CITY OF PURCELL

CODE OF ORDINANCES
AS AMENDED

CITY OF PURCELL, OKLAHOMA

BASIC CITY CODE OF ORDINANCES
AS AMENDED

Containing all of the ordinances of the City of Purcell, Oklahoma, of a general and permanent nature passed prior to December 31, 2012, and still in effect on that date.

Ordained and Published
By Authority of the
City Council
City of Purcell

City of Purcell
230 West Main Street
Purcell, Oklahoma 73080

Compiled and codified by:
Robert L. Floyd dba Oklahoma Code Services
P.O. Box 974
Choctaw, Oklahoma 73020

FOREWORD

This Code constitutes a recodification of the general and permanent ordinances adopted by the governing body of the City of Purcell, Oklahoma. The original organization, codification, and indexing of the code of ordinances, as amended, was provided by the Municipal Code Corporation and supplemental last in 2010. Supplements should be done on an annual basis.

This codification provides a complete revision, rearranging, renumbering and reorganizing of all ordinances of a general and permanent nature of the City of Purcell. All obsolete, illegal or superseded ordinances previously repealed have been deleted as part of the codification. All amended ordinances are brought up to date. State law references have been brought up to date, as well. The code also includes all ordinances adopted up through December 31, 2012.

The code includes several features that will facilitate its use. The various parts and chapters of the code continue to follow one another in a natural, logical order. The table of contents with a complete outline of this order will often provide sufficient reference points for the reader. In additions, the reader may consult the alphabetical index at the end of the volume. At the beginning of each part and chapter there is a section-by-section analysis of the articles and sections within the chapter and part.

Non-textual provisions such as severability clauses, repeals, and enacting clauses are omitted from the text but are covered in Part One of the Code that applies to the entire Code. In most instances, references to "this ordinance" in the text of an ordinance have been changed to "this chapter" or "article" as deemed appropriate. Various editorial notes, state law references, and amendment notes have been included throughout the code to clarify its provisions.

The citations included at the end of sections apply to the original source and approval date of ordinances. Sections of the code which do not have a citation represent new ordinances that have been added to fill in gaps or to replace ordinances which have become outdated.

The code is continued to be published in loose leaf form so that all new ordinances may be printed for inclusion therein on a regular basis.

Robert L. Floyd, Consultant
dba Oklahoma Code Services
Choctaw, Oklahoma

CITY OF PURCELL

PUBLIC OFFICIALS

AT THE TIME OF THIS CODIFICATION

31 DECEMBER 2012

David Lee
Mayor

Betty Gerhard, Vice Mayor
Sam Vaughn, Councilmember
Mike Pollok, Councilmember
John Chilvers, Councilmember

City Attorney
Ted Haxel

Dale Bunn
City Manager

Dorothy Kennedy
City Clerk

--Adoption Ordinance--

PURSUANT TO THE LEGAL NOTICE AS IS REQUIRED BY THE OKLAHOMA OPEN MEETING ACT INCLUDING THE POSTING OF NOTICE AND AGENDA AS IS REQUIRED BY THE TERMS THEREOF, THE CITY COUNCIL OF THE CITY OF PURCELL, McCLAIN COUNTY, OKLAHOMA MET IN REGULAR SESSION AT THE CITY HALL IN PURCELL, OKLAHOMA ON THE 4th DAY OF FEBRUARY, 2013 AT 7:00 O'CLOCK P.M.

PRESENT: **Betty Gerhard, Mike Pollok, Sam Vaughn, John Chilvers, David Lee**

ABSENT: **None**

THEREUPON, the following Ordinance was introduced and caused to be read in full by the Mayor. Councilman Vaughn moved passage of the Ordinance and Councilman Chilvers seconded the motion. The motion carrying with it the approval of said Ordinance was approved by the following vote:

AYE: 5 - Vaughn, Chilvers, Gerhard, Pollok, Lee

NAY: 0 - None

ORDINANCE NO. 13-01

AN ORDINANCE ADOPTING AND ENACTING THE "CODE OF THE CITY OF PURCELL, OKLAHOMA, 2013", AS AMENDED, COMPILED, REVISED AND CODIFIED BY AUTHORITY OF THE CITY COUNCIL OF THE CITY OF PURCELL, OKLAHOMA, CONTAINING THE PERMANENT AND GENERAL ORDINANCE OF THE CITY; REPEALING ALL ORDINANCES OF A PERMANENT AND GENERAL NATURE NOT INCLUDED IN THE CODE; REGULATING THE BRINGING OF THE CODE UP TO DATE; PROVIDING FOR CERTIFICATION OF COPIES OF THE CODE AND FOR SALE OF COPIES THEREOF; AND PRESCRIBING THE TIME WHEN THE CODE SHALL BECOME EFFECTIVE.

AN EMERGENCY ORDINANCE

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PURCELL, OKLAHOMA:

SECTION 1. CODE ADOPTED; WHEN IN EFFECT; HOW CITED.

A. The Code of Ordinances compiled, revised, and codified for the City of Purcell, Oklahoma, by authority of the City Council of said City, consisting of Chapter 1 to 122 as amended by Ordinances, is hereby adopted and enacted for the City of Purcell, Oklahoma, and shall go into effect immediately after the final passage of this Ordinance.

B. The Code may be cited as "Code of the City of Purcell, Oklahoma, 2013" or by the short title, "Purcell Code 2013". When an amendment is made to this Code as herein provided, the words, "as amended", may be added to the above citation or title when referring to the Code as amended.

C. The adoption of this Code is accomplished under emergency provisions which makes this Code effective at the time it is approved by the City Council of the City of Purcell.

SECTION 2. PERMANENT AND GENERAL ORDINANCES NOT INCLUDED ARE REPEALED.

All Ordinances and parts of Ordinances of a permanent and general nature passed prior to the enactment of this Code, but not included in the Code, are hereby repealed as of the time this Code goes into effect.

SECTION 3. REPEAL OF ORDINANCES NOT TO AFFECT ANY OFFENSE OR ACT DONE PRIOR TO THE TIME THE CODE GOES INTO EFFECT.

The repeal of Ordinances and parts of Ordinances of a permanent and general nature by the above section of this Ordinance shall not affect any offense committed or act done or any penalty or forfeiture incurred or any contract rights, or obligation established prior to the time when said Ordinances are repealed.

SECTION 4. TEMPORARY AND SPECIAL ORDINANCES SHALL CONTINUE IN EFFECT, ALTHOUGH OMITTED FROM CODE.

The continuation in effect of any temporary and special Ordinances, although omitted from the Code, shall not be affected by such omission therefore and the adoption of the Code shall not repeal or amend any such Ordinance.

SECTION 5. CERTIFIED COPIES OF THE CODE.

A. The City Clerk shall examine at least one (1) copy of the Code to see that it is a true copy of the Code and shall certify that it is a true and correct copy of the Code of the permanent and general Ordinance of the City of Purcell. After each amendment thereto is enacted, the clerk shall insert said amendment in the Code and shall recertify said Code as of the date of the amendment is inserted.

B. A copy of the Code as adopted or as amended shall constitute the permanent and general Ordinances of the City of Purcell as of the date of the certificate and shall be so adopted by courts of law, administrative tribunals, and others concerned.

C. One (1) copy of the Code, so certified, shall be kept by the City Clerk at all times and may be inspected by any interested person at any time during regular

business hours, but may not be removed from the City Clerk's possession except upon order of a court law.

SECTION 6. AMENDMENTS TO CODE.

Any Ordinance hereafter enacted of a permanent or general nature shall constitute an amendment to the Code.

SECTION 7. PUBLICATION AND SALE OF THE CODE.

The Code shall be published in book or pamphlet form with not less than twenty [20] copies made and the clerk is hereby authorized to sell copies of the Code of Ordinance to the public at the price of the actual cost incurred per copy.

SECTION 8. EMERGENCY.

It being immediately necessary for the preservation of the public health, peace and safety of the City of Purcell and the inhabitants thereof, an emergency is hereby declared to exist by reason whereof, this Ordinance shall be in full force and effect from and after its passage and approval, as provided by law.

PASSED AND APPROVED this 4th day of February, 2013.

CITY OF PURCELL, OKLAHOMA

By: /s/ David W. Lee
Mayor

ATTEST: [CITY SEAL]

/s/ Dorothy Kennedy
City Clerk

APPROVED as to form on this 4th day of February, 2013.

By: /s/ Ted W. Haxel
City Attorney

STATE OF OKLAHOMA)
) ss.
COUNTY OF McCLAIN)

I, the undersigned, the duly qualified and acting City Clerk of the City of Purcell, Oklahoma, hereby certify that the above and foregoing is a true, correct and complete copy of the Ordinance duly adopted by the City Council, governing body of said City and of the proceedings of the City Council in the adoption of said Ordinance on the date therein set out as shown by the records of my office.

I further certify that in conformity with Title 25 Oklahoma Statutes 1981, §§ 301-314 inclusive, as amended (the Oklahoma Open Meeting Act), I received notice of the meeting as required by law, and I did, or caused to be done, the following acts:

A. At least forty-eight (48) hours prior to said meeting, I received public notice in writing of the date, time and place of said meeting; and

B. At least twenty-four (24) hours prior to said meeting (excluding Saturdays, Sundays, and legal holidays declared by the State of Oklahoma), I displayed public notice of said meeting in prominent public view at the principal office of the City and at the location of said meeting, such notice setting forth thereon the date, time, place and agenda for said meeting;

and that the minutes of the meeting reflect the time and manner of such notice of the meeting required by the Oklahoma Open Meeting Act.

WITNESS my hand and the seal of said City this 4th day of February, 2013.

/s/ Dorothy Kennedy
City Clerk

(CITY SEAL)

RESOLUTION NO. 13-C01

A RESOLUTION ARRANGING, NUMBERING, AND ORGANIZING A CODE OF ORDINANCES; AND DIRECTING THE FILING AND NOTIFICATION OF THE PUBLICATION OF THE CODE ORDINANCES OF THE CITY OF PURCELL.

WHEREAS, 11 O.S. Section 14-108 states in part "the governing body of a municipality may, from time to time, authorize a codification of its ordinances. Such a code to be kept up to date by use of a loose-leaf system and process of amendment. The ordinances and parts of ordinances included in the code may be revised, rearranged, renumbered, and reorganized into some systematic arrangement;" and

WHEREAS, the City of Purcell has caused its Ordinances to be arranged, numbered, and organized by:

1. **Deleting Ordinances previously repealed; and**
2. **Numbering sections where applicable; and**
3. **Deleting State Law references where the Oklahoma Legislature repealed the referenced law; and**
4. **Establishing new parts for a new Code of Ordinances; and**
5. **Updating all State Law references where amended by the Oklahoma Legislature; and**
6. **Adding ordinance provisions to the new Code; and**

WHEREAS, the City Clerk of the City of Purcell has reviewed and requested certain changes to be made to its Code of Ordinances; and

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Purcell, Oklahoma:

THAT the revised, rearranged, renumbered and reorganized Code of Ordinances are hereby acknowledged and approved.

ADOPTED and APPROVED on this 4th day of February, 2013, by the City Council of the City of Purcell, Oklahoma, at a public meeting held in compliance with the Oklahoma Open Meeting Act.

/s/ David W. Lee
Mayor

ATTEST: (City Seal)

/s/ Dorothy Kennedy
City Clerk

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CITY OF PURCELL, OKLAHOMA*

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***EDITOR'S NOTE*: Printed herein is the Charter of the city, approved in an election held on February 9, 1999, and effective on April 1, 1999. 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.**

PREAMBLE

We, the people of the City of Purcell, exercising the powers of home rule granted to us by the Constitution and laws of the State of Oklahoma and in accordance with the provisions of the Charter of the City of Purcell, and in order to more adequately meet the exigencies of the times, do herein ordain, ratify and establish the following as the Charter of the City of Purcell, Oklahoma, which shall completely supersede and replace that Charter adopted on August 2, 1949.

ARTICLE 1

§ 1-101 INCORPORATION, FORM OF GOVERNMENT, POWERS, INCORPORATION.

The inhabitants within the corporate limits of the City of Purcell, Oklahoma, as now established or as hereafter may be established in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity under the name of the "City of Purcell." It shall succeed to and possess all the property rights, privileges, franchises, powers and immunities now belonging to the corporation known as the City of Purcell; and shall be liable for all debts and other obligations for which the corporation is now legally bound. For purposes of this Charter, the term "City" refers to the City of Purcell.

§ 1-102 FORM OF GOVERNMENT.

The municipal government provided for by this Charter shall be known as "council-manager form of government." All powers of the City shall be exercised in the manner prescribed by this Charter or, if the manner be not prescribed, then in such manner as the council may prescribe by ordinance and if not addressed either in the Charter or by city ordinance, then in such manner as prescribed by state law. The words "council" and "commission" may be used interchangeably and shall have the same meaning and reference.

§ 1-103 POWERS OF THE CITY.

The city shall have all powers, functions, rights, privileges, franchises and immunities granted to cities by the state and federal Constitutions and state and federal law and all the implied powers necessary to carry into execution the powers so granted. Except as prohibited by the state and federal Constitutions and state and federal law or restricted by this Charter, the city shall have all municipal powers, functions, rights, privileges, franchises and immunities of every name and nature whatsoever, which shall include, but shall not be limited to, the following powers, to-wit:

A. The power to adopt a corporate seal and to alter it at pleasure;

B. To sue and be sued;

C. To make contracts with respect to anything necessary to carry out its functions, duties and responsibilities;

D. To acquire property within or without its corporate limits for any city purpose, including public utilities, works and ways, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease, or condemnation; and to hold, maintain, improve, enlarge, manage, control, operate, lease, sell, conveyor otherwise dispose of such property, as its interests may require, including public utilities, works and ways;

E. To create trusts, boards and commissions to help it carry out the powers and obligations within its control;

F. To issue bonds in the manner and within the limitations prescribed by the state Constitution and law;

G. To, within the limits prescribed by the state Constitution and law, accept and administer federal and state grants-in-aid and to do everything necessary to accomplish the purpose or purposes for which such grants may be made;

H. To enforce local legislation consistent with the state and federal Constitution and state and federal law, for the proper organization and functioning of city government which shall include the right to enact and enforce legislation for the preservation and enforcement of good government and order as well as for the protection of health, life, morals and property of its inhabitants and for the prevention, summary abatement, and removal of nuisances; and otherwise for promotion of the common welfare of its inhabitants.

I. To grant, extend and renew franchises in accordance with the state constitution and federal regulations; provided, that such action shall be authorized and approved by a majority vote of the electors of the city of Purcell.

The enumeration of particular powers by this charter shall not be deemed to be exclusive; and, in addition to the powers enumerated herein or implied hereby, the city shall have all powers which under the state and federal constitutions and state and federal law, it would be competent for this charter specifically to enumerate.

No public utility shall be sold or purchased unless such sale or purchase be approved by a majority vote of electors voting in a special election called for the purpose of approving such sale or purchase. This shall not preclude the city from purchasing, without a vote of the people, the lines of other utilities located wholly or partly within the limits of the city of Purcell as those boundaries now exist or may hereafter be amended.

ARTICLE 2

§ 1-201 LEGISLATIVE POWERS.

The legislative powers shall be vested in a council consisting of five (5) members. Members of the council shall be nominated and elected from the city at large. The term of office for members of the city council shall be in accordance with the provisions of article IX of this charter. All members of the council shall hold office until their successors are duly elected and qualified:

A. Members of the council shall without pay except that they may be reimbursed actual expenses.

B. The city council shall hold its regular meeting on the first Monday of each month and at such other times as it may prescribe by its own rules unless that day is a holiday recognized by the city in which event the regular monthly meeting shall be on the next business day. Meeting shall be in the community room of the police services building unless, due to special circumstances, another, more suitable meeting area is required. In such cases, the mayor may direct an alternate meeting site in a suitable place and such meeting place shall be placed upon the posted agenda. The mayor or any three (3) council members may call special meeting to meet at such times and places as may be designated in the call. All meetings of the council shall be open to the public and shall comply with the Oklahoma Open Meeting Act;

C. Unless otherwise specified herein, a majority vote on any issue shall be binding;

D. Those elected to the city council shall be required to attend 80% of the regular and special meetings of the council during a twelve (12) month period and if a councilman fails to do so, his office shall become vacant upon a majority vote of the remaining members. (Amended by Res. No. 05-C15 approved by voters 2/14/2005)

§ 1-202 QUALIFICATIONS.

Candidates for council members shall possess the following qualifications:

A. Be an elector of the state of Oklahoma in accordance with the statutory requirements now existing or as may be hereinafter enacted;

B. Have attained the age of twenty-five (25) years at the time of becoming a candidate;

C. Be a resident and registered voter of the city of Purcell for a period of one (1) year prior to his election.

If during his term of office, a council member shall cease to be a resident or registered voter of the city of Purcell or shall be convicted of a felony or any type of crime involving moral turpitude, his office shall immediately become vacant.

§ 1-203 PRESIDING OFFICER: THE MAYOR.

The council shall elect from among its own members a mayor on the first Monday in May for a term of one year. The mayor shall preside at meeting of the council and shall certify to the correct enrollment of all ordinances or resolutions passed by the council. He shall be recognized as the head of the city government for all ceremonial purposes and by the governor of the state of Oklahoma for purposes of military law. He shall have no regular administrative duties except that he shall sign all warrants, checks, conveyances, and such other written obligation of the city as the council may require. The city council shall also elect from its own members at the same time it elects the mayor, a vice-mayor for a term of one-year. The vice-mayor shall act as mayor during the absence, disability, or suspension of the mayor and if a vacancy shall occur in the mayor's office, shall become mayor for the completion of the unexpired term. (Amended by Res. No. 05-C 15 approved by voters 2/14/2005)

§ 1-204 POWERS OF THE COUNCIL.

Except as otherwise provided in the charter, all powers of the city, including the determination of all matters of policy, shall be vested in the council. Without limitation of the foregoing, the council shall:

A. Appoint and remove the city manager, treasurer, city attorney(s) and city judge(s) as provided by law and this charter;

B. By ordinance, enact legislation subject to limitations as may now or hereinafter be imposed by the state constitution and law;

C. By ordinance, adopt the budget of the city;

D. Raise revenue, make appropriations and regulate bond elections, as well as regulate the issuance of bonds, sinking funds, the refunding of indebtedness, salaries and wages, and all other fiscal affairs of the city, all of which shall be within the limits prescribed by the state and federal constitutions, state and federal law and this charter;

E. Inquire into the conduct of any office, department or agency of the city and investigate municipal affairs or authorize and provide for such inquiries and/or investigations;

F. Appoint members to the planning commission and any and all other boards and commissions of the city that now exist or that may hereinafter be created;

G. Adopt plats;

H. Adopt and modify the official map of the city;

I. Grant pardons for violation of municipal ordinances, including the remission of fines and costs, upon the recommendation of the municipal judge;

J. By ordinance, through its zoning regulations and codes, regulate the construction, height and number of stories of buildings and other structures, the density of population and the location and use of buildings for trade, industry, business, residence or other purposes;

K. By ordinance, regulate elections within the limits prescribed by state constitution and law and this charter;

L. Provide for the establishment, power, duties, responsibilities and functions of a municipal police department, fire department, fiscal department, judicial department and such other administrative departments and such divisions within every administrative department as may be necessary and essential to the proper and efficient functioning of the government of the city of Purcell, including the control and management of the city cemetery;

M. Create, change and abolish offices, departments and agencies other than offices, departments and agencies established by this charter; and assign additional functions and duties to, or delete functions and duties from the offices, departments and agencies established by this charter;

N. Approve all claims made against the city before payment which duty shall not be delegated to the mayor or any other person and which shall not be by less than a majority vote of the council;

O. Provide for appropriate zoning for the city of Purcell and in conjunction therewith to follow the procedures outlined by the laws of the state of Oklahoma as well as the ordinances and policies of the city of Purcell and this charter, as they now exist, or as they may hereinafter be enacted;

P. Provide for the construction of capital improvements, which shall be in accordance with the laws of the state of Oklahoma, this charter and other policies and procedures of the City of Purcell as they now exist, or as they may hereafter exist;

Q. Provide for the accounting of all funds received by the city from the operation of public utilities and otherwise, whether the same be accounted for through the city itself, or through the various trusts, boards and other entities established by the council;

R. To levy and collect any and all taxes now authorized by state law and this charter or as such may hereinafter be so authorized;

S. To authorize connection to any storm or sanitary sewer whether the same is located on public or private property as long as it has been constructed in accordance with city and state regulations and has been approved and accepted by the city;

T. To allow connection to city facilities by those outside its corporate limits if deemed necessary or desirable, and to extend utilities outside its corporate limits if deemed necessary or desirable;

U. To, by resolution, provide for increases or decreases in rates of all utilities and services provided by the city.

§ 1-205 COUNCIL NOT TO INTERFERE IN APPOINTMENTS AND REMOVALS.

Except for the purposes of inquiry and except with respect to those officers and employees appointed by the council, the council and its members shall deal with the employees of the city and the employees of its various trusts, boards, agencies and commissions solely through the city manager. The council and its members shall not:

A. Direct or request the city manager or other authority to appoint or remove officers or employees;

B. Participate in any manner in the appointment or removal of officers and employees of the city, except as provided by law; or

C. Give orders to any employee of the city of Purcell either publicly or privately.

§ 1-206 VACANCIES IN COUNCIL.

The council, by majority vote of its remaining members, shall fill vacancies in its own membership for the unexpired term.

§ 1-207 CITY CLERK.

The city manager shall appoint a city clerk. This office may be held by the same person appointed by the council as the city treasurer. The city clerk shall be required to post a surety bond in an amount to be fixed and determined by the council but in no event in a sum less than $25,000.00. If this office is held by the same person who is city treasurer, only one bond need be posted. Subject to regulations prescribed by the council, the city clerk shall:

A. Keep the journal of the proceedings of the council;

B. Enroll all ordinances and resolutions passed by the council in a book or set of books kept for that purpose;

C. Have custody of documents, records and archives as may be provided for by law or by ordinance, and have custody of the seal of the city;

D. Attest and affix the seal of the city to documents as required by law or by ordinance;

E. Assist the city manager in the preparation of the budget;

F. Collect all special assessments, license fees and other revenues of the city or for whose collection the city is responsible, and receive all money on behalf of the city from local, state or federal governments, from any court, from any office, department or agency of the city, or from any other source;

G. The council shall require every person applying for electric energy or water service or service on any premises from a municipally-owned utility to make a deposit in cash with the city clerk in such amount as may be equal to the charge for such service for a period of thirty (30) days or as otherwise established by resolution. Upon discontinuance of service or at such other times as the council may see fit, such deposit shall be returned to the depositor after deducting therefrom any amount which may be owing to the city of Purcell by reason of unpaid charges for services rendered;

H. Have such other powers, duties and functions related to his duties as may be prescribed by state law, the councilor, the city manager.

