10	Omit	16
2346	2- 9-10	Include	16
2347	2- 9-10	Include	16
2348	2- 9-10	Omit	16
2349	2- 9-10	Omit	16
2350	3- 9-10	Include	16
2351	3- 9-10	Omit	16
2352	3-23-10	Omit	16
2353	4-12-10	Omit	16
2354	4-27-10	Omit	16
2355	5-11-10	Include	16
2356	5-25-10	Include	16
2357	5-25-10	Omit	16
2358	6- 8-10	Omit	16
2359	6- 8-10	Omit	16
2360	6-22-10	Omit	16
2361	6-22-10	Omit	16
2362	6-22-10	Include	16
2363	7-13-10	Omit	16
2364	7-13-10	Omit	16
2365	7-27-10	Omit	16
2366	7-27-10	Omit	16
2367	8-10-10	Omit	16
2368	8-10-10	Omit	16
2369	8-10-10	Omit	16
2370	8-10-10	Omit	16
2371	8-24-10	Omit	16
2372	9-14-10	Omit	16
2373	9-28-10	Omit	16
2374	10-12-10	Omit	16

Ord. No.	Date Adopted	Include/ Omit	Supp. No.
2378	12-14-10	Omit	16
2379	1-11-11	Omit	17
2380	1-25-11	Omit	17
2381	1-25-11	Omit	17
2382	1-25-11	Omit	17
2383	2- 8-11	Omit	17
2384	3- 8-11	Omit	17
2385	3- 8-11	Omit	17
2386	3-22-11	Omit	17
2387	4-26-11	Omit	17
2388	5-24-11	Omit	17
2389	6-14-11	Include	17
2390	6-14-11	Omit	17
2391	6-14-11	Include	17
2392	6-14-11	Omit	17
2393	6-28-11	Omit	17
2394	7-12-11	Omit	17
2395	7-12-11	Omit	17
2396	8-23-11	Omit	17
2397	8-23-11	Omit	17
2398	9-13-11	Omit	17
2399	9-13-11	Include	17
2400	9-27-11	Include	17
2401	9-27-11	Include	17
2402	9-27-11	Omit	17
2403	10-11-11	Omit	17
2404	10-25-11	Omit	17
2405	11- 8-11	Omit	17
2406	11- 8-11	Include	17
2407	11-22-11	Omit	17
2408	12-13-11	Omit	17
2409	12-13-11	Omit	17
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2412	1-24-12	Omit	19
2413	2-14-12	Omit	19
2414	2-28-12	Omit	19
2415	3-13-12	Omit	19
2416	3-13-12	Include	19
2417	3-13-12	Include	19
2418	4-10-12	Omit	19
2419	4-24-12	Omit	19
2420	5- 8-12	Omit	19
2421	5-22-12	Omit	19

Ord. No.	Date Adopted	Include/ Omit	Supp. No.
2422	5-22-12	Omit	19
2423	5-22-12	Omit	19
2424	6-12-12	Omit	19
2425	6-19-12	Omit	19
2426	7-10-12	Omit	19
2427	7-10-12	Omit	19
2428	7-10-12	Include	19
2429	7-24-12	Omit	19
2430	7-24-12	Omit	19
2431	8-14-12	Include	19
2432	8-14-12	Omit	19
2433	8-14-12	Omit	19
2434	8-14-12	Omit	19
2435	8-14-12	Include	19
2436	8-28-12	Omit	19
2437	9-11-12	Omit	19
2438	9-25-12	Omit	19
2439	9-25-12	Include	19
2440	10- 9-12	Omit	19
2441	10-23-12	Omit	19
2442	11-13-12	Omit	19
2443	12-11-12	Omit	19
2444	12-11-12	Omit	19
2445	12-11-12	Omit	19
2446	12-11-12	Omit	19
2447	12-27-12	Include	19
2448	1- 8-13	Omit	19
2449	1- 8-13	Omit	19
2450	1- 8-13	Omit	19
2451	1-22-13	Omit	19
2452	2-26-13	Omit	19
2453	3-12-13	Include	19
2454	3-12-13	Omit	19
2455	3-12-13	Include	19
2456	3-12-13	Include	19
2457	3-12-13	Include	19
2458	3-26-13	Omit	19
2459	3-12-13	Omit	19
2460	3-26-13	Include	19
2461	3-26-13	Include	19
2462	4-23-13	Include	19
2463	5-15-13	Include	19
2464	5-28-13	Include	19
2465	6-11-13	Omit	19
2466	6-11-13	Include	19
2467	6-20-13	Omit	19

Ord. No.	Date Adopted	Include/ Omit	Supp. No.
2468	6-25-13	Omit	19
2469	6-25-13	Include	19
2470	6-25-13	Include	19
2471	7- 9-13	Omit	19
2472	7- 9-13	Include	19
2473	7-23-13	Omit	19
2474	8-13-13	Omit	19
2475	8-13-13	Include	19
2476	8-27-13	Omit	19
2477	8-27-13	Omit	19
2478	9-10-13	Omit	19
2479	9-10-13	Omit	19
2480	9-24-13	Omit	19
2481	10-22-13	Include	19
2482	11-12-13	Omit	19
2483	11-26-13	Omit	19
2484	11-26-13	Include	19
2485	12-19-13	Include	19
2486	1-14-14	Omit	19
2487	1-14-14	Include	19
2488	1-28-14	Omit	19
2489	2-25-14	Omit	19
2490	2-25-14	Include	19
2491	3-11-14	Omit	19
2492	4- 8-14	Omit	19
2493	4-22-14	Omit	19
2494	4-22-14	Include	19
2495	4-22-14	Include	19
2496	4-22-14	Include	19
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2509	7- 8-14	Include	19
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2516	9-23-14	Include	19
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2518	9-23-14	Include	19
2519	11- 6-14	Omit	19
2520	11- 6-14	Include	19
2521	11-25-14	Omit	19
2522	11-25-14	Omit	19
2523	12- 9-14	Omit	19
2524	12- 9-14	Include	19
2525	12-23-14	Omit	19
2527	1-27-15	Omit	19
2528	2-10-15	Omit	19
2529	2-10-15	Include	19
2530	2-10-15	Include	19
2531	3-10-15	Omit	19
2532	4-14-15	Omit	19
2533	4-14-15	Omit	19
2534	4-14-15	Include	19
2535	4-28-15	Omit	19
2536	5-12-15	Omit	19
2537	6- 9-15	Omit	19
2538	6- 9-15	Omit	19
2539	6- 9-15	Include	19
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