§ 1-208 CITY TREASURER.

The council shall appoint a city treasurer for an indefinite term, by a majority vote of all its members. The same person may hold both the office of city clerk and city treasurer. It shall be the responsibility of the council to hire and terminate the city treasurer and it shall be its further responsibility to set the salary and duties of said office. The city treasurer shall be required to post a surety bond in an amount to be fixed and determined by the council from time to time but in no event shall the same be less than $25,000.00, provided that if the same person is also city clerk, only one (1) bond need be posted. Subject to regulations prescribed by the council and the matters set forth in article IV of this charter, the city treasurer shall:

A. Deposit daily funds received by the city and its various boards, trusts and agencies in depositories as the council may from time to time designate and direct; and

B. Have such other powers, duties, and functions related to his duties as may be prescribed by law, by ordinance, by this charter, or by the council.

In case of a permanent vacancy, the council shall appoint a new city treasurer within a reasonable time. In the case of temporary absence, suspension, or disability of the city treasurer, the council may direct an appropriate person to fill the vacancy until a permanent treasurer is selected. The council may discharge the city treasurer at any time by a majority vote of those elected to and constituting the council for "the good of the service". The council may also enter into a written agreement with the city treasurer specifying the terms and conditions of his employment.

§ 1-209 QUORUM.

A majority of all of the members of the council shall constitute a quorum, but a smaller number may adjourn or recess from day to day. The council shall determine its own rules. A quorum may consist of any three (3) councilmen.

§ 1-210 RULES: JOURNAL; YEAS AND NAYS.

The council shall determine its own rules and procedure. It shall keep a journal of its proceedings, and the journal shall be open to public inspection. The vote on any question shall only be in a public meeting and shall be by "yeas" and "nays" or other equivalent designation, and shall be entered in the journal.

§ 1-211 ORDINANCES: AUTHORITY, ENACTING CLAUSES, TITLE.

The council may enact ordinances, rules and regulations for any purpose prescribed in this charter or in Title II of the Oklahoma statutes or as are necessary for the carrying out of the functions of the city of Purcell and its various agencies, boards and commissions. Any such ordinance shall be consistent with the state and federal constitutions as they now exist or as they may be amended. The subject of all ordinances shall be clearly expressed in its title. The enacting clause of all ordinances passed by the council shall be: "BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PURCELL."

The voters of the city of Purcell, acting under their power of initiative, may enact ordinances in conjunction with article VI, section 1 of this charter and in conjunction with the state constitution and state law. The enacting clause of ordinances proposed by the voters under their power of initiative shall be: "BE IT ORDAINED BY THE PEOPLE OF THE CITY OF PURCELL."

§ 1-212 ORDINANCES: CODIFICATION.

The council shall codify its ordinances at least every ten (10) years. The ordinances, as codified, shall be kept current by use of a loose-leaf or other appropriate system when amendments occur with the exact form and designation to be determined by the council. Titles, enacting clauses and emergency sections shall be omitted. Temporary and special ordinances and parts of ordinances may also be omitted. Permanent and general ordinances and parts of ordinances which have been repealed by council action or which are to

be repealed by the code shall be omitted from the code. Ordinances and parts of ordinances to be included in the code may be revised, rearranged, renumbered, and reorganized into a satisfactory, systematic arrangement. The council, at its discretion, may publish in connection with the code new matters, such as, but not limited to, provisions of state or federal law relating to the city of Purcell, a history of the city and its government, the names of officials and other informational matter as the council may decide. The code may also contain an index, as well as such forms as the council may deem appropriate and desirable.

The city clerk shall keep no less than three (3) copies of the code in his office for public use, inspection and examination. Copies of the code shall also be kept for distribution and sale at a reasonable price. Notice of publication of the code shall be in accordance with state law existing at the time of publication.

The council, at its sole discretion, may enact and adopt as a part of said code of ordinances, national and/or state recognized codes relating to, but not limited to, such matters as building, plumbing and electric and in such event it shall not be necessary to include in said code the entirety of each such federal or state code, but shall only refer to it. The city clerk shall keep in his possession for sale and distribution any such code so adopted.

§ 1-213 ORDINANCES: PROCEDURES GOVERNING PASSAGE.

Every proposed ordinance shall be introduced in writing and shall be considered at a public meeting. It must appear on the posted agenda before it can be voted on. A vote of a majority of the members of the council present, provided a quorum exists, shall be required for the final passage of every ordinance. The vote on final passage shall be by yeas and nays, or such other designation as the council shall direct, and shall be entered in the journal. Every ordinance, except an emergency ordinance, shall become effective thirty (30) days after its final passage, unless it specifies a later date. Publication of ordinances shall be in conformity with the statutes of the state of Oklahoma as they exist at the time of passage.

§ 1-214 EMERGENCY ORDINANCES.

The council may pass an emergency ordinance, when in its judgment, the public peace, health or safety demands its passage. Such an ordinance shall be effective upon its passage, unless it specifies a later date. Each emergency ordinance must contain a separate section declaring an emergency, which emergency portion must be voted on separately and must be approved by the affirmative vote of at least three-fourths (3/4) of all members voting.

ARTICLE 3

§ 1-301 CITY MANAGER APPOINTMENT.

The council shall appoint a city manager for an indefinite term by a vote of a majority of all its members. During his tenure of office, the city manager shall reside within the city after being given a reasonable time for relocation. He shall be appointed solely on the basis of his executive and administrative qualifications. No council member may be appointed as city manager during the term for which he shall have been elected nor within two (2) years after the expiration of his term. In case of temporary absence, suspension, or disability of the city manager, the council shall designate an "acting" or "interim" city manager. In case of a permanent vacancy, the council shall appoint a city manager within a reasonable period of time. The council may discharge the city manager at anytime by a majority vote of those elected to and constituting the council for "the good of the service". The council may also enter into a written agreement with the city manager specifying the terms and conditions of his employment. The city manager shall give bond in such amount and upon such conditions as the council may require, but in no event shall such bond be less than $25,000.00. The city manager may also be, at the discretion of the council, the general manager for the Purcell Public Works Authority or a member of any other board, authority or trust.

§ 1-302 CITY MANAGER: POWERS AND DUTIES.

The city manager shall be the chief executive officer and head of the administrative branch of the city government. He shall execute the laws and administer the government of the city and shall be responsible therefore to the council. He shall:

A. Appoint and, when necessary for "the good of the service", remove, demote, layoff or suspend, all heads of administrative departments and employees of the city except as may otherwise be provided in this charter or by law. He may authorize the head of a department or office to appoint and remove subordinates in such department or office. Any employees appointed by the city manager or his designee shall be considered an "at will" employee;

B. Prepare a budget annually and submit it to the council and be responsible for the administration of the budget after it goes into effect; and recommend to the council any changes in the budget that he deems necessary or desirable;

C. Submit to the council after the end of the fiscal year a report on the finances and administrative activities of the city for the preceding year;

D. Keep the council advised of the financial condition and future needs of the city, and make recommendations as may seem to him desirable;

E. Perform such other duties as this charter and the council may prescribe;

F. Supervise and control the city police department, fire department, cemetery, and such other administrative departments and such divisions within every administrative department as the council may establish. The council, by resolution or ordinance, may authorize or require that the city manager add one or more divisions and that the same person head two or more designated departments or divisions.

The city manager shall not demote, lay-off, or suspend, or remove any officer or employee appointed by the council.

§ 1-303 DESIGNATION OF ACTING OR INTERIM CITY MANAGER.

The council may designate an "acting" or "interim" city manager wherever:

A. The city manager is unable to perform his duties;

B. The council suspends the city manager; or

C. There is a vacancy in the office of city manager.

§ 1-304 LIBRARY BOARD.

The council may establish a city library and to this end it may accept in the name of the city of Purcell donations and contributions in any form from any person, firm, corporation or governmental agency. The council is hereby empowered and authorized to use such funds as may be available for the erection, construction, equipment and maintenance of a building to be known and used as the public library for the city of Purcell. The control and supervision of such library shall be vested in a library board. The library board shall consist of five (5) persons appointed by the council. Persons appointed to the library board shall be residents of the city of Purcell. Each member shall be appointed for a period of four (4) years unless amended as hereafter specifically set forth and those board members presently on the board shall serve out their existing terms. The commencement and termination of those terms, as well as the length of said terms shall be determined solely be the council and may be amended or changed by resolution. The library board shall select annually from its membership a chairman, vice-chairman and secretary and shall provide for and regulate its own meetings. The members shall serve without compensation.

ARTICLE 4

§ 1-401 FISCAL AFFAIRS.

The city treasurer shall be the head of the department of fiscal affairs. He shall have knowledge of accounting, budgeting and financial control. He shall be appointed for an indefinite term by the council and shall be subject to termination by the council as herein provided. He shall have charge of the administration of the fiscal affairs of the city and to

that end he shall:

A. Approve all proposed expenditures, sign all checks and be responsible for the disbursement of all money; certify all contracts, orders and other arrangements by which the city government incurs financial obligations; determine the regularity, legality and correctness of all bills, invoices, payrolls and other evidence of claims, demands or charges against the city, and audit and approve them before payment; and otherwise exercise financial and budgetary control over all offices, departments and agencies of the city.

B. Prescribe the forms of receipts, vouchers, bills and claims to be used by all offices, departments and agencies of the city; provided, the city council shall require that no funds belonging to the city be expended, except pursuant to an itemized claim or claims approved by the council and that payment thereof shall be made only by checks signed by the mayor and city treasurer or their respective designees who shall be determined by the council by resolution;

C. Maintain a general accounting system for the city and each of its offices, departments and agencies; supervise, inspect and audit the accounts and financial records which any of them may maintain; keep a separate account for each item of appropriation, which shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending agency of the city which shall be made daily or at such intervals as he may deem expedient;

D. Submit to the council a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the city; it shall be the mandatory duty of the city treasurer to submit to the council at least once each month, a trial balance of all city business, and said trial balance shall be open to public inspection during the regular business hours of the city;

E. Prepare for the council and city manager a complete financial statement and report at the end of each fiscal year.

F. Have custody of all public funds belonging to or under the control of the city or any office, department or agency of the city government; and subject to any requirements made by the council, deposit all funds coming into his hands in such depositories as the council may designate;

G. Have charge of all funds, investments and invested funds of the city in a fiduciary capacity;

H. All monies paid into the hands of the city treasurer shall be accounted for in a separate fund. No expenditures shall be made from said fund except for return to the depositor when service has been discontinued or otherwise directed by the council and for the payment of charges for services rendered which have not been otherwise paid for. This

fund, or a portion thereof, may be invested in interest bearing securities as may be approved by the city council;

I. The city treasurer shall be responsible to the city of Purcell on his official bond for any financial loss sustained by the city by reason of the refusal, negligence or failure of the city treasurer to comply with the requirements of this section.

§ 1-402 MONEY RECEIVED TO BELONG TO THE CITY.

All fees, fines, penalties, costs, forfeitures and other money received on behalf of the city by an officer or employee shall belong to the city and shall be delivered to the city treasurer daily, or at such intervals as the council may prescribe.

§ 1-403 COMPETITIVE BIDDING: SUPPLIES, MATERIALS AND EQUIPMENT.

The city manager, subject to regulations prescribed by the council, shall contract for, purchase, or issue purchase authorizations for all supplies, materials and equipment for offices, departments and agencies of the city. Every contract or purchase exceeding an amount to be established by the council by resolution shall require prior approval of the council and shall be by competitive bid only. The city manager (for all bids under $7,500.00) and the council (for all bids over $7,500.00) may reject all bids and advertise again. The amounts herein designated may be changed by the council by resolution. Alterations in any contract may be made when authorized by the council upon the written recommendation of the city manager. If the items being purchased have a single source of supply, or if they are being purchased on a state (Oklahoma or other governmental entity) or federal contract, it shall not be necessary to proceed with competitive bidding.

§ 1-404 PROPERTY FOR SALE.

The city manager, subject to regulations prescribed by the council, may contract for the lease or sale of real or personal property, or any interest therein, owned by the city after having complied with the laws of the state of Oklahoma and the city of Purcell related to declaring said property obsolete. Every contract for the sale of any property, or any interest therein, exceeding an amount to be established by resolution, shall require the prior approval of the council and shall be by competitive bid. The city manager may reject any and all bids.

§ 1-405 COMPETITIVE BIDDING; CITY IMPROVEMENTS.

All public construction contracts shall be let and awarded to the lowest, best bidder, by free and open competitive bidding after solicitation for sealed bids, in accordance with the provisions of state law in effect at the time the contract is awarded. No work shall be commenced until a written contract is executed and all required bonds and insurance have been provided by the contractor.

§ 1-406 ACCOUNTING CONTROL OF PURCHASES.

All purchases and contracts made by the city shall be pursuant to a written requisition from the head of the office, department, or agency whose appropriation will be charged, and shall be first submitted to and approved by the city manager. Upon approval by the city manager, the same shall be delivered to the city treasurer or his designee for encumbrance. Absent the approval of the city manager and city treasurer, or their respective designees, the same shall not constitute a valid claim against the city of Purcell.

§ 1-407 FISCAL YEAR.

The fiscal year of the city of Purcell shall begin on the first day of July and shall end on the last day of June of each calendar year.

§ 1-408 BUDGET: PREPARATIONAND SUBMISSION.

To assist him in the preparation of the budget, the city manager, or the city clerk and treasurer at the request of the city manager, shall obtain from the head of each office, department or agency detailed estimates of revenues and expenditures needed for that office, department or agency. The city manager shall then prepare the budget and shall submit it to the council for consideration. The council, by resolution, shall adopt the budget with or without change, and the council shall then certify a copy of the financial statement and estimate and file it with the office Appropriations shall be effective only after they have been determined and adopted in all respects in accordance with the requirements of the law and this charter.

§ 1-409 BUDGET: CONTENT.

The budget shall include, among other things, amounts necessary to meet the requirements of interest on, and sinking funds for, the outstanding indebtedness of the city and amounts necessary to otherwise pay the public debt for which the full faith and credit of the city has been pledged. The budget shall also include such amounts as are necessary to pay such judgments and parts of judgments as the city may be required by law to pay. The budget shall include such other items as are necessary for the functioning of the city of Purcell and as may be prescribed by state law and the city council from time to time and shall be in such form or forms as the city manager, the council and state law may from time to time decide is appropriate.

§ 1-410 BUDGET: LIMITATION ON CONTRACTS AND EXPENDITURES.

No office, department or agency, during any fiscal year, may expend, or contract to expend, any money, or enter into any contract which by its terms involves the expenditure of money or incur any liability for any purpose, in excess of the amount appropriated for that purpose in accordance with the law and this charter. Any contract, verbal and written, made in violation of this charter shall be null and void. Any officer or employee of the city

who violates this section shall be guilty of an offense against this charter and, upon conviction thereof, shall cease to hold his office and shall be terminated. Such officer or employee and his surety, if any, or either alone, shall be liable for any loss the city may sustain as a result of such violation. Nothing contained in this section, however, shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds.

§ 1-411 INDEPENDENT ANNUAL AUDIT.

Prior to the end of every fiscal year, the council shall secure the services of a certified public accountant or accountants who shall make an independent audit of accounts and other evidences of financial transactions of the city as of the end of the fiscal year and shall submit such report to the council and the city manager. The accountant or accountants so employed shall have no personal interest, direct or indirect, in the fiscal affairs of the city or any of its officers and shall be certified to perform Oklahoma municipal audits. They shall not maintain any records or accounts of the city but, within specifications approved by the council, shall post audit books and documents kept by the city or any of its trusts, departments, boards or agencies. In lieu of the above, the council may arrange with appropriate State authority for such an audit when and if permitted by law.

§ 1-412 BONDS: ISSUANCE, SINKING FUNDS, PROCEEDS, REFUNDING.

The city may incur indebtedness by issuing bonds with the approval of the electors of the city at an election in the manner prescribed by and to the extent and for any purpose or purposes authorized by the state constitution and law. Sinking funds shall be established, maintained and administered as required by the state constitute and law and this charter. The proceeds of all bonds voted for a special purpose or purposes may be used only for such purpose or purposes or to retire the indebtedness created thereby. Interest payments and retirement of bonds voted and issued for the purpose of the purchase, alteration, re-equipment or improvement of public utilities shall constitute an obligation against the receipts and income from public utilities operated by the city. The city may refund its indebtedness in accordance with the state constitution and state law.

ARTICLE 5

§ 1-501 JUDICIAL DEPARTMENT; MUNICIPAL JUDGE.

The council shall establish a judicial department. The judicial department shall consist of one or more city attorneys and one or more municipal judges, as well as support personnel to be determined by the council. The council shall appoint one or more city attorneys and one or more municipal judges to serve under such conditions and at such salary as may be prescribed by the council. The city attorney shall not act as municipal judge. City attorneys and municipal judges may be discharged at any time by a majority vote of those elected to and constituting the council.

§ 1-502 MUNICIPAL COURT: JURISDICTION.

The municipal court shall have original and exclusive jurisdiction to hear and determine all offenses against the charter and ordinances of the city of Purcell.

§ 1-503 PENALTIES.

All penalties for offenses against the charter and ordinances of the city shall be within constitutional and legal limits. The council may ordain that persons who have been convicted of such offenses be imprisoned until fines, including penalties and costs, shall have been paid. The council shall determine, by resolution, from time to time the amount of such fines and costs.

§ 1-504 MUNICIPAL COURT: PLACE, RECORDS, STYLE, PROCEDURE AND OATHS.

The municipal judge shall maintain his office and hold sessions of the municipal court in city hall unless the council authorizes another place. He shall keep a record of all proceedings of the court, the disposition of all cases and of all fines and other money collected. The style of all process of the municipal court shall be in the name of the city of Purcell. The procedure in all cases shall be summary when the state constitution and law permit. The municipal judge may administer oaths and make and enforce all proper orders, rules and judgments.

ARTICLE 6

INITIATIVE, REFERENDUM, RECALL

§ 1-601 INITIATIVE AND REFERENDUM.

The powers of the initiative and the referendum are reserved to the people of the city of Purcell in accordance with the state constitution. In the exercise of these powers, the requirements of the state constitution and state law shall be observed in all respects.

§ 1-602 POWER TO RECALL.

The electors of the city may recall any elective officer of the city at any time after he has held office for at least six (6) months. If a recall election is held, and the elective officer is not recalled, a subsequent recall election on the same elective officer shall not occur for a period of twelve (12) months from the date of the election.

§ 1-603 RECALL PETITION.

To initiate recall proceedings, a number of electors of the city equal to at least twenty five percent (25%) of the total number of persons voting in the last general

municipal election must sign a petition or petitions demanding an election for the recall of a designated officer. The petition or petitions must contain a general statement of the reasons for which the removal is sought. Each signer shall write after his name his place of residence within the city, giving street or avenue number, if any. If more than one petition is circulated, the demand for the election and the statement of reasons must be substantially the same on all. One of the signers of such petition shall sign under oath before an officer authorized to administer oaths, a statement on the petition that he believes that the statements made in the petition or petitions are true, and that he believes that all the signatures on the petition or petitions are the signatures of the persons whose signatures they purport to be. If more than one petition has been circulated, they shall be combined as one before filing. The petition shall be filed with the city clerk. Within ten (10) days from the date of filing, the city clerk shall examine the petition and ascertain whether the required number of electors of the city have signed it. He shall then attach to it his certificate stating whether the required number of electors of the city have signed it. If his certificate states that it lacks a sufficient number of signatures, it may be amended within ten (10) days after the date of the certificate. Within ten (10) days after the amendment, the city clerk shall examine the amended petition and ascertain whether the required number of electors of the city have signed it. He shall then attached to it his certificate stating whether the required number of electors of the city have signed it. If his certificate states that the amended petition lacks a sufficient number of signatures, he shall return it to the person filing it without prejudice to the filing of a new petition for the same purpose. But, if the city clerk's certificate states that the petition, or the amended petition, has a sufficient number of signatures of the electors of the city, he shall submit it to the council at its next meeting.

§ 1-604 COUNCIL TO ORDER RECALL PETITION.

If it finds the petition to be sufficient, the council, by resolution, shall order a recall election to be held not less than sixty (60) days after the council delivers the resolution calling the election to the county election board. The city clerk shall publish a notice of the recall election in a newspaper of general circulation in the city, at least ten (10) days before the election.

§ 1-605 RECALL ELECTION BALLOT.

The secretary of the county election board shall prepare the form of the ballots for a recall election and shall have them printed. The form and content of the ballots shall be substantially as follows:

Official Ballot, Recall Election
City of Purcell, Oklahoma

"Shall _____ (city councilman) be recalled from the office of _____ (city councilman)?

YES

NO

§ 1-606 RECALL ELECTION: HOLDING CERTIFICATE.

The distribution of ballots for a recall election and the holding and conduct of the election, including the counting of the votes and the making and canvassing of the returns, shall be done as nearly as practicable in the same manner as in other elections of the city. The county election board or subsequent agency having authority shall certify the returns to the council and to the officer concerned.

§ 1-607 RECALLED BY VOTE OF A MAJORITY.

If a majority of the electors voting on the question of recall shall vote to recall an officer, he shall thereby be removed from office as of the time when the county election board certifies the result of the election. If fewer than majority vote to recall him, he shall continue to hold his office as if no recall election had been held.

§ 1-608 FILLING A VACANCY CREATED BY RECALL.

A vacancy created by recall of an officer shall be filled in the same manner as a vacancy created otherwise.

§ 1-609 DISQUALIFICATION OF PERSON RECALLED.

A person who the electors have recalled from an office of the city or who has resigned while proceedings to recall him were pending may not hold an office or employment with the city for a period of two (2) years after such recall or resignation.

ARTICLE 7

GENERAL PROVISIONS

§ 1-701 FEMININE GENDER ALSO MEANT.

When the masculine gender is used in this charter it shall also mean the feminine gender.

§ 1-702 REMOVAL OF EMPLOYEES.

The city manager or other appointing authority may at any time remove any employee so appointed or employed under the provisions of this charter "for the good of the service". If necessary, the vacancy created by such removal shall be filled by an appointment made by the city manager or other appointing authority, unless in his or its

judgn1ent the filling of such vacancy is not necessary or demanded by the best interests of the city of Purcell.

§ 1-703 WHO MAY ADMINISTER OATHS.

All officers authorized by federal or state law, all council members, the city manager, the heads of all administrative departments; the city attorney and the municipal judge may administer oaths.

§ 1-704 OATH OF OFFICE.

Every officer of the city before entering upon the duties of his office shall take and subscribe to the oath and affirmation of office as provided by the state constitution and state law, and shall further swear and affirm that he will support, obey and defend the charter and ordinances of the city and will discharge the duties of that office thereafter; and that he does not belong to any party or other organization which believes in, teaches or advocates the change or destruction of any form of government by force or any other means other than that of the ballot.

§ 1-705 BONDS.

The city treasurer, the city manager and such other officers and employees as the council, by resolution, may designate, before entering upon their duties shall provide bonds for the faithful performance of their respective duties, payable to the city, in such forms and in such amounts as the council may prescribe with a surety company authorized to operate within the state of Oklahoma. The city shall pay the premiums on such bonds.

§ 1-706 PUBLIC RECORDS.

All records and accounts of the city of Purcell shall be subject to the terms and conditions contained in the Oklahoma Open Records Act, Title 51 O.S. Section 24A.1 et. seq. and any amendments or substitutions thereto. All officers, employees and officials of the city shall comply with the terms of said act and shall be subject to the penalties therein contained for failure to comply.

§ 1-707 FAVORITISM TO OFFICERS AND EMPLOYEES PROHIBITED.

No officer or employee of the city may receive, directly or indirectly from the city of Purcell, or from any person, firm or corporation operating within the city under a public franchise, any service or other valuable thing upon more favorable terms than are granted to the public generally. Any violation of this section shall constitute an offense against this charter and any officer or employee of the city, upon conviction thereof, shall thereby forfeit his office or employment. Nothing herein contained shall prevent such a person, firm or corporation from granting the city such service or other valuable thing free or upon more favorable terms.

§ 1-708 PERSONAL INTEREST.

No officer or employee of the city may have a financial interest, whether it be direct or indirect, including ownership of stock in any corporation, in any contract with the city or in the sale to the city, or to a contractor supplying the city, of any lands or rights or interest in any land, material, supplies or services. Any willful violation of this section shall constitute an offense against this charter and any officer or employee of the city, upon conviction thereof, shall thereby forfeit his office of employment. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the city shall render the contract voidable by the city; provided, the provisions of this Section shall not apply where the services, supplies, materials, lands or any other commodities are purchased or acquired pursuant to open and competitive bidding, conditioned upon the contract being awarded to the lowest and best bidder. This section shall not apply to ownership in stock in corporations traded publicly and ownership of stock through various retirement programs.

§ 1-709 INVESTIGATIONS.

The council, the city manager or any person or committee authorized by either of them, may inquire into the conduct of, and investigate any office, department, agency, officer, employee, or other affairs of the city; and for this purpose may subpoena witnesses, administer oaths and compel the production of books, papers and other evidence. However, the council alone, with or without the city attorney as counsel, may inquire into the conduct of and investigate the officers, employees and affairs of the judicial department. Failure to obey a subpoena or to produce books, papers or other evidence as provided herein shall constitute an offense against this charter and shall be punishable as the council may provide within the constitutional and legal limits.

§ 1-710 PENALTIES.

Any elective or appointive official who willfully or knowingly violates any of the provisions of this charter shall be subject to an ouster action brought in the district court of McClain County on the relation of any citizen of the city of Purcell. Any employee of the city who willfully or knowingly violates any of the provisions of this charter shall be subject to instant dismissal by action of the city councilor by the city manager, if such offending employee is placed under the control or supervision of the city manager by the terms of this charter.

§ 1-711 SEPARABILITY CLAUSE.

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

ARTICLE 8

AMENDMENTS

§ 1-801 AMENDMENT: PROPOSAL, RATIFICATION, APPROVAL.

This charter may be amended by proposals therefore submitted by the council at a general or special election, or by the city council upon initiative petition of tile people as provided by the state constitution.

ARTICLE IX

INAUGURATION OF THE NEW GOVERNMENT AND ELECTIONS.

§ 1-901 CONTINUANCE OF CITY GOVERNMENT.

The city's current council members, who were elected pursuant to the terms and conditions of the city's charter dated April 1, 1999, and under which the city is currently being administered, shall continue to hold office through the expiration of their current term of office. Members under this charter shall be for three (3) years. The respective offices and their expiration dates as follows, to wit:

Division	Expiration
Division 1	2008 and every 3 years thereafter
Division 2	2009 and every 3 years thereafter
Division 3	2009 and every 3 years thereafter
Division 4	2010 and every 3 years thereafter
Division 5	2010 and every 3 years thereafter

The city of Purcell shall not have wards but each office shall be "at large." The number and location of election precincts shall be determined by the county election board. The term of each councilman shall commence at 7:00 p.m. on the first Monday following the first Tuesday in April. (Amended by Res. No. 05-CIS approved by voters 2/14/2006; Res. No. 06-C19 approved by voters 2/13/2007)

§ 1-902 NONPARTISAN.

All elections shall be nonpartisan and no party designation or emblem shall be placed on the ballot.

§ 1-903 ELECTION RESOLUTION.

Election resolutions shall be filed with the county election board or designated successor no fewer than fifteen (15) days preceding the first day of the filing period.

§ 1-904 FILING.

Any registered voter may have his or name placed on the ballot as a candidate for councilman provided the qualifications contained in Article II, Section 2 of the charter are met. The filing period shall be three (3) days in length and shall begin the first Monday in December at 8:00 a.m. and shall end on the following Wednesday at 5:00 p.m.; followed by a two (2) day contest/withdrawal period ending the following Friday at 5:00 p.m.

§ 1-905 PRIMARY ELECTION; TIME, WHEN NOT HELD, ETC.

A primary election shall be held on the second Tuesday in February of every year to nominate candidates for the office or offices whose terms are expiring. If only one person is a candidate for an office to be filled, he or she shall be not only nominated, but also elected ipso facto; and his or her name shall not appear on the primary or general election ballot. Every qualified elector of the city shall be entitled to vote for one candidate for each office to be filled.

§ 1-906 PRIMARY ELECTION: WHO NOMINATED OR ELECTED.

A. 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 and shall proceed to the general election; however, if one of the candidates for an office receives a majority of all votes cast for that office, he alone shall not only be nominated, but also elected ipso facto; and his name shall not appear on the ballot for the general election; and

B. If one of the two candidates nominated for an office in a primary election dies or withdraws before the general election, the remaining candidate shall be elected ipso facto and his or her name need not appear on the general election ballot.

§ 1-907 GENERAL ELECTION: TIME, WHEN NOT HELD, ETC.

A general election shall be held on the first Tuesday in April of each year to elect candidates for the offices in which terms are expiring. If not more than one person is a candidate for an office to be filed, he or she shall be elected ipso facto. Every registered voter of the city shall be entitled to vote for one candidate for each office to be filled. In case of a tie, state law shall determine the winner. An election contest period shall begin at 8:00 a.m. the day after the election and shall end the following Friday at 5:00 p.m.

§ 1-908 POLITICAL ACTIVITY OF OFFICERS AND EMPLOYEES.

Officers and employees of the city may attend and express their views at city council and other public meetings. City officers and employees may actively participate in partisan and non-partisan political activities except such political activity shall be exercised only during off-duty hours and while not in uniform. Political activity during duty hours or while in uniform shall constitute cause for removal from office.

The city council, nor any member thereof, nor any officer of the city shall either directly or indirectly coerce or attempt to coerce any city employee to participate or refrain from participating in political activities or public meetings.

§ 1-909 STATE CONSTITUTION AND LAW TO GOVERN.

The county election board shall conduct the primary, general and special elections of the city. The provisions of the state constitution and law relating to elections, shall govern such elections insofar as they are applicable and are not superseded by this charter or by ordinance.

ARTICLE 10

§ 1-1001 ORDINANCES CONTINUED.

All ordinances of the city, 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.

§ 1-1002 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 full effect, brought by or against the city or any office, department, agency or officer thereof. All such actions and proceedings may be continued although functions, powers and duties may have been transferred from one office, department or agency to another pursuant to this charter.

§ 1-1003 REPEAL PROVISO.

The Preamble of the present charter (August 2, 1949) of the city of Purcell, article I, and all sections thereunder, article II and all sections thereunder, Article III and all sections thereunder, article IV and all sections thereunder, article V and all sections thereunder, article VI and all sections thereunder, article VII and all sections thereunder, article VIII and all sections thereunder, article IX and all sections thereunder, and article X and all sections thereunder and all subsequent amendments thereto and all ordinances or parts of ordinances in conflict with the provisions of this charter are hereby specifically repealed.

§ 1-004 EFFECTIVE DATE.

The effective date of this charter shall be April 1, 1999, on which date the repeal proviso specified in section 3 above shall become effective.

CERTIFICATE OF RECORD

STATE OF OKLAHOMA

COUNTY OF MCCLAIN ss.

I hereby certify that the above and foregoing is a full, true and correct copy of the charter of the city of Purcell, Oklahoma; that the said charter and a transcript of all proceedings whereby the same was adopted and filed for record in my office on the _____ day of _____, 1999, at _____ o'clock, __.m.; and that the same was duly recorded in Book _____ at Page _____.

Dated this ___day of_____, 1999.

SEAL

_____
County Clerk of McClain County, Oklahoma

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PART II

CODE OF ORDINANCES

CHAPTER 1

GENERAL PROVISIONS*

§ 1-1 How code designated and cited.
§ 1-2 Definitions and rules of construction.
§ 1-3 Catchlines of sections and other headings; history notes.
§ 1-4 Editor's notes and references.
§ 1-5 Effect of repeal of ordinances.
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§ 1-12 General penalty.
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§ 1-15 Ordinances in effect in outlying territory of city.
§ 1-16 Fee schedule.
§ 1-17 Map of city designated as official map.
§ 1-18 Wards.

***Charter reference*:** **General provisions, Arts. I, VII.**

ARTICLE 1

GENERAL PROVISIONS*

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§ 1-18 Wards.

§ 1-1 HOW CODE DESIGNATGED AND CITED.

The provisions embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, City of Purcell, Oklahoma," and may be so cited. (Prior Code 1991, § 1-101)

***Charter Reference*: Codification of ordinances, Art. II, § 12.**

***State Law Reference*: Adoption and revision of codes of ordinances, 11 O.S. §§ 14-108, 14-109.**

§ 1-2 DEFINITIONS AND RULES OF CONSTRUCTION.

In the construction of this Code and of all ordinances, the following definitions and rules are observed unless the construction would be inconsistent with the manifest intent of the council:

1. Building official and building inspector. The terms "building official" and "building inspector" means the officer or other designated authority charged with the administration and enforcement of city building regulations, or a duly authorized representative.

2. Charter. The term "Charter" shall mean the Charter of the city, as it now

exists or as it may be amended in the future.

3. City and this city. The terms "city" and "this city" shall be construed as if the words "of Purcell, Oklahoma," followed them.

4. City clerk and city treasurer. Whenever the city treasurer is also serving as city clerk, the terms "city clerk" and "city treasurer" mean the city clerk-treasurer.

5. Code, this Code and this Code of Ordinances. Whenever the terms "code," "this code," and "this code of ordinances" are referred to without further qualification, such terms shall mean the officially adopted code of ordinances, City of Purcell, Oklahoma, as designated in section 1-101.

6. Computation of time. In computing any period of time prescribed or allowed by this code, by rules of the municipal court, by order of the court or by any applicable ordinance, 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 legal holiday as defined by the Oklahoma statutes, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday as defined by the Oklahoma statutes. When the period of time prescribed or allowed is less than eleven (11) days, intermediate Saturdays, Sundays, or legal holidays as defined by the Oklahoma statutes shall be excluded in the computation.

7. Council and city council. The terms "council" and "city council" mean the city council of Purcell.

8. County and this county. The terms "county" and "this county" mean the County of McClain, Oklahoma.

9. Gender. Words used in the masculine gender include the feminine and neuter.

***State Law Reference*: Similar provisions, 25 O.S. § 24.**

10. Health department. The term "health department" means the cooperative health department that serves this county.

11. Health director. The term "health director" means the medical director of the health department or his authorized representative, or any other legally designated health authority of the city or his authorized representative, or any authorized representative of the state department of health.

12. Joint authority. Words giving a joint authority to three or more officers or other persons are construed as giving such authority to a majority of them, unless it is otherwise expressed in the provision of this code, or in the ordinance giving the authority.

13. Law. The term "law means and includes applicable federal law, provisions of the Constitution and statutes of the state of Oklahoma, the ordinances of the city, and, when appropriate, any and all rules and regulations promulgated thereunder.

14. Manager and city manager. The terms "manager" and "city manager" mean the city manager of Purcell.

15. Mayor. The term "mayor" means the mayor of the city.

16. Month. The term "month" means a calendar month.

17. Nontechnical and technical words. Words and phrases which are not specifically defined shall be construed according to the common and accepted usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

18. Number. Words used in the singular number include the plural, and the plural the singular, except where a contrary intention plainly appears.

***State Law Reference*: Similar provisions, 25 O.S. § 25.**

19. O.A.C. The abbreviation "O.A.C." means the Oklahoma Administrative Code.

20. Oath. The term "oath" shall include "affirmation," and the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

21. Officers, agencies. A reference to an officer, employee, department, board, commission, or agency by the title only shall mean an officer, employee, department, board, commission, or agency, respectively, of the city.

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

23. O.S. The abbreviation "O.S." shall mean the Oklahoma Statutes 1991, as now or hereafter amended, revised, or recodified.

24. OTC. The abbreviation "OTC" means over the counter.

25. Person. The term "person" shall extend and be applied to human beings, organizations, associations, clubs, societies, companies, firms, partnerships, co-partnerships, and bodies politic and corporate, or the manager, lessee, agent, servant, officer, or employee of any of them, unless a contrary intention plainly appears.

26. Preceding and following. The terms "preceding" and "following" mean next before and next after, respectively.

27. Property. The term "property" shall include real and personal property.

28. Signature and subscription. The terms "signature" and "subscription" include a mark, when the person cannot write, his name being written near it, and written by a person who writes his own name as a witness.

***State Law Reference*: Similar provisions, 25 O.S. § 26.**

29. Shall, may. The term "shall" will be mandatory; the term "may" will be permissive.

30. State and this state. The terms "state" and "this state" shall be construed to mean the state of Oklahoma.

31. Street. The term "street" shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts, highways, courts, places, squares, curbs, and all other public ways in the city which are dedicated and open to public use.

32. Tense. Words used in the past or present tense include the future as well as the past and present.

33. Week. The term "week" shall mean a period of seven consecutive days.

34. Year. The term "year" means a calendar year. (Prior Code 1991, §§ 1-102, 2-502, 5-1102(2), 8-801)

§ 1-3 CATCHLINES OF SECTIONS AND OTHER HEADINGS; HISTORY NOTES.

The catchlines of sections in this code printed in boldface type and the history notes appearing in parentheses after sections in this code are note intended to have any legal effect but are merely intended to indicate the contents of the sections and the source of matter contained in the sections, respectively, and shall not be deemed to be titles or official sources of such sections, nor as any part of such sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines or history notes, are amended or reenacted. No provision of this code shall be held invalid by reason of deficiency in any such catchline or history note or in any heading or title to any chapter, article, or division. (Prior Code 1991, § 1-103)

§ 1-4 EDITOR'S NOTES AND REFERENCES.

The editor's notes, Charter references, cross references, and state law references in this code are not intended to have any legal effect but are merely intended to assist the user

of this Code.

§ 1-5 EFFECT OF REPEAL OF ORDINANCES.

A. The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

B. The repeal of an ordinance shall 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 ordinance repealed. (Prior Code 1991, § 1-104)

§ 1-6 SEVERABILITY OF PARTS OF CODE.

It is hereby declared to be the intention of the council that the sections, paragraphs, sentences, clauses, and phrases of this code are severable, and if any such section, paragraph, sentence, clause, or phrase, or its application to any person or circumstances shall be declared unconstitutional, illegal, or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, illegality, or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this code or their application. (Prior Code 1991, § 1-105)

§ 1-7 CERTAIN ACTIONS AND ORDINANCES NOT AFFECTED BY CODE.

Nothing in this code or the ordinances adopting this code shall affect any of the following:

1. Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this code;

2. Any ordinance or resolution promising or guaranteeing the payment of money for the city or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligation assumed by the city;

3. Administrative regulations or resolution of the city council not in conflict or inconsistent with the provisions of this code;

4. Any right or franchise granted by any ordinance or resolution of the city council to any person, firm, or corporation;

5. Any ordinance dedicating, naming, establishing, locating, relocating, opening, vacating, etc., any street or public way in the city;

6. Any annual budget or salary ordinance;

7. Ordinance Nos. 735, 934, 1001, 00-19, and any other ordinance consistent

with this Code levying or imposing taxes or pertaining to tax rates;

8. Any ordinance establishing and prescribing the street grades of any street in the city;

9. Any ordinance providing for local improvements and assessing charges for such improvements;

10. Any ordinance extending the limits of the city;

11. The repeal of any ordinance or part thereof that was repealed by an ordinance which is repealed by this code;

12. Any ordinance establishing rates, fees, or charges, except those specifically reestablished in this code, until the commission reestablishes such rates, fees, or charges by ordinance, motion, or resolution.

13. Any temporary or special ordinances;

14. Any ordinance dedicating or accepting any plat or subdivision;

15. Any ordinance consistent with this code pertaining to changes in the zoning map or rezoning;

and all such actions and ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this code. (Ord. No. 91-2103, § 4, 5-6-1991)

§ 1-8 AMENDMENTS TO CODE; EFFECT OF NEW ORDINANCES; AMENDATORY LANGUAGE.

A. All ordinances passed subsequent to this code or ordinances which amend, repeal, or in any way affect this code may be numbered in accordance with the numbering system of this code and printed for inclusion therein. When subsequent ordinances repeal any chapter, section, subsection, or any portion thereof, the repealed portions may be excluded from this code by omission from reprinted pages.

B. Amendments to any of the provisions of this code may be made by amending the provisions by specific reference to the section of this code in substantially the following language: "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PURCELL, OKLAHOMA, that section ___ of the code of ordinances, City of Purcell, Oklahoma, is hereby amended to read as follows:" (set out new provisions in full.)

C. When the city council desires to enact an ordinance of a general and permanent nature on a subject not heretofore existing in the code, which the city council desires to incorporate into the code, a section in substantially the following language may be made part of the ordinance: "Section ___ BE IT ORDAINED BY THE CITY

COUNCIL OF THE CITY OF PURCELL, that the provisions of this ordinance shall become and be made a part of the code of ordinances of the City of Purcell, Oklahoma, and the sections of this ordinance may be renumbered to accomplish this intention."

D. All chapters, articles, divisions, sections, or provisions of this code desired to be repealed may be specifically repealed by chapter, article, division, or section number, as the case may be. (Prior Code 1991, § 1-106)

***State Law Reference*: Enactment of ordinances, 11 O.S. § 14-102 et seq.**

§ 1-9 ADDITIONS AND AMENDMENTS DEEMED INCORPORATED IN CODE.

Any and all additions and amendments to this code, or to any chapter or other subdivision thereof, when passed in such form as to indicate the intention of the council to make such additions and amendments a part thereof, or which are added thereto in a supplement thereof, shall be deemed to be incorporated therein, so that a reference to the code, or to any chapter or other subdivision thereof, shall be understood and intended to include such additions and amendments.

§ 1-10 SUPPLEMENTATION OF CODE GENERALLY.

A. Any supplement to this code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the code. The pages of a supplement shall be consecutively numbered in the style used in the code.

B. In preparing a supplement to this code, all portions of the code which have been repealed shall be indicated in the supplement.

C. When preparing a supplement to this code, the person, agency, or organization authorized to prepare the supplement may make formal, non-substantive changes in the 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 organizational units;

2. Provide appropriate catchlines, headings and titles for sections and other organizational units of the code printed in the supplement, and make changes in such catchlines, headings, and titles;

3. Assign or reassign appropriate numbers to sections and other organizational units in the supplement and, where necessary to accommodate new material, change existing section or other 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 ordinances incorporated into the code); and

5. Make other non-substantive 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 ordinances material included in the supplement or already embodied in the code.

§ 1-11 ALTERING CODE.

It is unlawful for any person to change or amend by additions or deletions any part or portion of this code, or to insert or delete pages or portions thereof, or to alter or tamper with this code in any manner whatsoever which will cause the law of the city to be misrepresented. (Prior Code 1991, § 1-107)

§ 1-12 GENERAL PENALTY.

A. Whenever in this code or any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in the code or an ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefore, the violation of any provision of the traffic ordinances of this code in chapter 106, upon conviction shall be punished by a fine of not exceeding two-hundred dollars ($200.00) and the violation of any other provision of this code or ordinance, upon conviction shall be punished by a fine of not exceeding $500.00. Each day or any portion of a day during which any violation of this code or any ordinance shall continue shall constitute a separate offense.

B. Any person who shall aid, abet, or assist in the violation of any provision of this code or any other ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in this section.

C. Any person who shall engage in any business, trade, or vocation for which a license, permit, certificate, or certificate of registration is required by this code without having a valid license, permit, certificate, or certificate of registration as required, or who shall fail to do anything required by any code, rule, or standard or any part thereof or appendix thereto, adopted by this code, or who shall otherwise violate any provision thereof, or who shall violate any lawful regulation or order made by any of the officers provided for in this code shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished as provided in this section. (Prior Code 1991, §§ 1-108, 5-1301; Ord. No. 96-01, § 1, 2-5-1996; Ord. No. 07-12, § 1, 9-10-2007)

***State Law References*: Maximum penalties for violations of ordinances, 11 O.S. § 14-111; jury trial when city seeks imposition of fine of more than $200.00, or imprisonment, 11 O.S. § 27-119.**

§ 1-13 FINES RECOVERABLE BY CIVIL ACTION.

All fines shall be recoverable by civil action before any court of competent jurisdiction in addition to any other method provided by law. (Prior Code 1991, § 1-109)

§ 1-14 RELIEF IN COURTS.

No penalty imposed by and pursuant to this code shall interfere with the right of the city also to apply to the proper courts of the state for a mandamus, an injunction, or other appropriate action against any person. (Prior Code 1991, § 5-1302)

§ 1-15 ORDINANCES IN EFFECT IN OUTLYING TERRITORY OF CITY.

All ordinances of the city that are in effect within the city on the effective date of this code or that shall go into effect after the effective date of this code 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 words in any ordinance indicating that the effect of an ordinance provision is limited to the corporate limits of the city shall be deemed to mean and include also the outlying real property belonging to, or under the control of, the city, unless the context clearly indicates otherwise. (Prior Code 1991, § 1-110)

§ 1-16 FEE SCHEDULE.

A schedule of fees, rates, and charges may be adopted and amended from time to time by the commission. A copy of the current fee schedule shall be kept on file in the office of the city clerk. (Prior Code 1991, § 1-111)

§ 1-17 MAP OF CITY DESIGNATED AS OFFICIAL MAP.

The map of the city showing its territorial limits is hereby designated as the official map of the city, and the corporate limits as shown thereon are declared to be the true and correct corporate limits of the city, including all annexations made to the city through and including the date of August 7, 2000. This map may be combined with the official zoning districts map. (Prior Code 1991, § 1-201)

§ 1-18 WARDS.

The city is not divided into wards. (Prior Code 1991, § 1-202)

CHAPTER 2

ADMINISTRATION*

ARTICLE 1

IN GENERAL

§ 2-1 **Health department; health officer.**
§§ 2-2 – 2-25 **Reserved.**

ARTICLE 2

CITY COUNCIL

§ 2-26 **Elections to be held; three-year overlapping terms.**
§ 2-27 **Times of regular meetings of city council.**
§ 2-28 **Location of meetings.**
§ 2-29 **Election of mayor and vice-mayor.**
§ 2-30 **Rules of procedure.**
§§ 2-31 – 2-55 **Reserved.**

ARTICLE 3

OFFICERS AND EMPLOYEES

§ 2-56 **City manager; duties.**
§ 2-57 **City attorney.**
§ 2-58 **Certain personnel to be bonded.**
§ 2-59 **Personnel benefits, policies.**
§ 2-60 **Succession in government.**
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BOARDS, COMMISSIONS, AND COMMITTEES

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GENERALLY

§ 2-86 **Authority; appointments; terms.**
§§ 2-87 – 2-90 **Reserved.**

DIVISION 2

EMPLOYEE ADVISORY COMMITTEE

§ 2-91 Committee created.
§ 2-92 Membership of committee.
§ 2-93 Election of membership.
§ 2-94 Meetings of the committee.
§ 2-95 Purpose of committee.
§ 2-96 Scope of authority.
§ 2-97 Removal of members.
§§ 2-98 – 2-110 Reserved.

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FINANCE

DIVISION 1

GENERALLY

§ 2-111 Depositories designated; funds to be deposited.
§ 2-112 Funds secured by unit collateral system.
§§ 2-113 – 2-145 Reserved.

DIVISION 2

FINANCE DEPARTMENT

§ 2-146 City treasurer.
§ 2-147 Powers, duties, and functions of city treasurer.
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DIVISION 3

CONTRACTS; PURCHASES

§ 2-171 Competitive bidding.
§§ 2-172 – 2-195 Reserved.

ARTICLE 6

CITY RECORDS

§ 2-196 Appointment of official custodian.
§ 2-197 Designation and duties of record custodians.
§§ 2-198 – 2-225 Reserved.

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DIVISION 1

GENERALLY

§ 2-226 Police pension system.
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EMPLOYEE RETIREMENT SYSTEM

§ 2-251 Definitions.
§ 2-252 Administration.
§ 2-253 Funds.
§ 2-254 Appropriations.
§§ 2-255 – 2-259 Reserved.

ARTICLE 8

IDENTITY THEFT PREVENTION PROGRAM

§ 2-260 Identity Theft Prevention Program.

***Charter references*: General provisions, arts. I, VlI; council, Art. II; initiative, referendum, recall, Art. Vl.**

***Cross references*: Any administrative regulations or resolution of the city commission not in conflict or inconsistent with the provisions of this Code saved from repeal, §1-7(3); civil emergencies, ch. 26; courts, ch. 30; administration of flood damage prevention regulations, §42-61 et seq.; human relations, ch. 50; law enforcement, ch. 54; library, ch. 58; planning, ch. 82; taxation, ch. 98; utilities, ch. 110.**

***State law reference*:** **Oklahoma Municipal Code, 11 O.S. §1-101 et seq.**

ARTICLE 1

IN GENERAL

§ 2-1 Health department; health officer.
§§ 2-2 – 2-25 Reserved.

§ 2-1 HEALH DEPARTMENT; HEALTH OFFICER.

If so designated by the city council and/or the city manager, the cooperative health department that serves this county and its director shall have the powers of a city health department and a city health officer, respectively, for the city. References to health department and health officer or director of the health department in this code and in other ordinances of the city mean the cooperative health department and its director, unless the context clearly indicates another meaning. (Prior Code 1991, §2-502)

§§ 2-2 – 2-25 RESERVED.

ARTICLE 2

CITY COUNCIL

§ 2-26 Elections to be held; three-year overlapping terms.
§ 2-27 Times of regular meetings of city council.
§ 2-28 Location of meetings.
§ 2-29 Election of mayor and vice-mayor.
§ 2-30 Rules of procedure.
§§ 2-31 – 2-55 Reserved.

§ 2-26 ELECTIONS TO BE HELD: THREE-YEAR OVERLAPPING TERMS.

A. The terms of the five [5] elected council members shall be staggered so that at anyone general municipal election, the following council member is elected at large for a three-year term: councilmember for division one.

B. The following year, at a general municipal election, the following council members shall be elected at large for three [3] year terms: council members for divisions two [2] and three [3].

C. The following year at a general municipal election, the following council members shall be elected at large for three [3] year terms: council members for divisions four [4] and five [5].

***Charter Reference*: Similar provisions, Art. IX. (Code 1991, §2-201)**

§ 2-27 TIME OF REGULAR MEETINGS OF CITY COUNCIL.

The city council shall hold its regular meeting on the first Monday of each month at 7:00 p.m. and at such other times as it may prescribe by its own rules unless that day is a holiday recognized by the city in which event the regular monthly meeting shall be on the next business day. (Prior Code 1991, §2-202)

***Charter Reference*: Monthly meetings on the first Monday, Art. II, § 1.**

§ 2-28 LOCATION OF MEETINGS.

Except as otherwise provided in the Charter, every meeting of the council shall be held in the council chamber in city hall. (Prior Code 1991, §2-203)

***State Law References*: Absences from council meetings create vacancies, 11 O.S. §8-108; meetings generally, 11 O.S. §10-108; Open Meeting Act, 25 O.S. §301 et seq.**

§ 2-29 ELECTION OF MAYOR AND VICE-MAYOR.

The council shall elect a mayor and a vice mayor as provided in the Charter and they shall serve until their respective successors have been elected and qualified. (Prior Code 1991, § 2-204)

***Charter Reference*: Mayor, vice-mayor, Art. II, §3.**

§ 2-30 RULES OF PROCEDURE.

Rules of procedure established by the council by resolution shall govern matters not included or covered in this Code. (Prior Code 1991, § 2-206)

§§ 2-31 – 2-55 RESERVED.

ARTICLE 3

OFFICERS AND EMPLOYEES*

§ 2-56 City manager; duties.
§ 2-57 City attorney.
§ 2-58 Certain personnel to be bonded.
§ 2-59 Personnel benefits, policies.
§ 2-60 Succession in government.
§§ 2-61 – 2-85 Reserved.

§ 2-56 CITY MANAGER; DUTIES.

The city manager shall have the duties prescribed by the Charter, ordinance, or law.

***Charter Reference*: Appointments, removals, Art. II, §5.**

***Cross References*: Any annual budget or salary ordinance saved from repeal, §1-7(6); building official, §14-28; plumbing inspectors; office created; duties, §14-56; electrical inspector, §14-267; office of civil defense created; director, §26-28; municipal court judges, §30-56 et seq.; clerk of municipal court, §30-91 et seq.; floodplain administrator, §42-61 et seq.; health officer designated to enforce health (Code 1991, §2-302)**

***Charter Reference*: City manager, powers and duties, Art. III, §2.**

§ 2-57 CITY ATTORNEY.

The city attorney is the chief legal adviser of the council and all other officers, departments, and agencies of the city government in matters relating to their official powers and duties. He represents the city in proceedings in the courts, and performs all services incident to his position which may be required by law, the Charter, or ordinance. He may attend regular meetings of the council and prepare ordinances for the council. He may receive a regular salary as set by the council and, in addition thereto, receive reasonable fees for representing the city in lawsuits or controversies to which the city is a party, whether tried, settled or otherwise. He may provide other special services as requested by the councilor manager. When duly authorized by the council or manager, he shall receive a reasonable fee for such special services. (Prior Code 1991, §2-501)

§ 2-58 CERTAIN PERSONNEL TO BE BONDED.

A. Before entering upon their official duties, the following personnel of the city government shall provide bonds for the faithful performance of their official duties, payable to the city, with a surety company authorized to operate within the state, in such amounts as set or approved by the council:

1. City manager;

2. City clerk;

3. City treasurer.

B. The council, by motion or resolution, may require other officers and employees in such positions as it may designate to be bonded. (Prior Code 1991, §2-503(A), (B))

***Charter Reference*: Bonds, art. VII, §5.**

***State Law Reference*: Certain officers to give bond, 11 O.S. §8-105. Ordinances, §46-26; chief of police-position created, §54-26; police officers, §54-28; planning commissions, §82-26 et seq.; planning board of adjustment, §82-86 et seq.**

§ 2-59 PERSONNEL BENEFITS, POLICIES.

The city manager, pursuant to his general powers to supervise, appoint, and remove employees of the city, may promulgate such rules or regulations as may be necessary to provide for personnel matters and employment administration of the city. A copy of current personnel administration information or regulations as developed by the city manager shall be kept on file in the office of the city clerk. (Prior Code 1991, §2-505(A))

§ 2-60 SUCCESSION IN GOVERNMENT.

All books, vouchers, monies, or other property belonging to the city, and in charge or possession of any officer of the city, shall be delivered to his successor. (Prior Code 1991, §2-506(C))

§§ 2-61 – 2-85 RESERVED.

ARTICLE 4

BOARDS, COMMISSIONS, AND COMMITTEES*

DIVISION 1

GENERALLY

§ 2-86 Authority; appointments; terms.
§§ 2-87 – 2-90 Reserved.

§ 2-86 AUTHORITY; APPOINTMENTS; TERMS.

A. The city council is authorized and empowered by the Charter and ordinances, and certain trust indentures of which the city is the beneficiary, to appoint persons to boards, commissions, and committees of the city.

B. All appointments of persons to the boards, authorities, commissions, and committees shall be for terms coinciding with the fiscal year of the city, such terms to commence on July 1 of the year of appointment and conclude on the June 30 of the year of expiration. Provided that such appointees, unless precluded by the organizational document creating such board, authority, commission, or committee, shall continue to serve until their respective successor is appointed and qualified. Appointments to fill

vacancies shall be for the unexpired term only.

C. All appointees shall be nominated and confirmed by the city council and shall serve for staggered terms of three years so as to prevent a majority of appointments occurring at any one time. Appointees shall not serve more than two consecutive terms. A person appointed to fill an unexpired term will have been considered to serve the entire term in reference to serving two consecutive terms.

D. Except as otherwise provided in subsection C of this section, members may not be reappointed to the same board until the expiration of one year from the date of such member's preceding term. (Prior Code 1991, §2-507; Ord. No. 92-2111, §1, 2-3-1992)

***Cross Reference*: Fair housing board, §50-56 et seq.**

§§ 2-87 – 2-90 RESERVED.

DIVISION 2

EMPLOYEE ADVISORY COMMITTEE*

§ 2-91 Committee created.
§ 2-92 Membership of committee.
§ 2-93 Election of membership.
§ 2-94 Meetings of the committee.
§ 2-95 Purpose of committee.
§ 2-96 Scope of authority.
§ 2-97 Removal of members.
§§ 2-98 – 2-110 Reserved.

§ 2-91 COMMITTEE CREATED.

There is hereby created an employee advisory committee. (Ord. No. 03-08, §1, 10-6-2003)

§ 2-92 MEMBERSHIP OF COMMITTEE.

A. The committee will be comprised of five members, which shall be elected by the city employees for three (3) year terms, with the initial committee to be composed of two (2) employees with one (1) year terms; two (2) employees with two (2) year terms; and one (1) employee with a three (3) year term.

B. The makeup of the membership of the committee shall be two (2) non-supervisory employees, two (2) supervisory employees, and one (1) at-large member who may be either a supervisor or non-supervisor.

C. All members of the committee must be full-time employees of the city who have been employed no less than one (1) year.

D. Membership in the committee is at all times voluntary and any member may resign at any time by way of written notification to the committee. (Ord. No. 03-08, §2, 10-6-2003)

***Editor's Note*: Ord. No. 03-08, §§1-7, adopted October 6, 2003, did not specify manner of inclusion; hence, inclusion as division 2, §§2-91-2-97 is at the discretion of the editor.**

§ 2-93 ELECTION OF MEMBERSHIP.

A. Elections to replace out-going members of the committee shall be held on the first Friday following the anniversary date of the adoption of the ordinance from which this division derives.

B. Those employees initially elected by a vote of employees prior to the approval of the ordinance from which this division derives shall serve their agreed-upon terms until replaced through the normal election procedure, as specified in subsection A.

C. Special elections may be called to select members to fill any un-expired term of a member who resigns or is removed from the committee (see §2-97).

D. No employee may serve more than two (2) consecutive terms or more than six (6) consecutive years as a member of the committee. (Ord. No. 03-08, §3, 10-6-2003)

§ 2-94 MEETINGS OF THE COMMITTEE.

A. The committee shall meet monthly on the last Tuesday of each month at 1:30 p.m.

B. Special meetings may be called as needed.

C. Meetings shall be conducted during normal business hours.

D. All proposed agenda items shall be communicated by the city manager no less than five (5) days prior to the regular meeting. The city manager may attend all meetings and may request specific agenda items for consideration by the committee. (Ord. No. 03-08, §4, 10-6-2003)

§ 2-95 PURPOSE OF COMMITTEE.

A. Enhance communication and morale throughout all aspects of the organization.

B. Review and make finding and/or recommendations regarding items presented by the city manager, including but not necessarily limited to:

1. Personnel policies and/or procedures affecting city employees as a whole;

2. Changes in insurance coverage, retirement benefits, and other fringe benefits and related items;

3. Budget recommendations and information related to financial forecasting to meet the needs of each department and the city as a whole;

C. The committee shall assist the city manager in establishing an employee evaluation program.

D. The committee shall work with the city manager:

1. To establish over-all goals and objectives for the city;

2. To maintain and enhance public perception of city employees and city government.

E. Any and all business reviewed by the committee will be available to the city council upon request. (Ord. No. 03-08, §5, 10-6-2003)

§ 2-96 SCOPE OF AUTHORITY.

A. The findings of this committee and any resulting recommendations are advisory only and will not be construed in any way as binding.

B. Final decisions on any matters will be made by the city manager or the city council in accordance with provisions of the city Charter, state and federal laws and any other applicable regulations. (Ord. No. 03-08, §6, 10-6-2003)

§ 2-97 REMOVAL OF MEMBERS.

Any member of this committee may be removed from membership through procedures listed below:

1. Through a two-thirds (⅔) majority vote of the employees of the city;

2. Through recommendation by the city manager, subject to confirmation by the entire committee, based on specific breach of confidentiality;

3. Termination of employment for any reason;

4. Failure to attend at least seventy-five (75) percent of all meeting within any twelve (12) month period or four (4) consecutive absences from committee meetings. (Ord. No. 03-08, §7, 10-6-2003)

§§ 2-98 – 2-110 RESERVED.

ARTICLE 5

FINANCE*

DIVISION 1

GENERALLY

§ 2-111 Depositories designated; funds to be deposited.
§ 2-112 Funds secured by unit collateral system.
§§ 2-113 – 2-145 Reserved.

§ 2-111 DEPOSITORIES DESIGNATED; FUNDS TO BE DEPOSITED.

Funds of the city shall be deposited as required by law. The city treasurer shall deposit daily funds received by the city and its various boards, trusts, and agencies in depositories as the council may from time to time designate and direct. (Prior Code 1991, §7-101)

***State Law Reference*: Deposits by treasurers, designation of depositories, 11 O.S. §10-118, 62 O.S. §§511, 513, 516.5.**

§ 2-112 FUNDS SECURED BY UNIT COLLATERAL SYSTEM.

The deposits of the city shall be secured by the unit collateral system provided by the Oklahoma Statutes. (Prior Code 1991, §7-102)

§§ 2-113 – 2-145 RESERVED.

***State Law Reference*: Unit collateral system, 62 O.S. §516.1 et seq.**

***Charter Reference*: Finance, Art. IV.**

***Cross References*: Any ordinance or resolution promising or guaranteeing the payment of money for the city or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligation assumed by the city saved from repeal, §1-7(2); taxation, ch.98.**

DIVISION 2

FINANCE DEPARTMENT

§ 2-146 City treasurer.
§ 2-147 Powers, duties, and functions of city treasurer.
§ 2-148 Powers, duties, and functions of city clerk.
§§ 2-149 – 2-170 Reserved.

§ 2-146 CITY TREASURER.

The city treasurer shall have supervision and control of the finance department. The city manager may determine that the city treasurer shall also serve as city clerk, in which case, such officer shall be known as the "city clerk-treasurer." There shall be such employees in the finance department as the council may authorize. (Prior Code 1991, §2-401)

***Charter References*: Powers of the council, Art. II, §4; city clerk, Art. II, §7; city treasurer, Art. II, §8; fiscal affairs, Art. IV, §1.**

§ 2-147 POWERS, DUTIES, AND FUNCTIONS OF CITY TREASURER.

In addition to the powers, duties, and functions provided by law, the Charter, or ordinance, the city treasurer shall disburse the funds that have been received by the city in accordance with law, the Charter, or ordinance. (Prior Code 1991, §2-403)

§ 2-148 POWERS, DUTIES, AND FUNCTIONS OF CITY CLERK.

In addition to the powers, duties, and functions provided by law, the Charter, or ordinance, the city clerk shall:

1. Deposit daily all revenue and other money that he collects or receives for the city.

2. Serve as the clerical officer of the council.

3. Attend all council meetings.

4. Attest the signature of the mayor or the vice-mayor.

5. Maintain a general accounting system for the city. (Prior Code 1991, §2-402)

§§ 2-149 – 2-170 RESERVED.

DIVISION 3

CONTRACTS; PURCHASES*

§ 2-171 Competitive bidding.
§§ 2-172 – 2-195 Reserved.

§ 2-171 COMPETITIVE BIDDING.

A. The city shall adhere to the provisions of 61 O.S. §101 et seq., when determining when competitive bidding is required and the manner in which competitive bids will be obtained.

B. If the city Charter provides for additional competitive bidding requirements, such additional requirements shall be met.

C. In addition to the requirements of subsection (a) of this section, public trusts created pursuant to 60 O.S. §176, of which the city is beneficiary, shall also follow the competitive bidding provisions of 60 O.S. §176(H). (Ord. No. 94-01, §1, 2-7-1994)

§ 2-172 – 2-195 RESERVED.

***Charter Reference*: Contracts, purchases, sales, Art. IV, §3 et seq.**

ARTICLE 6

CITY RECORDS

§ 2-196 Appointment of official custodian.
§ 2-197 Designation and duties of record custodians.
§ 2-198 – 2-225 Reserved.

§ 2-196 APPOINTMENT OF OFFICIAL CUSTODIAN.

The city clerk shall be the official custodian for the purposes of the Oklahoma Open Records Act (51 O.S. §24A.1 et seq.) and is charged with responsibility for compliance with that act with respect to all public records in his office and all other public records not provided for elsewhere in this article. (Prior Code 1991, §2-601)

§ 2-197 DESIGNATION AND DUTIES OF RECORD CUSTODIANS.

A. The official custodian appointed in section 2-196 of this code is hereby authorized to designate any subordinate officers or employees to serve as record custodian.

B. The record custodians shall have such duties and powers as are set out in the

Oklahoma Open Records Act and by resolution of the city council. (Code 1991, §§2-602, 2-603)

***Charter Reference*: Public records, Art. VII, §6.**

§§ 2-198 – 2-225 RESERVED.

ARTICLE 7

RETIREMENT; PENSIONS

DIVISION 1

GENERALLY

§ 2-226 Police pension system.
§§ 2-227 – 2-250 Reserved.

§ 2-226 POLICE PENSION SYSTEM.

There is hereby created a local police pension and retirement board. The board shall have the membership, organization, powers, duties, and functions and the fund shall operate as prescribed by 11 O.S. §50-101 et seq. The system shall operate in accordance with applicable state law. (Prior Code 1991, §2-805)

§§ 2-227 – 2-250 RESERVED.

***State Law Reference*: Police pension and retirement system, 11 O.S. §50-101 et seq.**

DIVISION 2

EMPLOYEE RETIREMENT SYSTEM*

§ 2-251 Definitions.
§ 2-252 Administration.
§ 2-253 Funds.
§ 2-254 Appropriations.
§§ 2-255 – 2-259 Reserved.

§ 2-251 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:

1. System and plan mean the employee retirement system of the city. (Code

1991, §2-810)

***Cross Reference*: Definitions generally, §1-2.**

§ 2-252 ADMINISTRATION.

The system shall be administered by a board of trustees, which shall be composed of the members of the city council. The board of trustees shall have such powers as may be necessary to delegate, specify, direct, and supervise the performance of the system. (Prior Code 1991, §2-811)

§ 2-253 FUNDS.

Funds are hereby provided for the exclusive use and benefit of the person entitled to benefits under the system. All contributions to such funds shall be paid over to and received in trust for such purpose by the fund administrators of the plan, as appointed by the board of trustees. (Prior Code 1991, §2-812)

§ 2-254 APPROPRIATIONS.

The city is hereby authorized to incur the necessary expenses for the establishment, operation, and administration of the retirement system and to appropriate and pay the same. In addition, the city is hereby authorized to appropriate annually such amounts as are required, in addition to any employee contributions, to maintain its amended retirement system and funds on a sound actuarial basis in accordance with the respective annual actuarial valuation. Any appropriation so made to maintain the system and funds shall be made to maintain the system and funds shall be for deferred wages or salaries or the payment of necessary expenses of operation and administration. (Prior Code 1991, §2-813)

***State Law Reference*: Authority of city to establish a retirement fund and system, procedure, 11 O.S. §48-101 et seq.**

§§ 2-255 – 2-259 RESERVED.

ARTICLE 8

IDENTITY THEFT PREVENTION PROGRAM

§ 2-260 Identity Theft Prevention Program.

§ 2-260 IDENTITY THEFT PREVENTION PROGRAM.

To comply with 16 CFR §681.2 and in order to detect, prevent and mitigate identity theft by identifying and detecting identity theft red flags and by responding to such red

flags in a manner that will prevent identity theft, the City of Purcell will establish and implement an Identity Theft Prevention Program (ITPP), including:

A. A written policy and procedures of the ITPP outlining the process of establishing a covered account, providing access to covered account information, receiving credit card payments, identifying sources and types of identity theft red f1ags, and preventing and mitigating identity theft will be developed and implemented; and

B. An annual report will be submitted each year for approval at the first city council meeting in April. The report will include any findings and actions taken in the ITPP during the previous year and will also include any updates to the ITPP policies and procedures made during the previous year. (Ord. No. 09-04, 4/6/2009)

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CHAPTER 6

ALCOHOLIC BEVERAGES·

ARTICLE 1

GENERAL PROVISIONS

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§ 6-2 Purposes of chapter.
§ 6-3 Statutes adopted.
§ 6-4 Definitions.
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§ 6-6 Consumption and intoxication prohibited.
§ 6-7 Place and manner of sale and delivery.
§ 6-8 Compliance with zoning regulations.
§ 6-9 Prohibited location.
§ 6-10 Misrepresentation of age.
§ 6-11 Hours of sale.
§ 6-12 Employee not to permit intoxicated person in cafe, club.
§ 6-13 Employee solicitation prohibited.
§ 6-14 Nudity.
§ 6-15 Possession by minors.
§ 6-16 Mixed beverage, caterer, combination mixed beverage/caterer and special event license.
§§ 6-16 – 6-40 Reserved.

ARTICLE 2

OCCUPATION TAX

§ 6-41 Levied; service organizations.
§ 6-42 When due and posting.
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ARTICLE 3

CERTIFICATE OF COMPLIANCE

§ 6-71 Application for certificate; investigations.
§ 6-72 Issuance of certificate of zoning and certificate of compliance.
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LOW-POINT BEER

§ 6-96 **Definitions.**
§ 6-97 **Hours of sale.**
§ 6-98 **License required.**
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§ 6-100 **Sales to minors.**
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§ 6-102 **Employment of persons under eighteen (18) years of age in place where low-point beer is sold or dispensed.**
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§ 6-106 **Prohibited acts.**
§ 6-107 **Penalty**

***Cross references*: Businesses, ch. 18; consuming or inhaling intoxicants in public places, § 70-106; intoxicating liquors, §70-107.**

***State law references*: Intoxicating liquors, 37 O.S.; regulation by municipalities, 37 O.S. §§219. 503, 528.1, 528.2, 554.1; notice to municipalities of applications for licenses, 37 O.S. §517; intoxicated person in public places. 43A O.S. §3-428.**

ARTICLE 1

GENERAL PROVISIONS

§ 6-l Penalty.
§ 6-2 Purposes of chapter.
§ 6-3 Statutes adopted.
§ 6-4 Definitions.
§ 6-5 Consumption on premises of retail alcoholic beverage store.
§ 6-6 Consumption and intoxication prohibited.
§ 6-7 Place and manner of sale and delivery.
§ 6-8 Compliance with zoning regulations.
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§ 6-11 Hours of sale.
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§ 6-13 Employee solicitation prohibited.
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§ 6-15 Possession by minors.
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§ 6-1 PENALTY.

Any licensee, owner, manager, or employee of a licensed business or establishment, or any other person, who violates any provision of this chapter is guilty of an offense against the city and, upon conviction of such offense, the violator shall be punished as provided in section 1-12 of this Code. (Prior Code 1991, §§3-120(B), 3-126)

§ 6-2 PURPOSES OF CHAPTER.

This chapter is enacted as an exercise of the police power of the city to preserve the public peace, safety, health, and good order thereof and to aid the enforcement of the policy of the state as established by the Oklahoma Alcoholic Beverage Control Act (37 O.S. §502 et seq.) and to establish annual occupation taxes upon all persons engaged in the manufacture, sale or distribution of alcoholic beverages. (Prior Code 1991, §3-101)

§ 6-3 STATUTES ADOPTED.

The Oklahoma Alcoholic Beverage Control Act (37 O.S., §502 et seq.), is hereby adopted as a part of this section as if set out at length in this section, except for the provisions of such act that cannot be made applicable to the city.

§ 6-4 DEFINITIONS.

A. he following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

1. Minor means a person who, in accordance with state law, has not yet attained the age at which consumption of alcoholic beverages is permitted.

2. State licensee means any person holding a license issued under 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. (Prior Code 1991, §3-102)

B. The terms and phrases used in this chapter shall be given the same use and meaning as defined by the Oklahoma Alcoholic Beverage Control Act (37 O.S. §502 et seq.). (Prior Code 1991, §3-102)

***Cross Reference*: Definitions generally, §1-2.**

***State Law Reference*: Similar provisions, 37 O.S. §506(14).**

§ 6-5 CONSUMPTION ON PREMISES OF RETAIL ALCOHOLIC BEVERAGE STORE.

No person owning, employed in, or in any manner assisting in the maintenance and operation of a retail alcoholic beverage 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 a store. (Prior Code 1991, §3-109(B))

***State Law Reference*: Package store license, 37 O.S. §534.**

§ 6-6 CONSUMPTION AND INTOXICATION PROHIBITED.

A. No person shall open or break the seal of any original package or retail container containing alcoholic beverages on the premises of any retail alcoholic beverage store.

B. Designating locations. No person shall drink intoxicating liquor, any alcoholic beverage or mixed beverage in any public place except on such places which are licensed for the sale of such beverages by the holder of a state license and, also, the holder of a city license authorizing the sale or serving of such alcoholic beverages and mixed beverages by the individual drink. No person shall be intoxicated in any public place. (Code 1991, §§3-110, 3-118; Ord. No. 07-04, §2, 1-8-2007)

§ 6-7 PLACE AND MANNER OF SALE AND DELIVERY.

No person shall sell at retail or otherwise, and no person shall deliver, in consequence of or in completion of such a sale, any alcoholic beverages at any place in the city except at a retail alcoholic beverage store in strict conformity with this chapter and the laws of the state. (Prior Code 1991, §3-111)

§ 6-8 COMPLIANCE WITH ZONING REGULATIONS.

No retail alcoholic beverage package store, no bottle club, and no wholesale alcoholic beverage store, warehouse, brewery, distillery, winery, or any other place, however described, and for the manufacture or production or bottling 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 or authorized by the zoning regulations of the city. No person shall own, operate, maintain, or be interested in any retail alcoholic beverage store which is located at a place within the city limits of the city which is in violation of or forbidden as a location by the city or under the laws of the state. (Prior Code 1991, §3-112)

§ 6-9 PROHIBITED LOCATION.

A. It shall be unlawful for any mixed beverage establishment, beer and wine establishment, or bottle club which has been licensed by the state alcoholic beverage laws enforcement commission and which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises or a retail package store to be located within three hundred (300) feet of any public or private school or church property primarily and regularly used for worship services and religious activities. The distance indicated in this section shall be measured from the nearest property line of such public or private school or church to the nearest perimeter wall of the premises of any such mixed beverage establishment, beer and wine establishment, bottle club, or retail package store which has been licensed to sell alcoholic beverages. The provisions of this section shall not apply to mixed beverage establishments, beer and wine establishments, or bottle clubs which have been licensed to sell alcoholic beverages for on-premises consumption or retail package stores prior to November 1, 2000; provided, if at the time of application for license renewal the licensed location has not been in actual operation for a continuous period of more than sixty (60) days, the license shall not be renewed. If any school or church shall be established within three hundred (300) feet of any retail package store, mixed beverage establishment, beer and wine establishment, or bottle club subject to the provisions of this section after such retail package store, mixed beverage establishment, beer and wine establishment, or bottle club has been licensed, the provisions of this section shall not be a deterrent to the renewal of such license if there has not been a lapse of more than sixty (60) days. When any mixed beverage establishment, beer and wine establishment, or bottle club subject to the provisions of this section which has a license to sell alcoholic beverages for on-premises consumption or retail package store changes ownership or the operator thereof is changed and such change of ownership results in the same type of business being conducted on the premises, the provisions of this section shall not be a deterrent to the issuance of a

license to the new owner or operator if he is otherwise qualified.

B. A license shall not be issued for a location on any city block where a school or church is located. (Prior Code 1991, §3-113)

***State Law Reference*: Similar provisions, 37 O.S. §51(B)(3)**

§ 6-10 MISREPRESENTATION OF AGE.

No minor shall misrepresent his age verbally or otherwise for the purpose of inducing any other person to sell him alcoholic beverages. (Prior Code 1991, §3-114(A))

§ 6-11 HOURS OF SALE.

No alcoholic beverages may be sold, dispensed, served, or consumed on the premises of a mixed beverage licensee between the hours of 2:00 a.m. and 10:00 a.m. or during any period prohibited for sale by state law or by the voters of the county. (Prior Code 1991, §3-117(B))

§ 6-12 EMPLOYEE NOT TO PERMIT INTOXICATED PERSON IN CAFE, CLUB.

No employee engaged in connection with the operation of a cafe, restaurant, club, or place of recreation within the city shall permit any person to be drunk or intoxicated in the place of business. (Prior Code 1991, §3-119)

§ 6-13 EMPLOYEE SOLICITATION PROHIBITED.

It is unlawful for any licensee, owner, manager, or employee of any business or establishment licensed pursuant to provisions of the Oklahoma Alcoholic Beverage Control Act, as amended, to permit an employee to solicit a patron to purchase an alcoholic or nonalcoholic beverage for the employee or any other employee or knowingly serve any employee with a beverage purchased by a patron or permitting any employee to remain on the licensed premises who solicits a patron to purchase a beverage for himself or for any person not a patron or permitting an employee to mingle or fraternize with patrons of such licensed business or establishment except in the furtherance of service of food or drinks. (Prior Code 1991, §3-120(A))

§ 6-14 NUDITY.

It is unlawful for any person to appear in a state of nudity in any business or establishment licensed pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act as cited in section 6-3. (Prior Code 1991, §3-121(A))

§ 6-15 POSSESSION BY MINORS.

It shall be unlawful for any minor to be in the possession of any intoxicating beverage containing more than 3.2 percent alcohol by weight while such person is upon any public street, road, or highway or in any public building or place. (Prior Code 1991, §3-125)

***State Law Reference*: Similar provisions, 21 O.S. §1215.**

§ 6-16 MIXED BEVERAGE, CATERER, COMBINATION MIXED BEVERAGE/CATERER AND SPECIAL EVENT LICENSE.

A. Mixed beverage license. A mixed beverage license shall authorize the holder thereof to purchase or sell mixed beverages as provided by 37 O.S. §502 et seq. for consumption on the premises where served or sold by the mixed beverage license holder.

B. Caterer's license. A caterer's license shall authorize the holder thereof to purchase or sell mixed beverages as provided by 37 O.S. §502 et seq. in conjunction with a catering business.

C. Combination mixed beverage/caterer license. A combination mixed beverage/caterer license shall authorize the holder thereof to purchase or sell mixed beverages as provided for a mixed beverage license and/or a caterer's license holder.

D. Special event license. A special event license may be issued to an organization, association, or nonprofit corporation organized for political, fraternal, charitable, religious or social purposes. The holder of a special event license is authorized to sell and distribute alcoholic beverage on the premise for which the license is issued. No special event license may be issued for any premises already licensed by the ABLE commission. A special event license shall be valid for a period not to exceed ten consecutive days and no qualified organization may obtain more than one such license in a ninety (90) day period. Prior to obtaining the city's approval, a special event license must be issued by the alcoholic beverage laws enforcement commission.

The holder of a license pursuant to this section shall abide by all of the Oklahoma Alcoholic Beverage Control Act Rules and requirements, and shall abide by the place of consumption requirements found in section 6-106, the zoning requirements found in section 6-108, the prohibited location requirements found in section 6-109, the hours of sale requirements found in 6-111, the requirements of 6-112, 6-113, 6-114 and 6-115. The holder of a license pursuant to this section shall pay the occupation tax set forth in section 6-141, 6-142, and 6-143, the amount to be set by the city council. The applicant for a license pursuant to this section shall obtain a certificate of compliance, as provided in section 6-171 and 6-172 before a license shall be issued. (Ord. No. 07-04, §1, 1-8-2007)

§§ 6-17 – 6-40 RESERVED.

ARTICLE 2

OCCUPATION TAX

§ 6-41 Levied; service organizations.
§ 6-42 When due and posting.
§ 6-43 Timely payments.
§§ 6-44 – 6-70 Reserved.

§ 6-41 LEVIED; SERVICE ORGANIZATIONS.

A. Except as to persons who are exempt under state law, there is hereby levied an annual alcoholic beverage occupation tax not to exceed the amounts indicated in the fee schedule adopted by the city council.

B. The amount of the occupation tax on service organizations that are exempt under section 501(c)(19) of the Internal Revenue Code for mixed beverage or bottle club licenses shall be as adopted in the fee schedule. (Prior Code 1991, §3-103)

***State Law Reference*: Municipal alcoholic beverage occupation taxes, restriction, 37 O.S. §554.1.**

§ 6-42 WHEN DUE AND POSTING.

A. Any state licensee originally entering upon any occupation taxed under this article shall pay the tax therefore at the office of the city clerk on or before the date upon which he enters upon such occupation. The licensee shall provide a copy of his current state license before payment of an occupation tax will be accepted. All occupation taxes are payable annually before July 1 and shall expire on June 30 of each year.

B. Any state licensee carrying on his occupation in more than one location within the city limits of the city shall be subject to the tax set out for each such location.

C. Upon payment of the occupation tax as set out, the city clerk shall issue a receipt to the state licensee, which licensee shall post in a conspicuous place on the premises wherein he carries on his occupation. The city clerk shall also record the name of such licensee and the address where he engages in his occupation, and such records shall be duly filed and kept in the permanent files of that office for at least three years. Thereafter, upon approval of the city council, the records may be destroyed.

D. The city clerk shall make and transmit to the state alcoholic beverage laws enforcement (ABLE) commission an annual report covering the fiscal year and showing the number and class of licensees subject to such tax and the amount of money received therefrom. (Prior Code 1991, §3-104)

***State Law Reference*: Similar provisions, 37 O.S. §554.1.**

§ 6-43 TIMELY PAYMENTS.

Any person who engages in any of the occupations taxed by this chapter without first paying the occupation tax imposed therefore in advance of such operation is guilty of an offense against the city and upon conviction thereof shall be punished as provided in section 1-112 of this Code. A penalty in the form of increased tax may be levied upon any person not paying the tax within fifteen (15) days after it is due. (Prior Code 1991, §3-105)

§§ 6-44 – 6-70 RESERVED.

ARTICLE 3

CERTIFICATE OF COMPLIANCE

§ 6-71 Application for certificate; investigations.
§ 6-72 Issuance of certificate of zoning and certificate of compliance.
§§ 6-73 – 6-95 Reserved.

§ 6-71 APPLICATION FOR CERTIFICATE; INVESTIGATIONS.

A. Every applicant for a certificate of compliance with the zoning, fire, health, and safety codes of the city required by 37 O.S. §523 shall apply at the office of the city clerk by:

1. Filing a written application on forms prescribed by that office; and

2. Paying a verification and certification fee in the amount set by the council at the time of filing.

B. Upon receipt of an application for a certificate of compliance, the city shall cause an investigation to be made to determine whether the premises proposed for licensed operations comply with the provisions of the zoning ordinance and any health, fire, building, and other safety codes applicable to it.

C. The city shall act on all such applications within twenty (20) days of receipt thereof. (Prior Code 1991, §3-107)

§ 6-72 ISSUANCE OF CERTIFICATE OF ZONING AND CERTIFICATE OF COMPLIANCE.

A. Upon finding that the premises of an applicant for a certificate are in compliance with all applicable zoning ordinances, a certificate of zoning shall be issued to the applicant.

B. Upon finding that the premises of an applicant for a certificate are in compliance with all applicable fire, safety, and health codes, a certificate of compliance

shall be issued to the applicant.

C. The above certificates of compliance shall be signed by the mayor or by the city clerk.

D. A conditional certificate may be granted if construction, modification, or alteration of the premises proposed for licensed operations is not completed. The conditional certificate shall indicate that the proposed premises will comply with city zoning, fire, safety, and health codes. A certificate in accordance with subsections (a) and (b) of this section shall be issued within ten (10) days after all final inspections are complete. (Prior Code 1991, §3-108)

§ 6-73 – 6-95 RESERVED.

***Cross Reference*: Zoning, ch. 122.**

ARTICLE 4

LOW-POINT BEER*

§ 6-96 Definitions.
§ 6-97 Hours of sale.
§ 6-98 License required.
§ 6-99 License fees.
§ 6-100 Sales to minors.
§ 6-101 Possession by minors.
§ 6-102 Employment of persons under eighteen (18) years of age in place where low-point beer is sold or dispensed.
§ 6-103 Permitting minors to frequent bars.
§ 6-104 Unlawful transportation.
§ 6-105 Location of low-point beer licensee for on-premises consumption; prohibitions.
§ 6-106 Prohibited acts.
§ 6-107 Penalty

§ 6-96 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. Low-point beer means and includes beverages containing more than one-half of one percent alcohol by volume and not more than 3.2 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.

2. Minor means a person who, according to state law, has not yet attained the age at which consumption of low-point beer is permitted under state law.

3. Person means and includes an individual, a trust or estate, a partnership, an association, or a corporation.

4. Place of business means each separate location or service unit in which or from which low-point beer is sold, delivered, or otherwise furnished.

5. Possession means, under the terms of this chapter, actual physical possession and shall further include any low-point beer accessible or within the range of reach of hands of any such person.

***State law reference*: Low-point beer, 37 O.S. §163.1 et seq.**

6. Retail dealer means and includes any person who sells any low-point beer, as defined in this section, at retail for consumption or use, and such definition includes state and county fair associations, and special licenses may be issued for the sale of low-point beer by such associations and to other persons for the sale of such low-point beer at rodeos, picnics, or other organized, temporary assemblages of people. The term "retail dealer" also includes railways for the sale of such beverages, and licenses may be issued for each dining car or railway train, which railways and dining cars shall pay the same license fees as regular retail dealers. (Prior Code 1991, §§3-201, 3-206(A))

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

***State law reference*: Similar provisions, 37 O.S. § 163.2. 101 et seq.**

§ 6-97 HOURS OF SALE.

It is unlawful for any owner, firm, person, operator, corporation, proprietor, or manager of any premises or place in which the principal business is that of selling low-point beer for consumption on the premises to barter, sell, dispense, or otherwise furnish low-point beer for consumption on the premises of his place of business between the hours of 2:00 a.m. Sunday and 12:00 noon Sunday, or between the hours of 2:00 a.m. and 7:00 a.m. on any other day. (Prior Code 1991, §3-202)

***State Law Reference*: Similar provisions, 37 O.S. §213.**

§ 6-98 LICENSE REQUIRED.

A. It is unlawful and an offense for any person to sell, distribute, or dispense within the city any low-point beer to the public for consumption or use without first having obtained a license therefore from the city clerk. Every person desiring to engage in business as a retail dealer in low-point beer or to continue in the business within the city shall make application to the city clerk on forms to be provided, setting forth the locations of the

business, together with the applicant's address, and if a corporation, the name of the president and managing officer. The application shall show the date and permit number of the permits issued by the district court judge and the state tax commission as required by law.

B. Upon a showing that the applicant has obtained his permits from the district court judge and the state tax commission and after payment of the license fee to the city, such license shall be issued forthwith. All licenses shall expire on June 30 of each year. Licenses issued under this section shall not be assignable or transferable, and the fee shall not be prorated for part of the year. The city license shall be displayed in the licensee's place of business. The license may be canceled for any violation of the laws of the state for which the licensee's county or state license may be canceled and in a similar manner. (Prior Code 1991, §3-204)

§ 6-99 LICENSE FEES.

There is hereby levied on each retail dealer in low-point beer within the city selling such beverages for consumption on or off the premises of the dealer's place of business a license fee per annum, as set by the city's fee schedule, and on each retail dealer selling such beverages exclusively in original packages (of not less than case lots) and not for consumption on his premises, a license fee per annum as set by the city's fee schedule. A separate license fee shall be paid for each place of business, as defined in section 6-196, operated and conducted by the retail dealer.

***State Law Reference*: Municipal license fees, 37 O.S. §163.10.**

§ 6-100 SALE TO MINORS.

It is unlawful for any person to sell, offer, give away, procure for, barter, or otherwise dispense to any minor any low-point beer, or any other intoxicating alcoholic beverage, or for any minor to purchase, receive, or procure any low point beer, or any other intoxicating alcoholic beverage. (Prior Code 1991, §3-25; Ord. No. 10-01, 1/4/2010)

§ 6-101 POSSESSION BY MINORS.

It is unlawful for a minor to be in possession of any low-point beer, or any other intoxicating alcoholic beverage, while such person is upon any public street, avenue, alley, road, highway, or public building or place. (Prior Code 1991, §3-206(B); Ord. No. 10-01, 1/4/2010)

§ 6-102 EMPLOYMENT OF PERSONS UNDER EIGHTEEN (18) YEARS OF AGE IN PLACE WHERE LOW-POINT BEER IS SOLD OR DISPENSED.

A. It shall be unlawful for any person under eighteen (18) years of age to be employed or permitted to work, in any capacity whatsoever, in a place where low-point beer is sold or dispensed for consumption on the premises.

B. It shall be unlawful for any person under eighteen (18) years of age 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 low-point beer. The provisions of this subsection shall not apply to any area which has as its main purpose some objective other than the sale of serving of low-point beer in which sales or serving of such 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 low-point beer 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 twenty (25) percent of the gross sales of the business or establishment. (Prior Code 1991, §3-207)

***State Law Reference*: Similar provisions, 37 O.S. §243.**

§ 6-103 PERMITTING MINORS TO FREQUENT BARS.

It shall be unlawful for any person who holds a license to sell and dispense low-point beer for consumption on the premises, or any agent, servant, or employee of such license holder to permit any minor to be admitted to or remain in a separate or enclosed bar area of the licensed premises unless such minor's parent or legal guardian is present, which has as its main purpose the selling or serving of low-point beer for consumption on the premises. The provisions of this section shall not prohibit minors from being admitted to an area which has as its main purpose some objective other than the sale of serving of low-point beer, in which sales or serving of such beverages are incidental to the main purpose, as long as minors are not sold or served such beverages; however, tile incidental service of food in the bar area shall not exempt a licensee, agent, servant, or employee from the provisions of this section. (Prior Code 1991, §3-208)

***State Law Reference*: Similar provisions, 37 O.S. §241.**

§ 6-104 UNLAWFUL TRANSPORTATION.

It is unlawful for any person knowingly to transport in any moving vehicle upon a public street, alley, or any public way within the city of any low-point beer or any other intoxicating alcoholic beverage unless it is:

1. In the original container which shall not have been opened and from which the original cap or seal shall not have been removed; or

2. If it is in an opened container, the opened container is in the rear 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 to any other person in the vehicle while it is in motion. (Prior Code 1991, §3-209; Ord. No.10-01, 1/4/2010)

§ 6-105 LOCATION OF LOW-POINT BEER LICENSEE FOR ON-PREMISES CONSUMPTION; PROHIBITIONS.

A. It shall be unlawful for any place which has received a permit or which has been licensed to sell low-point beer and which has as its main purpose the selling or serving of low-point beer for consumption on the premises to be located within three hundred (300) feet of any public or private school or church property primarily and regularly used for worship services and religious activities. The distance indicated in this section shall be measured from the nearest property line of such public or private school or church to the nearest perimeter wall of the premises of any such place which has received a permit or which has been licensed to sell low-point beer. The provisions of this section shall not to places which have received a permit or which have been licensed to sell low-point beer for on-premises consumption prior to July 1, 1999. If any school or church shall be established within three (300) hundred feet of any place subject to the provisions of this section after such place has received a permit or bee licensed, the provisions of this section shall not be a deterrent to the renewal of such permit or license if there has not been a lapse of more than sixty (60) days. When any place subject to the provisions of this section which has a permit or license to sell low-point beer for on-premises consumption changes ownership or the operator thereof is changed, and such change results in the same type of business being conducted on the premises, the provisions of this section shall not be a deterrent to the issuance of a license or permit to the new owner or operator if he is otherwise qualified.

B. If an establishment selling low-point beer also is the holder of a mixed beverage or beer and wine license issued by the state alcoholic beverage laws enforcement commission, the establishment shall be subject to the zoning provisions of section 6-8 rather than the provisions of this section. (Prior Code 1991, §3-210)

***State Law References*: Similar provisions, 37 O.S. §163.27; zoning authorized, 11 O.S. §43-102(B).**

§ 6-106 PROHIBITED ACTS.

The owner of any bar, beer hall, tavern or other place wherein any low point beer is dispensed for consumption on the premises, or any employee, manager, operator or agent thereof shall not:

1. Consume or be under the influence of alcoholic beverages or low point beer during the hours he is on duty. For the purposes of this section, a licensee will be deemed to be on duty from the time he first comes on duty until the time he goes off duty at the end of the shift, including any break periods permitted by management. This subsection shall not apply to any person who works on the premises as an entertainer only;

2. Permit or tolerate any conduct or language which is intended to threaten another with physical harm or any fighting or offensive physical contact, in or upon the licensed premises or areas outside the licensed premises which are controlled by the licensee;

3. Permit empty or discarded low point beer beverage containers to be in public view outside the licensed premises. All empty or discarded containers shall be disposed of in accordance with alcoholic beverage laws enforcement commission (ABLE) rules and regulations and/or state department of environmental quality;

4. Permit any illegal gambling activity, violations of the state narcotic and dangerous drug laws, or prostitution activity or any other criminal conduct to occur on the licensed premises;

5. Refuse or fail to promptly open a door to the licensed premises upon request of an agent or inspector of the ABLE commission or any other peace officer to enter the premises, when the licensee or employee knows or should know that such request is made by an agent or inspector of the ABLE commission or any other peace officer. This provision shall not be construed to deny agents of the ABLE commission or any other peace officer access at any time to any licensed premises;

6. Permit a sealed or unsealed container of low point beer to be removed from the licensed premises;

7. Destroy, damage, alter, remove or conceal potential evidence, or attempt to do so, or refuse to surrender evidence when lawfully requested to do so by an inspector, agent or any other peace officer or incite another person to do any of the above. (Ord. No. 01-05, §1, 5-7-2001)

§ 6-107 PENALTY.

Any and each violation of any of the provisions of this chapter is an offense against the city and, upon conviction of such an offense, the violator shall be punished as provided in section 1-12 of this Code. (Prior Code 1991, §3-212)

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CHAPTER 10

ANIMALS*

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***Editor's Note*: This chapter is form a draft ordinance provided by the city.**

***Cross References*: Environment, Part 34; health and sanitation, Part 46; dead animals, §110-212.**

***State Law References*: Animals, 4 O.S.; municipal regulation of animals, 11 O.S. §22-115; nuisances, 11 O.S. §22-121 and 50 O.S.; injuries to animals, animal fights, cruelty to animals, etc., 21 O.S. §1681 et seq.; prevention and control of zoonotic diseases, 63 O.S. §1-508.**

ARTICLE 1

IN GENERAL

§ 10-1 Definitions.
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§ 10-1 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:

1. *Animal* means any warm-blooded mammal.

2. *Animal control officer* means the person or persons designated by the city manager as an enforcement officer for this chapter.

3. *Animal shelter* means any premises officially designated by the city for the purpose of impounding and caring for all animals found in violation of this chapter.

4. *Cat* means any felis catus.

5. *Cattery* means any premises operated for profit where there is being maintained or harbored a total of four or more cats, except veterinary hospitals.

6. *Confined on the premises* means that condition in which a dog or cat is securely and physically confined and retained on and within the premises of the owner or keeper by means of walls or fences.

7. *Currently vaccinated* means properly immunized by or under the supervision of a licensed veterinarian with an anti-rabies vaccine licensed and approved by the United States Department of Agriculture for use in that animal species or meeting conditions specified in O.A.C. 310:5993-8. Vaccine must have been given at appropriate time intervals for the age of the animal and type of vaccine administered.

8. *Dangerous bird* means any warm-blooded, feathered vertebrate, which may constitute a physical threat to human beings.

9. *Department* means the City of Purcell, Oklahoma or local animal control

authority.

10. ***Department designee*** **means an employee of the City of Purcell who is acting within their scope of rabies control authority designated through the city manager.**

11. ***Dog*** **means any canis familiars, excluding hybrids.**

12. ***Domestic animal*** **means a companion animal including dogs, cats, and ferrets, an equine animal, or a livestock animal.**

13. ***Euthanize*** **means the humane killing of an animal generally performed by a veterinarian or personnel at an animal control facility under the indirect supervision of a veterinarian.**

14. ***Exposure to rabies*** **means a bite or physical contact with the saliva or other potentially infectious tissues from an animal confirmed or suspected of being infected with rabies.**

15. ***Ferret*** **means any mustela putorius furo.**

16. ***First party ownership*** **means a situation where the owner of a biting animal is directly related to the bite victim, that is parent-child, sibling-sibling, grandparent, child, or when the legal residence of the animal owner and the bite victim are the same.**

17. ***Harboring*** **means any person who allows any animal to habitually remain or lodge or to be fed within his home, store, yard, enclosure, or place of business or any other premises in which such person resides or controls.**

18. ***Home quarantine*** **means confinement and observation of an animal allowed at the animal owner's property for a specified time period, where one of the following acceptable methods of confinement for a dog are used: complete indoor housing; caging or kenneling in an enclosure with a securely latched door; or yard confinement with perimeter fencing that the dog is unable to climb over or dig under. Acceptable methods of confinement for a cat or ferret are: complete indoor housing or caging in an enclosure that prevents escape. The animal's needs for ambient temperature control, water, nutrition, elimination, and space to comfortably stand up and lie down must be adequately provided by the selected confinement method. Should the animal exhibit neurological signs, die, or disappear during the specified period, a state-licensed veterinarian and the department shall be immediately notified.**

19. ***Hybrid*** **means an offspring of wild animals crossbred to domestic dogs or cats, considered to be wild animals in the enforcement of O.A.C. 310:599.**

20. ***Kennel*** **means any premises where there is being maintained or harbored a total of four or more dogs over fourteen (14) weeks of age, except veterinary hospitals.**

21. ***K-9 dog*** **means a dog trained and being used as a canine security animal.**

22. ***Owner*** **means any person, firm, or corporation keeping, possessing, harboring, or having the care or custody of an animal, except the proprietor of a kennel or cattery as defined in this section or a veterinary establishment.**

23. ***Quarantine*** **means physical confinement of an animal during a specified time period when the animal is monitored for the development of disease. During this time period, the animal is prevented from having contact with other animals and human contact is limited to as few caretakers as possible.**

24. ***Rabies*** **means an acute disease of humans and warm-blooded mammals caused by the rabies virus (genus Lyssavirus) that affects the central nervous system and is almost always fatal.**

25. ***Recognized animal control facility*** **means any facility operating for the purpose of stray animal control and/or animal welfare that is under contract or letter of agreement which identifies a licensed veterinarian responsible for animal quarantines.**

26. ***Recognized zoological park*** **means any member of the American Association of Zoological Parks.**

27. ***Restraint and under restraint*****, within the meaning of this chapter, mean an animal which is:**

a. Controlled by a leash not more than eight feet in length, which leash prevents the animal from access to the property of another;

b. At "heel" beside a competent person and obedient to that person's commands; or

c. Confined on the premises of his owner.

28. ***Severe injury*** **means any physical injury that results in broken bones or lacerations requiring multiple sutures or cosmetic surgery.**

29. ***Stray*** **means any animal which does not appear, upon reasonable inquiry, to have an owner.**

30. ***Vicious animal*** **means:**

a. An animal which, while unleashed and off the premises of its owner, has attacked, menaced, chased, displayed threatening or aggressive behavior or otherwise threatened or endangered the safety of any domestic animal or person;

b. An animal which, while unleashed and off the premises of its owner, has bitten a human being or a domestic animal without provocation;

c. Any animal owned or harbored primarily, or in part, for the purpose of fighting or any animal trained for fighting; or

d. An animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals.

31. *Wild animal* means an animal considered as wildlife; any animal not normally adapted to live in intimate association with humans nor raised for consumption by humans.

32. *Zoonotic disease* means a disease that is transmissible from animals to humans under natural conditions. (Ord. No. 03-07, §1, 10-6-2003)

***Cross Reference*: Definitions generally, §1-2.**

***State Law Reference*: Municipal regulation of animals, 11 O.S. §22-115.**

§ 10-2 EXEMPTIONS.

Nothing in this chapter shall apply to animals or fowl kept in medical laboratories, veterinary hospitals, other veterinary establishments, or educational institutions for medical research except in the case of specific references to such establishments or persons in charge thereof or employed therein.

§ 10-3 ZONING ORDINANCE TO PREVAIL.

In case of conflict between this chapter, chapter 122 or any future zoning ordinance, the provisions of chapter 122 or such future zoning ordinance shall prevail and supersede the provisions of this chapter.

***Cross Reference*: Zoning, Part 122.**

§ 10-4 ANIMAL CONTROL OFFICER TO INSPECT.

The animal control officer, or health officer, upon complaint of any person, shall inspect any structure or place where an animal is kept and may do so on his own initiative. He may issue any such reasonable order as he may deem necessary to the owner of the animal to cause the animal to be kept as provided in this chapter or in a manner so as not to constitute a nuisance. He may make a complaint before the municipal judge against any person for violation of any provision of this chapter or of any such reasonable order, but this procedure shall not abridge the right of others to make such complaint.

§ 10-5 REMOVAL OF DEAD ANIMALS.

The owner or any person having charge of any animal dying in this city shall, within twenty (24) hours after the death of such animal, remove its carcass, and failure so to do shall constitute a misdemeanor.

§ 10-6 PENALTY.

Any person, firm, or corporation who violates any provision of this chapter, or who violates or refuses or neglects to carry out any reasonable order made by the health officer pursuant to this chapter, shall, upon conviction thereof, be fined or imprisoned as provided in section 1-112 of this code. The penalties provided for in this section shall be in addition to other remedies of the city and aggrieved persons and shall not be construed as exclusive.

§§ 10-7 – 10-30 RESERVED.

ARTICLE 2

KEEPING; CONFINING ANIMALS

DIVISION 1

GENERALLY

§ 10-31 Buildings for animals; construction, conditions.
§ 10-32 Pasturing in public areas.
§ 10-33 Livestock.
§ 10-34 Wild, exotic, or dangerous animals.
§§ 10-35 – 10-60 Reserved.

§ 10-31 BUILDINGS FOR ANIMALS; CONSTRUCTION, CONDITIONS.

A. Every, stable, kennel, or building wherein any animal or fowl is kept within the city shall be constructed of such material and in such manner that it can be kept clean and sanitary at all times and not be offensive or dangerous to the public health.

B. Every such building, if located within two hundred (200) feet of any tenement or apartment house, hotel, restaurant, boardinghouse, retail food store, building used for educational, religious, or hospital purposes, or residence other than that occupied by the owner or occupant of the premises upon which such animal is kept, shall be provided with a watertight and flytight receptacle for manure or droppings of such size as to hold all accumulations of manure or droppings. The receptacle shall be emptied sufficiently often and in such manner as to prevent it from being or becoming a nuisance and shall be kept covered at all times except when open during the deposit or removal of manure or refuse. No manure or droppings shall be allowed to accumulate on such premises except in the

receptacle.

C. No building or any other establishment wherein animals are kept shall be maintained closer than forty (40) feet to any tenement or apartment house, hotel, restaurant, boardinghouse, retail food store, building used for educational, religious, or hospital purposes, or residence other than that occupied by the owner or occupant of the premises upon which the animals are kept.

***Cross Reference*: Buildings and building regulations, Part 14.**

§ 10-32 PASTURING IN PUBLIC AREAS.

It is unlawful for any person to stake, confine or pasture any animal on any public school ground, or other public, federal, state, county or city property, or any railroad right-of-way, or on any property without the consent of the person owning or controlling such property.

§ 10-33 LIVESTOCK.

It is unlawful to keep any livestock in the city, with the exception of those kept for FFA or 4-H projects on public school property.

§ 10-34 WILD, EXOTIC, OR DANGEROUS ANIMALS.

A. For the purpose of this section, a wild, exotic, or dangerous animal means an animal of the larger variety which is usually not a domestic animal and which can normally be found in the wild state with or without mean or vicious propensities, including, but not limited to, lions, tigers, leopards, panthers, bears, wolves, alligators, crocodiles, apes, foxes, elephants, rhinoceroses, and all forms of poisonous snakes, lynxes, raccoons, skunks, monkeys, and other like animals.

B. It is unlawful to keep or harbor any wild exotic or dangerous animal in the city limits as a pet or for display or for exhibition purposes, whether gratuitously or for a fee, except as provided in subsection C of this section.

C. This section shall not apply to such animals kept for temporary periods of time for exhibition purposes only by circuses, zoos, and educational institutions. The term "temporary periods of time", as used in this article, shall be defined as, and shall be limited to, a period of time not to exceed one week per year per applicant.

§§10-35 – 10-60 RESERVED.

***Cross Reference*: Environment, Part 34.**

DIVISION 2

NUISANCES*

§ 10-61 Animal nuisance.
§ 10-62 Keeping nuisance animals deemed public nuisance.
§ 10-63 Animals that are nuisances or uncontrollable.
§§ 10-64 – 10-85 Reserved.

§ 10-61 ANIMAL NUISANCE.

A. An animal is a nuisance which by loud, frequent, or habitual barking, howling, yelping, or other noise or action disturbs any person or neighborhood within the city limits. Any animal which scratches or digs into any flower bed, garden, tilled soil, shrubbery and in so doing injures the same, or which habitually prowls around or over any premises not the property of its owner to the annoyance of the owner or occupant of such premises, or which overturns any garbage can or vessel for waste products, or scatters the contents of such garbage can or vessel, or an animal which chases or kills any fowl or animal owned by another is also declared a nuisance. A female dog in season at large is a nuisance. It is unlawful and a nuisance for any person to keep or harbor within the city any dog or other animal which, by barking, howling, or otherwise, disturbs the peace and quiet of any person.

B. It is unlawful to own or harbor an animal which is determined to be a nuisance.

***Cross reference*: Nuisances, §34-56 et seq.**

§ 10-62 KEEPING NUISANCE ANIMALS DEEMED PUBLIC NUISANCE.

The keeping or maintaining or permitting to be kept or maintained of any of the foregoing animals within the city in violation of this Code is hereby declared to be a public nuisance.

§ 10-63 ANIMALS THAT ARE NUISANCES OR UNCONTROLLABLE.

A. No person shall own, keep or harbor any animal that is a nuisance.

B. Notwithstanding section 10-252:

1. If an animal is found by the municipal court judge, upon notice and hearing, to be uncontrollable by its owner to the extent that such animal poses a threat to the health, safety, and welfare of the public then such animal shall be ordered removed from the city limits or destroyed, at the owner's option, within ten days of the order.

2. Such a finding by the municipal court judge shall be based upon, but not limited to, evidence of three convictions, pleas of guilty or nolo contendere of violations of sections 10-62, 10-256 or 10-257 against or by the current owners within a twelve (12) - month period concerning the same animal, or two convictions, pleas of guilty or nolo contendere of violations of sections 10-62, 10-256 or 10-257 against or by the current owners within a twelve (12) month time period concerning the same animal.

3. Noncompliance with an order entered pursuant to subsection (B) (2) shall be a violation punishable upon conviction by a fine as provided in section 1-112. In addition thereto, such person may be enjoined from continuing such violations. (Ord. No. 03-07, §5, 10-6-2003)

§§ 10-64 – 10-85 RESERVED.

ARTICLE 3

BIRDS AND BEES

§ 10-86 Dangerous birds.
§ 10-87 Parakeets.
§ 10-88 Bees.
§ 10-89 Bird sanctuary.
§§ 10-90 – 10-115 Reserved.

§ 10-86 DANGEROUS BIRDS.

The raising or keeping of dangerous birds shall be permitted in accordance with the provisions of 29 O.S. §4-108, as well as any applicable provisions of chapter 122 and subsequent amendments thereto.

§ 10-87 PARAKEETS.

The raising of parakeets or other small birds or similar fowl shall be permitted within the city without license or permit requirements, subject to the following provisions:

1. All activities associated with the raising of parakeets shall be completely enclosed and out of the public view;

2. Premises utilized for the raising of parakeets shall be maintained in accordance with this article; and

3. All requirements of chapter 122 shall be met.

§ 10-88 BEES.

The keeping or raising of bees within the corporate limits shall be permitted only in those areas zoned for agricultural or large-lot (over two acres) residential uses, and in accordance with chapter 122. No license or permit shall be required to keep or raise bees.

§ 10-89 BIRD SANCTUARY.

A. The entire area embraced within the corporate limits of the city is hereby designated as a bird sanctuary.

B. It is unlawful to hunt, trap, or shoot, or to attempt to shoot or molest in any manner, any bird or wild fowl or to rob bird nests or wild fowl nests. However, if starlings or similar birds are found to be congregating in such numbers in a particular locality, such that they constitute a nuisance or menace to health or property in the opinion of the proper health authorities of the city, the health authorities shall meet with the representatives of the Gladiolus Garden Club or Humane Society (if existing within the city), after having given at least three days' actual notice of the time and place of the meeting to the representatives of such organization.

C. If, as a result of such meetings, no satisfactory alternative is found to abate such nuisance, the birds may be destroyed in such number and in such manner as is deemed advisable by the health authorities under the supervision of the police chief of the city.

§§ 10-90 – 10-115 RESERVED.

ARTICLE 4

DOGS AND CATS

DIVISION 1

GENERALLY

§§ 10-116 – 10-140 Reserved.

DIVISION 2

VACCINATION; LICENSE TAGS; TAX

§ 10-141 Dogs and cats to be vaccinated.
§ 10-142 Dog license; registration; tag.
§ 10-143 Tag to be placed on collar; lost tags.
§ 10-144 Placing counterfeiting tags on other dogs.

§§ 10-145 – 10-170 Reserved.

§ 10-141 DOGS AND CATS TO BE VACCINATED.

A. Required immunization of dogs, cats, and ferrets.

1. The owner or custodian of a domestic dog, cat, or ferret shall cause the animal to be vaccinated against rabies by the time the animal is four months of age or within 15 days of arrival in the city and at regular intervals thereafter according to the label directions of an approved rabies vaccine for use in that species or as prescribed by ordinances or rules adopted by a municipality within whose jurisdiction the animal owner resides.

2. A veterinarian who administers or supervises the rabies vaccination of a dog, cat, or ferret shall issue to the animal's owner/custodian, a vaccination certificate that meets the minimum standards set forth in O.A.C. 310:599-3-7. Animal identification including, but not limited to, species, gender, age, and predominant breed and coloring must be indicated on the vaccination certificate.

B. Record of recognized rabies vaccination.

1. Record of vaccination by a veterinarian must be provided to determine the animal to be currently vaccinated against rabies. Veterinarians shall be required to keep a record of a rabies vaccination for a minimum period of three (3) years. This record must include name, address, and telephone number of the owner of the animal; date of vaccination; animal identification; brand name of vaccine used, vaccine expiration date, and producer of vaccine.

2. Three (3) year immunity conferred by the second or subsequent boosters with a three (3) year rabies vaccine will be recognized in the enforcement of O.A.C. 310:599.

C. Administration of rabies vaccine.

1. It is prohibited for anyone to administer rabies vaccine to any animal unless such vaccine is licensed for use in the particular animal species in question. Exceptions to this include:

a. The vaccination of wolf-dog hybrids with a rabies vaccine approved for dogs;

b. Use at recognized nonprofit zoological parks or research institutions; or

c. Special approval by the commissioner of health permitting the vaccination in a particular species where the preponderance of scientific literature suggests vaccine efficacy and vaccine usage is determined to protect public health and

safety.

2. Animals vaccinated per these exceptions will still be considered as a wild animal species if involved in a bite to a person and will be handled according to O.A.C. 310:599-3-4.

3. Rabies vaccines presently licensed are listed in the most current Compendium of Animal Rabies Control published annually by the National Association of State Public Health Veterinarians. Copies shall be available from the Communicable Disease Division, Oklahoma State Department of Health, 1000 N.E. Tenth Street, Oklahoma City, Oklahoma 73117-1299.

D. Consumer notification required for over-the counter rabies vaccine sales. Each supplier or retailer of over-the-counter (OTC) animal rabies vaccine for administration by any person other than a licensed veterinarian shall post notification to the consumer that only the records of a licensed veterinarian will be acceptable documentation of a rabies vaccination in the application of requirements in O.A.C. chapter 310:599. The standard written notice shall be obtained from the department and posted directly over or near the retail location of the OTC rabies vaccine in a manner that the text of the notice is easily visualized by consumers.

§ 10-142 DOG LICENSE; REGISTRATION; TAG.

A. *Charge levied*. A lifetime charge as set by the council for every male or female dog more than six (6) months of age is hereby levied upon the owner of any such dog kept or harbored within the city.

B. *Exceptions*. The tax levied in this section shall not apply to a dog only temporarily brought and kept within the city for a period less than fifteen (15) days, nor to a dog brought within the city to participate in a dog show, nor to a guide dog, signal dog or service dog that is actually being used by a blind, physically handicapped, deaf, or hard of hearing person to aid him in going from place to place, nor to dogs being kept in kennels or pet shops for sale.

C. *Times for payment*. The owner shall pay the tax levied to the city clerk for every calendar year at the following times:

1. Before July 1 of each calendar year; or

2. If the dog is acquired or brought in the city after July l or becomes six (6) months of age after July 1, within seven (7) days after acquiring or bringing the dog into the city or its becoming six (6) months of age. The fee for part of the year may be prorated based on the number of days left in the year, but in no instance shall the fee be less than one-half of the annual rate.

D. ***Certificate of vaccination required*. Before the city accepts any money offered in payment of the tax for a dog or issues a license for it, the person offering the tax shall present to the city clerk the certificate of a veterinarian or other person legally authorized to immunize dogs, showing that the dog has been immunized against rabies during the calendar year.**

E. ***Registration*. The owner of the dog shall, at the time of paying the tax, register the dog by giving the name and address of the owner; the name, breed, color, and sex of the dog; and such other reasonable information as the city clerk may request.**

F. ***Tag*. The city clerk or designee thereupon shall deliver an original receipt to the taxpayer and also an appropriate tag to him for the dog. Such tag shall constitute a license for the dog.**

§ 10-143 TAG TO BE PLACED ON COLLAR; LOST TAGS.

A. The owner shall cause the tag received from the city clerk to be affixed to the collar of the dog upon which the tax has been paid so that the tag can easily be seen by officers of the city. The owner shall see that the tag is so worn by the dog at all times.

B. In case the tag is lost before the end of the year for which it was issued, the owner may secure another by applying to the city clerk, presenting to him the original receipt, and paying to him a fee as set by the council.

§ 10-144 PLACING COUNTERFEITING TAGS ON OTHER DOGS.

No person shall counterfeit, or attempt to counterfeit, any tag issued for a dog as provided in this article. No person except the owner or veterinarian treating a dog shall take from any dog a tag legally placed upon it, and in no case shall such tag be placed upon a dog for which the tag was not specifically issued.

§§ 10-145 – 10-170 RESERVED.

ARTICLE 5

KENNELS; PET SHOPS; CATTERIES

§ 10-171 License; operating requirements.
§ 10-172 Limitation on number of dogs.
§§ 10-173 – 10-195 Reserved.

§ 10-171 LICENSE; OPERATING REQUIREMENTS.

A. Kennels to be licensed. No person shall own, maintain, or operate a kennel within the corporate limits of the city unless such kennel is licensed as provided in this

article.

B. Application for kennel license; required information; compliance with zoning regulations. Application for such license shall be made to the city clerk and shall state the name and address of the owner or operator of the kennel, with the street address and legal description of the property upon which the kennel is located. Such license will not be issued unless the kennel is in compliance with any applicable portions of any present or future zoning regulations adopted by the city.

C. Kennel license fee. The annual kennel license fee shall be as set by the city and such license shall be exhibited in a conspicuous place on the premises.

D. Issuance of license. Licenses shall be issued for a period of one year beginning on July 1 of each year. Licenses may be issued starting thirty (30) days before July 1 and for thirty (30) days thereafter.

E. Proof of vaccination. A kennel owner must show proof of rabies vaccination on all animals over four months of age when applying for a license.

F. Sanitary conditions. Any person maintaining a kennel, whether for profit or not, shall maintain such kennel in a sanitary condition and shall be subject to the provisions of this Code and in compliance with this Code and any future code or ordinance of the city. Nonconforming kennels shall be deemed a public nuisance.

G. Requirements for pet shops, catteries, and kennels. All pet shops, catteries and kennels shall:

1. Maintain records and retain such records for a two (2) year period on all dogs and cats maintained in such facility. Such records shall show breed, color, markings, sex, age, date, and source of the animal; period for which the animal is maintained; date and disposition of the animal (including name and address of the new owner); and disease prevention or treatment and by whom.

2. Provide general environmental conditions to assure adequate physical space for each animal, control of parasites, clean food and water, weather protection, and clean and sanitary facilities; and

3. Provide cages and pens of easily cleanable materials, if used for confinement, and keep such cages and pens clean and sanitary.

H. Pet shops. Pet shops shall be subject to the same requirements for licensing as kennels. Any other requirements of this code which may involve specific animals sold in a pet shop shall also be included in those regulations applicable to pet shops.

§ 10-172 LIMITATION ON NUMBER OF DOGS.

No person shall own, keep, or harbor more than three dogs over fourteen (14) weeks old on any lot, premises, or any structure without having obtained a kennel license as provided for in this article. Not more than one litter of puppies born to different female dogs may be kept on any lot or premises or kept in any structure except in a kennel.

§§ 10-173 – 10-195 RESERVED.

ARTICLE 6

VICIOUS ANIMALS

§ 10-196 Vicious animals unlawful.
§ 10-196A Attacks prohibited.
§ 10-197 Impoundment of vicious animals.
§ 10-198 Officer to file report.
§ 10-199 Notice of hearing to determine nature of impounded dog.
§ 10-200 Hearing and adjudication.
§ 10-201 Exemptions.
§ 10-202 Animals suspected of rabies.
§ 10-203 Confinement of animals required; exceptions.
§ 10-204 Control of animals trespassing on public or private property prohibited.
§ 10-205 Impoundment of animals otherwise; destruction in lieu of apprehension.
§ 10-206 Violation and penalties.
§§ 10-207 – 10-230 Reserved.

§ 10-196 VICIOUS ANIMALS UNLAWFUL.

It shall be unlawful for any person to harbor, possess, or maintain within the city limits any animal which is determined to be vicious as defined by the ordinances of the city.

§ 10-196A ATTACKS PROHIBITED.

A. It shall be unlawful for any person, owner or possessor to permit such animal to attack or bite any person or animal upon the premises of the person, owner or possessor. It shall be an affirmative defense to this subsection when such premises are previously posted at each entrance to the same with prominent and conspicuous signs warning all persons in lettering not less than two (2) inches in height, of such animal. It is also an affirmative defense to this subsection that the use of such animal to attack or bite any person was necessary to prevent or apprehend a person engaged in committing an act of violence, robbery or theft upon said property.

B. It shall be unlawful for any person, owner or possessor to permit such animal to attack or bite any person or animal not upon the premises of such person, owner or

possessor.

C. For the purposes of this section, the word attack shall mean violent or aggressive physical contact.

D. The provisions of this section shall not apply to any law enforcement officer who uses or employs an animal while engaged in law enforcement activities, nor to any owner, possessor or keeper whose animal attacks or bites a person engaged in physically attacking or striking said owner, possessor or keeper. (Ord. No. 03-07, §2, 10-6-2003)

§ 10-197 IMPOUNDMENT OF VICIOUS ANIMALS.

A. Threats to public health and safety. Animal control officers of the city shall make a reasonable effort to take into custody and impound in the city animal shelter any animal where the officer determines in good faith from personal observation or other evidence that the animal is an immediate threat to the public health and safety and such animal is upon the public street or lands and unleashed. Any law enforcement officer of the city shall take into custody and impound in the city animal shelter any unleashed animal which is upon public property upon the determination by such officer that the animal is an immediate threat to the public health and safety and that delay of impoundment to await an animal control unit will jeopardize the public safety. No costs for impoundment in the city animal shelter shall be assessed against the owner of the animal for the period during which the animal is impounded, if such animal is determined not to be a vicious animal under the provisions of this section.

B. Leashed or confined animals. Animals restrained by leashes while upon the public streets, ways, or property and animals confined to an owner's premises by fences or direct restraint shall not be impounded except by order issued by a municipal judge upon a showing of probable cause that such animal has, while unleashed and off the premises of its owner, bitten a human being or a domestic animal without provocation.

C. Providing information to requesting officer. Any person in custody of a leashed animal while upon the public street, ways, or property shall, upon request of an animal control officer, furnish his name, address, telephone number, and registration number of the leashed animal to the requesting officer. No officer shall make any such request of a person unless the officer has determined that there is a reasonable suspicion that the animal in the custody of the person concerned is a "vicious animal" within the scope and intent of this article.

D. Determination of probable cause; delivery of vicious animal. A municipal judge, upon the presentment of a verified complaint by an animal control officer or any law enforcement officer, shall determine whether probable cause exists to believe that at a specified location within the city a "vicious animal" is being kept. If the municipal judge determines that probable cause exists, the judge shall issue an order of the municipal court describing the animal with reasonable certainty, setting forth the approximate time, place,

and actions giving rise to the alleged vicious nature of the animal, and specifying the address at which such animal is being kept. The judge shall direct the officer to serve a certified copy of the order upon a person age 18 or older who is a resident at the premises where such animal is located. Any such person, upon the service of the aforesaid certified copy of the court's order, shall be bound to deliver over to the law enforcement officer the animal which is the subject of the order. Any such impoundment order issued by a municipal judge may, in the alternative, authorize and direct the law enforcement officer to take into custody the subject animal from private premises by means not giving rise to a breach of the peace, in the event that such animal can be seized without entering into any domestic residence or commercial building and no person eighteen (18) or older is upon the premises where the subject animal is found. In the case of an impoundment accomplished without personal service of an impoundment order, a copy of the impoundment order shall be left on the premises in a manner calculated to be discovered by the occupant and sent to "occupant" by certified mail.

E. Retention of impounded animals. Animals impounded under the authority of this section shall be retained in the city animal shelter or, at the written request of the owner and at his sole liability for the costs, at a duly licensed veterinary clinic or kennel until the city attorney declines to file an information in the case alleging a violation of this article or until a further order of the municipal court has been issued requiring release or destruction of the impounded animal.

§ 10-198 OFFICER TO FILE REPORT.

The officer who impounds an animal pursuant to this article shall make a written report and deliver it to the municipal court clerk with a copy to the city attorney within twenty (24) hours of the impoundment.

§ 10-199 NOTICE OF HEARING TO DETERMINE NATURE OF IMPOUNDED DOG.

A. The city attorney shall determine by the end of the third working day after receipt of the impoundment report whether prosecution will be undertaken or declined under this article with respect to the impounded animal. If prosecution is determined, the city attorney shall file an information with the municipal court clerk and a copy shall be served upon the person who had physical custody of the subject animal at the time of impoundment or, in the case of an impoundment accomplished from private property without personal service of a court order, service of the information shall be made upon a person age 18 or older who is a resident at the premises from which the animal was impounded.

B. In the case of an animal impounded off the premises of the owner, the impounding officer shall make reasonable effort through the use of any identification tags found on the animal in order to bring about personal service of the information on the owner as set forth in this section.

C. Return of the service of such order shall be chain, rope or other type of leash promptly filed with the municipal court clerk. The information shall state on its face the date, time, and place at which a hearing will be conducted by municipal court to determine the nature of the impounded animal under this division and the action to be taken with respect to such animal and its owner.

§ 10-200 HEARING AND ADJUDICATION.

A. The municipal judge, in addition to any hearings which may be required on criminal shall hold a hearing within ten (10) days of the date of impoundment to determine if the animal is vicious as defined by this Code. Said hearing may be held in conjunction with any criminal proceedings if so ordered by the judge but in no event shall this delay the hearing on determination of viciousness.

B. The municipal judge shall be empowered to make one of the following determinations as a result of said hearing:

1. That the animal is in fact not vicious in which event the city shall cause it to be surrendered to the owner of the animal, upon payment by the owner of the expenses outlined in section 10-284.

2. That the animal is in fact vicious and should be destroyed.

3. That the animal is vicious but that for good cause shown, the animal should not be destroyed in which event the judge shall order one of the following:

That the owner be allowed to maintain the vicious animal within the corporate - limits of the city under the following conditions:

a. *Payment of fees*. Payment of all fees required by section 10-284.

b. *Leash and muzzle*. No person shall permit an animal covered by this section to go outside its kennel or in pen unless such animal is securely leashed with a leash no longer than four feet in length. No person shall permit said 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 animal may not be the 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 or other animals.

c. *Confinement*. All animals covered by this section shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used

to confine said 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 or the sides of the pen must be embedded in the ground no less than two feet. All structures erected to house said animals must comply with all zoning and building regulations of the city. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

d. ***Confinement indoors*. No animal covered by this section may be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the animal from exiting the structure.**

e. ***Signs*. All owners, keepers or harborers of animals covered by this section within the city shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Vicious Animal." In addition, a similar sign is required to be posted on the kennel or pen of such animal.**

f. ***Insurance*. All owners, keepers or harborers of animals covered by this section must provide proof to the city animal welfare manager of public liability insurance in a single incident amount of $50,000.00 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 of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days written notice is first given to the city animal welfare manager.**

4. All owners, whose animal is adjudged to be vicious at the hearing, and sentence imposed by the municipal judge pursuant to this section, upon written demand, may appeal the judge's decision within ten (10) days to the district court of the county where a trial in the district court shall be accorded them de novo. All such appeals shall comply with the procedures of section 25-34. (Ord. No. 03-07, §3, 10-6-2003)

§ 10-201 EXEMPTIONS.

A K-9 dog which approaches a person in an apparent attitude of attack or which attacks or bites a human being upon command of its owner shall not by reason of such incident be deemed to be a "vicious animal". The owner of any such dog shall not, however, by virtue of this article, be exempted from any legal liability that may otherwise arise by reason of any such action commanded of a K-9 dog by the owner.

§ 10-202 ANIMALS SUSPECTED OF RABIES.

Any animal which has bitten or is suspected of having bitten any person, or which has been exposed to or is suspected of having been exposed to rabies, shall be subject to all the provisions of sections 10-311 through 10-323 and all state regulations.

§ 10-203 CONFINEMENT OF ANIMALS REQUIRED; EXCEPTIONS.

A. Confinement required; means of confinement. Every person who owns, possesses, or harbors any animal within the city shall confine the animal to premises owned or controlled by him. Confinement shall be accomplished by means of a substantial fence or similar enclosures of sufficient strength and height to prevent the animal from escaping therefrom, or by keeping the animal inside a house or other building, or by a leash at least ten (10) feet in length consisting of a metal chain or other material of sufficient strength to prevent the animal from escaping from the premises when the leash is stretched to its full length.

B. Persons to whom section applicable. Every person who owns, possesses, or harbors any animal within the city shall confine the animal as required under this section.

C. Exceptions:

1. This section shall not apply to any person who takes an animal upon private property with the consent of the owner or person in control of the property or upon a street or other public place when the animal is confined in a vehicle or by means of a chain or leash of sufficient strength and length to control the actions of the animal.

2. This section shall not apply to agricultural areas. For the purpose of this article, "agricultural areas" shall be all areas zoned agricultural under chapter 122.

§ 10-204 CONTROL OF ANIMALS TRESPASSING ON PUBLIC OR PRIVATE PROPERTY PROHIBITED.

A. No person shall permit any animal owned, possessed, or harbored by him:

1. To trespass upon private property without the consent of the person who owns or controls the property and without properly confining the animal to that property as required by the provisions of this chapter; or

2. To trespass upon any street or other public property unless the animal is:

a. Under the immediate physical control of the owner or other responsible person by confinement in a vehicle; or

b. Under the immediate physical control of the owner or other responsible

person by means of a chain, rope, cord, or leash of not more than six feet in length and of sufficient strength to control the actions of the animal.

B. For purposes of this section, the term "immediate physical control" shall mean confinement in a vehicle or control exercised through the personal physical presence of a person who, at all times, has in his possession the chain, rope, cord, or leash to which the dog is attached.

§ 10-205 IMPOUNDMENT OF ANIMALS OTHERWISE; DESTRUCTION IN LIEU OF APPREHENSION.

Unless otherwise provided in this article, any animal which is not confined as provided in this article shall be impounded by the animal control officer or his duly appointed representative or by any law enforcement officer. If the animal is so vicious that it cannot be safely impounded, the officer seeking to apprehend it may destroy it. Any impounded animal shall be confined in the city animal shelter.

§ 10-206 VIOLATION AND PENALTIES.

Any person who violates any provision of this chapter is guilty of an offense and upon conviction thereof shall be punished as provided in section 1-112. In addition thereto, such person may be enjoined from continuing such violations. (Ord. No. 03-07, §4, 10-6-2003)

§§ 10-207 – 10-230 RESERVED.

ARTICLE 7

ANIMALS AT LARGE; ANIMAL SHELTER

DIVISION 1
GENERALLY

§§ 10-231 – 10-255 Reserved.

DIVISION 2

ANIMALS AT LARGE

§ 10-256 Animals not to be at large.
§ 10-257 Turning animals at large unlawful.
§§ 10-258 – 10-280 Reserved.

§ 10-256 ANIMALS NOT TO BE AT LARGE.

No owner shall permit any animal which is owned, harbored, or kept by him to be at large within the city or to trespass upon the property of another. It is unlawful for any animal to be at large at any time within the city.

§ 10-257 TURNING ANIMALS AT LARGE UNLAWFUL.

It is unlawful for any person to open any enclosure in which any animal is confined as required by ordinance so as to turn the animal at large or in any manner to turn the animal at large.

§§ 10-258 – 10-280 RESERVED.

DIVISION 3

ANIMAL SHELTER

§ 10-281 Shelter established.
§ 10-282 Animals to be impounded.
§ 10-283 Breaking shelter.
§ 10-284 Fees for impounding.
§ 10-285 Disposition of impounded animals.
§ 10-286 Owner may claim excess money.
§§ 10-287 – 10-310 Reserved.

§ 10-281 SHELTER ESTABLISHED.

A city animal shelter may be established under the jurisdiction of the police department. It shall be under the immediate control of an animal control officer or of such other person as may be officially designated. The person in charge of the shelter shall provide proper sustenance for all animals impounded and shall treat them in a humane manner. The city may contract with another agency for the use of a shelter maintained by the agency.

§ 10-282 ANIMALS TO BE IMPOUNDED.

A. The animal control officer, a police officer, or such other officer or employee of the city as may be authorized by the city manager may take into custody and impound any animal running at large or in violation of any provision of the ordinances of the city and may enter upon the premises of the owner or other private premises to take such animal into custody.

B. Animals taken into custody as provided in this chapter shall be destroyed by an acceptable humane method by the officer or employee of the city in charge of such

animal, or by the animal control officer, after seventy-two (72) hours have elapsed after taking the animal into custody, provided the animal is not redeemed or claimed as provided in this article. A description of the animal, the date impounded, and the place of impoundment shall be kept by the animal control officer or other officer in charge. If the owner can be identified by tag or otherwise, the animal control officer shall send notice to the owner orally by telephone or in writing at the address on the city's registration records that unless claimed by the owner, the animal will be disposed of as provided in section 10-285.

§ 10-283 BREAKING SHELTER.

No unauthorized person shall:

1. Break or attempt to break open the shelter or take or let out any animal there from;

2. Take or attempt to take from any officer or employee of the city any animal taken into custody as provided by this chapter; or

3. In any manner interfere with or hinder an officer or employee in the discharge of his duties relating to the taking into custody and impounding of animals as provided in this chapter.

§ 10-284 FEES FOR IMPOUNDING.

A. The city council by motion or resolution shall determine the fees to be charged for impounding and keeping animals. In computing the fee, a fraction of a day during which an animal has been fed shall be deemed a full day.

B. Any person redeeming an impounded animal shall pay the required fees to the city clerk and present his receipt therefore to the person in charge of the animal shelter before the latter releases the animal. An owner of an impounded animal or his agent may redeem the animal prior to its disposition as provided for in section 10-285. However, when in the judgment of the animal control officer an animal should be destroyed for humane reasons, such animal may not be redeemed.

C. Any person redeeming a dog not licensed as required by section 10-142 of this chapter shall pay the required license tax to the city clerk and secure a tag and present the receipt therefore and the tag to the person in charge of the animal shelter before the latter releases the dog. If a dog has been licensed but is not wearing the tag, the person in charge of the animal shelter shall require adequate evidence of the proper licensing of the dog before releasing it.

D. A vaccination deposit, set by resolution of the city council, shall be required for each animal without proof of the required rabies vaccination from a licensed

veterinarian within the prior twelve (12) months immediately preceding its impoundment. The deposit shall be returned only if, within five (5) working days from the date of the deposit, the city clerk, or his designee, is presented a receipt from a licensed veterinarian documenting that the animal had received a rabies vaccination within either the prior twelve (12) months immediately preceding the animal's impoundment or the period within five working days from the date of the deposit. (Ord. No. 02-16, 10-7-2002)

§ 10-285 DISPOSITION OF IMPOUNDED ANIMALS.

A. As soon as practicable after any animal of apparent value has been impounded, the animal control officer or other employee or officer impounding the animal shall inform the police chief and the police chief shall thereupon post a notice thereof at the police office of the city. The notice shall describe the animal and notify the owner to pay the charges thereon and remove the same prior to a designated time. The notice shall also state that unless the animal is redeemed the animal will be disposed of by adoption as a pet, by delivery to a licensed educational or research institution, or by euthanization.

B. Any sale of an impounded animal shall be for cash and shall be conducted by or under the direction of the police chief. If an impounded animal cannot be sold, he shall destroy the animal or have it destroyed in an acceptable, humane method or otherwise dispose of it in a legal manner.

C. The purchaser of an animal at a sale held as provided in this section shall acquire absolute title to the animal purchased.

D. The police department shall pay to the city clerk all money received from the sale of impounded animals on the day it is received or on the next day upon which the office of the city clerk is open for business.

§ 10-286 OWNER MAY CLAIM EXCESS MONEY.

The owner of an impounded animal sold as provided in section 10-744 may claim the excess of the sale price of the animal above the fees for impounding and keeping the same and a fee as set by the council by motion or resolution to reimburse the city for any expense it has had in making the sale at any time within three months after the sale. If a claim is so made and approved by the council, the city clerk shall pay him such excess. If a claim is not made, the excess shall belong to the city.

§§ 10-287 – 10-310 RESERVED.

ARTICLE 8

RABIES PROCEDURES AND CONTROL*

§ 10-311 Management of dogs, cats, or ferrets that bite a person.

§ 10-312 Management of other animals that bite a human.
§ 10-313 Severe bite wounds inflicted.
§ 10-314 When dogs and cats confined.
§ 10-315 Confinement required.
§ 10-316 Supervising veterinarian's responsibility.
§ 10-317 Responsibility for costs incurred.
§ 10-318 Confinement by owner.
§ 10-319 Enforcement.
§ 10-320 Destruction or observation.
§ 10-321 Animals considered exposed.
§ 10-322 Vaccinated domestic animals exposed to rabid animals.
§ 10-323 Disposal of remains of disease-suspect animal.
§§ 10-324 – 10-350 Reserved.

§ 10-311 MANAGEMENT OF DOGS, CATS, OR FERRETS THAT BITE A PERSON.

A. Any person or entity owning, harboring, or keeping a dog, cat, or ferret which in the preceding ten days has bitten any person shall, upon receipt of written notice by the local animal control authority or department designee, place such animal in quarantine under the supervision of a licensed veterinarian for a period of ten days from the date the person was bitten. The impoundment and observation of the dog, cat, or ferret shall be conducted at the veterinarian's facility or a recognized animal control facility. Unvaccinated animals shall be vaccinated against rabies on the final day of the ten-day observation period prior to discharge from the veterinarian's supervision.

B. Exceptions to this rule include the following circumstances:

1. Dogs, cats, or ferrets involved in a first party ownership may be allowed to be placed in a home quarantine for a ten-day period immediately following the bite.

2. Dogs, cats, and ferrets meeting the criteria of currently vaccinated against rabies, and not inflicting a severe injury, shall be placed in a home quarantine until the end of a ten-day period from the bite. In some instances, a certification of animal health obtained after examination by a licensed veterinarian on the tenth day may be required by the department.

3. Animals in service to the blind or hearing impaired and search and rescue dogs or other animals used for police enforcement duties shall be exempt from the quarantine when a bite exposure occurs and proper record of immunization against rabies is presented. A certification of animal health obtained after examination by a licensed veterinarian at the end of ten days may be required by the department.

4. Stray or unwanted dogs, cats, or ferrets that have bitten any person may either be quarantined for ten (10) days at a veterinary facility or a recognized animal

control facility or immediately euthanized and the brain tissue submitted to the state department of health laboratory for rabies testing. Upon successful completion of the ten (10) day period, a stray animal may be placed for adoption at the discretion of the animal control authority.

5. In rare instances, other good and valid health reasons of the owner or animal may be considered for justification to home quarantine (e.g., a bitch with a litter of very young puppies, an animal with a contagious disease, etc.). Approval for home quarantine will be determined by the department or its designee.

***Cross Reference*: Environment, Part 34.**

§ 10-312 MANAGEMENT OF OTHER ANIMALS THAT BITE A HUMAN.

A. The final decision for animal destruction, quarantine, or other disposition of any animal other than a dog, cat, or ferret that bites a person or otherwise potentially exposes a person to rabies shall be determined through the department. The department will consider, but not be limited to:

1. The epidemiology and risk of rabies in the species of animal in question;

2. Possible prior exposure to a rabies vector;

3. Behavior of the animal at the time of the bite;

4. Prior rabies vaccinations; and

5. Other circumstances that may exist.

B. In some situations, the department will consider the initiative and willingness of the individual so exposed to submit to post-exposure anti-rabies immunization after being adequately informed of all potential risks.

C. Any biting animal determined to be at significant risk for the transmission of rabies shall, upon written order by the commissioner of health or a specifically designated representative, be humanely killed and the brain tissue submitted to the state department of health laboratory for rabies testing.

D. The department may order the quarantine of an animal determined to be at very low risk for the transmission of rabies for a thirty (30) day observation period as an alternate method to euthanasia and testing.

§ 10-313 SEVERE BITE WOUNDS INFLICTED.

In special circumstances involving a bite to any person, the commissioner of health

or a specifically designated representative may require the immediate euthanasia of a specified animal for the performance of rabies diagnostics. The term "special circumstances" refers to multiple and severe bite wounds or deep punctures or lacerations to the face, head, or neck. Such requirement for euthanasia will be made following investigation of the bite report by the department designee.

§ 10-314 WHEN DOGS AND CATS CONFINED.

A. When the health officer or animal control officer determines and certifies that a dog, a cat, or other animal in the city or within five miles of the city is or was infected with rabies and that an epidemic of rabies threatens the city, the council, by resolution, may order all dogs to be confined and, if deemed desirable, all cats to be confined during a period of time to be determined by the council and within such radius of the city as determined by the council. Such resolution or an adequate notice of its passage shall be published in a newspaper of general circulation within the city and shall go into effect on the day following such publication unless the resolution prescribes a later time.

B. The city manager, when he deems it necessary due to health, safety, and welfare conditions, may order emergency confinement of animals in the city or a one-mile radius thereof. Such order shall not be effective for a period of more than ten (10) days. Notice of the order shall be by posting a copy thereof in at least three (3) places in the city, one of such places shall be the city hall.

C. While any such resolution or order is in effect, it is unlawful for any owner to permit a dog or cat to be at large in violation of such resolution or order.

D. The resolution or order may be enforced by the animal control officer, the health officer, or any police officer of the city.

§ 10-315 CONFINEMENT REQUIRED.

Any person owning, harboring, or keeping an animal, including a dog, cat, or other domestic pet, which in the preceding ten (10) days has bitten any person shall, upon receipt of written or oral notice by the health officer or his designated representative or the city animal control officer, place such animal in confinement under the supervision of a licensed veterinarian for a period of ten (10) days from the date the person was bitten.

§ 10-316 SUPERVISING VETERINARIAN'S RESPONSIBILITY.

It shall be the duty of the veterinarian in whose supervision the dog, cat, or ferret is placed to keep the animal isolated and secured in a separate cage or kennel and under observation for any symptoms of rabies. The veterinarian shall report immediately to the department designee any changes occurring in the condition of the dog, cat, or ferret. In the event the animal being observed dies or develops rabies-like symptoms within the specified period of confinement, the animal if alive shall be euthanized. The animal's head

shall be removed immediately and packed in a shipping container in accordance with instructions published on the rabies laboratory form, ODH Form 460, and sent to the State Department of Health Laboratory, 1000 N.E. Tenth Street, Oklahoma City, Oklahoma 73117-1299, for rabies testing.

§ 10-317 RESPONSIBILITY FOR COSTS INCURRED.

Payment of fees incurred for daily boarding, euthanasia, preparation, and transport of specimens for laboratory testing or any other costs incurred to comply with O.A.C. 310:599 shall be the responsibility of the person or entity owning, keeping, or harboring the animal. If the animal is a stray or wild animal without a custodian, the bite victim or their legal guardian shall be responsible for payment.

§ 10-318 CONFINEMENT BY OWNER.

In the event there is not a licensed veterinarian to provide supervision for isolation and observation of the suspect animal within the county or where, in the opinion of the health officer or animal control officer, the person owning, keeping, or harboring the suspect animal will pay for expenses, such person shall, in accordance with instructions received from the health officer, his designated representative, or animal control officer, keep the suspect animal securely penned and shall immediately advise the health officer or animal control officer of any changes occurring in the condition of the animal. In the event of the animal's death or illness, the person so designated as responsible for the animal shall immediately notify the health officer or animal control officer and make arrangements for removal of the animal's head, properly packing it in a shipping container, and shipping it to the state department of health.

§ 10-319 ENFORCEMENT.

It is the duty of the animal control officer to enforce this article, and in instances where responsibility for the suspect animal cannot be determined or established, he shall make arrangements for the isolation and observation of the animal.

§ 10-320 DESTRUCTION OR OBSERVATION.

Any domestic dog or cat which is not effectively immunized against rabies virus encephalitis and is exposed to rabies through a rabid animal shall be destroyed immediately either by the veterinarian in charge or by the local animal control officer or his agent, or such non-immunized, rabies exposed dog or cat shall be strictly quarantined and observed for a period of six (6) months by either a veterinarian or by the local animal control officer or his agent. Such animal shall be immunized against rabies at least thirty (30) days prior to release. Expenses of quarantine and immunization shall be borne by the owner or other person responsible for the animal.

§ 10-321 ANIMALS CONSIDERED EXPOSED.

Unvaccinated domestic animals exposed to a rabid animal:

1. Any dog, cat, or ferret which is not currently vaccinated against rabies and is exposed to a rabid animal shall be:

a. Euthanized immediately either by a veterinarian of the owner's choice or the local animal control officer or his agent; or

b. Placed in strict quarantine and observed for a period of six (6) months under the supervision of a licensed veterinarian either at a veterinary facility or a recognized animal control facility. The exposed animal shall be immediately vaccinated against rabies upon entry into quarantine and then given booster vaccinations at the third (3) and eighth (8) week of the quarantine period. Animals less than sixteen (16) weeks of age at the time of entry into quarantine may be required to receive a booster vaccine in addition to the above protocol.

2. Any livestock or equine animal which is not currently vaccinated and is exposed to a rabid animal will be managed according to the most current compendium of animal rabies control published by the National Association of State Public Health Veterinarians, Inc., and any state department of agriculture guidelines that may apply.

§ 10-322 VACCINATED DOMESTIC ANIMALS EXPOSED TO RABID ANIMALS.

Any domestic animal which is currently vaccinated against rabies and is exposed to a rabid animal shall be revaccinated within three (3) days of notification and isolated by leashing or confinement under the owner's supervision for a period of at least forty (45) days.

§ 10-323 DISPOSAL OF REMAINS OF DISEASE SUSPECT ANIMAL.

When a veterinarian provides the service of head removal and preparation of any animal specimen for testing of a zoonotic disease regulated under this article, it shall be the responsibility of the veterinarian to properly dispose of the bodily remains of the disease-suspect animal in a manner that will prevent any potential future exposure by any person or other animal to that animal's tissues. The veterinarian is entitled to charge and collect the usual and customary fees for the disposal service.

§§ 10-324 – 10-350 RESERVED.

ARTICLE 9

CRUELTY TO ANIMALS

§ 10-351 Poisoning animals.
§ 10-352 Encouraging animals to fight.
§ 10-353 Animal protection; other acts prohibited.

§ 10-351 POISONING ANIMALS.

It is unlawful for the owner of an animal to willfully poison such animal, except a noxious, non-domesticated animal, or knowingly to expose poison so that it may be taken by such an animal.

§ 10-352 ENCOURAGING ANIMALS TO FIGHT.

It is unlawful for any person to instigate or encourage any fight between animals with the exception of dogs, or to instigate or encourage any animal with the exception of dogs to attack, bite, wound, or worry another, or to keep a house, pit, or other place used in permitting any fight between animals with the exception of dogs or in any other violation of this section.

§ 10-353 ANIMAL PROTECTION; OTHER ACTS PROHIBITED.

A. It is unlawful for any person to deposit within the limits of this city any live animal with the intention of abandoning such animal.

B. It is unlawful to carry out inhumane treatment against any animal. Inhumane treatment is hereby defined to include, but is not limited to, the following:

1. Any physical punishment inconsistent with the health of such animal;

2. Lack of food or water for more than a twenty-four (24) hour period;

3. Knowingly permitting obvious nutritional deficiencies or other evident health problems involving any animal;

4. Improper use of any collar or harness or a fixed leash for the purpose of confining any animal which results in flesh laceration, obvious pain, or to cause choking to such animal;

5. Depriving animal of adequate shelter; and

6. Inhumane killing or attempting to kill any animal.

C. It is unlawful for any person to unjustifiably administer any poisonous or noxious drug or substance to any animal or unjustifiably expose any such drug or substance with intent that the same shall be taken by an animal, whether such animal be the property of himself or another.

D. Upon conviction of a violation of this chapter for inhumane treatment to any animal, it is unlawful for the owner or keeper of such animal to not release such animal kept in inhumane conditions to an animal control officer for disposition in accord with the provisions of this chapter.

CHAPTER 14

BUILDINGS AND BUILDING REGULATIONS*

ARTICLE 1

IN GENERAL

§ 14-1 Fire district.
§ 14-2 House numbering system.
§ 14-3 Maintenance of landmarks and historic sites.
§§ 14-4 – 14-25 Reserved.

ARTICLE 2

BUILDING CODE

§ 14-26 Adopted.
§ 14-27 Additions, insertions, and changes.
§ 14-28 Building official.
§ 14-29 Building permit required; fee.
§ 14-30 Penalty.
§§ 14-31 – 14-55 Reserved.

ARTICLE 3

PLUMBING

DIVISION 1

GENERALLY

§ 14-56 Plumbing inspectors; office created; duties.
§§ 14-57 – 14-80 Reserved.

DIVISION 2

PLUMBING CODE

§ 14-81 Adopted.
§ 14-82 Additions, insertions, and changes.
§ 14-83 Permits; fees.
§ 14-84 Affidavit required for homeowner's permit.
§§ 14-85 – 14-110 Reserved.

DIVISION 3

PLUMBERS

§ 14-111 Definitions; registration.
§§ 14-112 – 14-135 Reserved.

ARTICLE 4

GAS

DIVISION 1

GENERALLY

§§ 14-136 – 14-160 Reserved.

DIVISION 2

CODES

§ 14-161 National Fuel Gas Code adopted.
§ 14-162 NFPA LP-gas code adopted.
§§ 14-163 – 14-185 Reserved.

ARTICLE 5

MECHANICAL INSTALLATIONS

DIVISION 1

GENERALLY

§ 14-186 Definitions.
§§ 14-187 -- 14-210 Reserved.

DIVISION 2

MECHANICAL CODE

§ 14-211 Adopted.
§ 14-212 Permit required for mechanical work; issuance.
§ 14-213 Affidavit required for homeowner's permit.
§§ 14-214 – 14-240 Reserved.

DIVISION 3

MECHANICAL TRADES

§ 14-241 Registration.
§§ 14-242 – 14-265 Reserved.

ARTICLE 6

ELECTRICITY

DIVISION 1

GENERALLY

§ 14-266 Definitions.
§ 14-267 Electrical inspector.
§§ 14-268 – 14-290 Reserved.

DIVISION 2

ELECTRICAL CODES AND STANDARDS

§ 14-291 Equipment generally; Underwriters Laboratories, Inc.
§ 14-292 National Electrical Code adopted.
§ 14-293 ICC Electrical Code Administrative Provisions adopted.
§ 14-294 National Electrical Safety Code.
§ 14-295 City council may make special rulings.
§ 14-296 Permit required for electrical installations; issuance.
§ 14-297 Affidavit required for homeowner's permit.
§ 14-298 Installation not to be concealed until approved.
§ 14-299 Work "roughed in".
§ 14-300 Premises not to be connected until installation is approved.
§ 14-301 Failure to comply.
§ 14-302 Inspection no relief from responsibility.
§§ 14-303 – 14-330 Reserved.

DIVISION 3

ELECTRICIANS

§ 14-331 Registration.
§§ 14-332 – 14-355 Reserved.

ARTICLE 7

ONE- AND TWO-FAMILY DWELLING CODE

§ 14-356 Adopted.
§§ 14-357 – 14-380 Reserved.

ARTICLE 8

PROPERTY MAINTENANCE, ENERGY CONSERVATION CODES

§ 14-381 Adopted.
§§ 14-382 – 14-405 Reserved.

ARTICLE 9

MOVING BUILDINGS

DIVISION 1

GENERALLY

§ 14-406 Applicability of article.
§ 14-407 Caution signs.
§ 14-408 Protection of trees and overhead structures.
§ 14-409 Guards against danger.
§ 14-410 Notice to fire and police departments.
§ 14-411 Liability.
§§ 14-412 – 14-435 Reserved.

DIVISION 2

PERMITS

§ 14-436 Permit required, fee.
§ 14-437 Application for permit.
§ 14-438 Bond required for permit.
§ 14-439 Limit to size of building, other restrictions, police approval.
§ 14-440 Time limit.
§§ 14-441 – 14-465 Reserved.

ARTICLE 10

DILAPIDATED BUILDINGS

§ 14-466 Definitions.
§ 14-467 Report; hearing.
§ 14-468 Condemnation; notice; removal; lien.
§ 14-469 Boarding and securing dilapidated buildings.
§ 14-470 Cleaning up premises from which buildings have been removed, torn down, or demolished by order of state fire marshal or pursuant to this article.
§ 14-471 Preservation review of demolition activities.
§ 14-472 Penalty.

***Cross references*: Buildings for animals; construction, conditions, §10-31; environment, ch. 34; floods, ch. 42; health and sanitation, ch. 46; manufactured homes and trailers, ch. 62; natural resources, ch. 66; planning, ch. 82; signs, ch. 86; subdivision design for building lines, §94-177.**

***State law references*: Building codes, adoption by cities, 11 O.S. §14-107 and 74 O.S. §324.8; license taxes on occupations, 11 O.S. §22-106 et seq.; dilapidated buildings, 11 O.S. §22-112 et seq.; fire hazards and building location restrictions, 11 O.S. §22-113; certain building permits required, 74 O.S. §324.11**

ARTICLE 1

IN GENERAL

§ 14-1 Fire district.
§ 14-2 House numbering system.
§ 14-3 Maintenance of landmarks and historic sites.
§§ 14-4 – 14-25 Reserved.

§ 14-1 FIRE DISTRICT.

The fire district is that part of the city described as follows:

Blocks 114, 115, 116, and 117, and the south half of Blocks 111, 112, 113, and 94 in the original townsite of the city. (Prior Code 1991, §5-105)

§ 14-2 HOUSE NUMBERING SYSTEM.

A. ***Every premises numbered.*** **All business and dwelling units fronting on any street or avenue within the city shall be numbered, and every fifty (50) foot frontage on each street shall be entitled to a number.**

B. ***East-west numbering system.*** **On all streets and avenues running east and west crossing Canadian Avenue, numbering shall begin with Canadian Avenue with the number one-hundred (100), east or west, as the case may be, with even numbers on the south side of the street and odd numbers on the north side of the street.**

C. ***North-south numbering.*** **On all streets and avenues running north and south crossing Main Street, numbering shall begin with Main Street with the number one-hundred (100), north or south, as the case may be, the even numbers on the east side and the odd numbers on the west side of the street.**

D. ***Duty of city officials.*** **It is the duty of the city manager or the building official to give proper numbers to all parties requesting the same, as herein provided.**

E. ***Duty of owner:*** **It is the duty of the owner of any house or houses to put the proper number on them in a conspicuous place, easily to be seen from the street, and any person failing or neglecting to do so, after notification by the building official, shall be guilty of an offense.**

F. ***Subdivisions and developments not complying with number system.*** **In situations where the subdivision plat or development pattern of the area does not fit the established house numbering system, as established in this section, the planning commission shall study the area and recommend to the city council, for adoption by ordinance, a suitable amendment to this section to cover the situation. (Prior Code 1991,**

§5-108)

<u>§ 14-3</u> <u>MAINTENANCE OF LANDMARKS AND HISTORIC SITES</u>.

A. Every person in charge of an improvement on a historic site or in a historic district shall keep in good repair all of the exterior portions of such improvement and all interior portions which, if not so maintained, may cause, or tend to cause, the exterior portions of such improvement to fall into a state of disrepair. This section shall be in addition to all other provisions of law or local ordinance or code requiring buildings or structures to be well-maintained.

B. Insofar as they are applicable to a landmark, historic site, or improvement in a historic district, any provision of the building code may be varied or waived, on application, by the building official, provided such variance or waiver does not endanger public health or safety.

C. Nothing contained in this chapter shall prohibit the construction, reconstruction, alteration, demolition, or any improvement on a historic site or in a historic district pursuant to written order of any federal or state agency or pursuant to any court judgment to remedy conditions determined to be dangerous to life or health. In such case, no approval from the preservation review commission shall be required. (Prior Code 1991, §5-109)

***<u>State law references</u>*: Oklahoma Historical Preservation Act, 53 O.S. §1-1 et seq.; Local Development Act, 62 O.S. §850 et seq.**

<u>§§ 14-4 – 14-25</u> <u>RESERVED</u>.

ARTICLE 2

BUILDING CODE

§ 14-26 Adopted.
§ 14-27 Additions, insertions, and changes.
§ 14-28 Building official.
§ 14-29 Building permit required; fee.
§ 14-30 Penalty.
§§ 14-31 – 14-55 Reserved.

<u>§ 14-26</u> <u>ADOPTED</u>.

The latest edition of the International Building Code, published by the International Code Council, Inc., three (3) copies of which are on file in the office of the city clerk, is adopted as the building code of the city for the control of buildings and structures as therein provided. Each and all of the regulations, provisions, penalties, conditions, and

terms of the International Building Code are hereby referred to, adopted, incorporated, and made a part hereof as if fully set out in this Code with the additions, insertions, deletions, and changes if any prescribed in this chapter. (Prior Code 1991, §5-101)

§ 14-27 ADDITIONS, INSERTIONS, AND CHANGES.

The following sections of the Building Code are revised as follows:

1. Section 101.1, insert: "City of Purcell";

2. Section 108.2, insert: "The schedule of permit fees shall be in accordance with the city Code of Ordinances or as may be set or amended by resolution";

3. Section 113.4, insert: "Guilty of an offense, subject to punishment by fine as prescribed by section 1-12 of the city Code of Ordinances";

4. Section 114.3, insert: "as prescribed by section 1-12 of the city Code of Ordinances." (Prior Code 1991, §5-102)

§ 14-28. BUILDING OFFICIAL.

The building official of this city shall be appointed by the city manager and shall have the powers and duties prescribed for the building official by the city's building code; provided, that his powers and duties may be exercised by his authorized representatives under his supervision and control. The terms "building inspector," "electrical inspector," "plumbing inspector," "mechanical inspector," and "gas inspector," whenever used in the ordinances of the city, refer to and mean the building official, unless a separate building inspector, electrical inspector, or gas inspector is appointed by the city manager. (Prior Code 1991, §5-104)

***Cross reference*: Officers and employees, §2-56 et seq.**

§ 14-29 BUILDING PERMIT REQUIRED; FEE.

A. *Required.* No building or other structure, including a mobile home, shall be built, enlarged, altered, moved, or placed without a building permit issued by the city as required by the city's building code and whenever structural changes will amount to more than one-thousand ($1,000.00) dollars in cost.

B. *Application for permit: information required.* A person desiring a building permit shall submit an application therefore to the city. The applicant shall submit with the application such reasonable information, including any additional computations, information on water, sewer tap or temporary service, or plot plan, as the building official may require to enable him to determine whether granting the permit would be in accordance with the requirements of the ordinances of the city.

C. ***Issuance of permit upon payment of fee.*** **If the application is in accordance with the requirements of the ordinances and laws, the permit may be issued upon the payment by the applicant of a building permit fee, which fee shall be set by resolution of the city council. A current copy of the fee schedule shall be kept in the office of the city clerk.**

D. ***Fees doubled when work started without permit.*** **Where work for which a permit is required by the city's building code is started or proceeded with prior to obtaining the permit, the fees specified in the fee schedule on file in the office of the city clerk shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of the building code in the execution of the work nor from any other penalties prescribed herein.**

E. ***All fees included.*** **The fees referred to in this section shall include all building, electrical, mechanical, and plumbing permit and inspection fees.**

F. ***State required fees for the issuance of building permits.*** **Pursuant to state statute 59 O.S. §§ 1000.23 and 1000.25, also known as the Uniform Building Code Commission Act, as of April 1 , 2010, the City of Purcell is required and authorized by the state to, and shall impose a fee of four dollars ($4.00) per building or construction permit issued by the city. Monies shall be remitted to the Uniform Building Code Commission before the 20th of each month. An additional ($0.50) fifty cents fee is required and authorized by the state and shall be imposed and received by the city to support the processing and handling of this fee (for a total of four dollars and fifty cent ($4.50) per permit). (Prior Code 1991, §5-106(A)(l); Ord. No. 10-07, 4/5/2010)**

State law reference**: Building permit fees, 59 O.S. §§1000.23 and 1000.25.**

§ 14-30 PENALTY.

A person who violates a provision of the building code or fails to comply therewith or with any of the requirements thereof, or who erects, constructs, alters, repairs, or removes, or has erected, constructed, altered, repaired, or removed a building or structure in violation of a detailed statement or plan submitted and approved there under or of a permit or certificate issued there under, shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided in section 1-12 of this Code, including costs. Each day upon which a violation continues shall be deemed a separate offense. (Prior Code 1991, §5-103)

§§ 14-31 – 14-55 RESERVED.

ARTICLE 3

PLUMBING*

DIVISION 1

GENERALLY

§ 14-56 Plumbing inspectors; office created; duties.
§§ 14-57 – 14-80 Reserved.

§ 14-56 PLUMBING INSPECTORS; OFFICE CREATED; DUTIES.

The office of inspector of plumbing shall be filled and the duties of the office performed by some person appointed by the city manager. Such inspector shall make inspection and testing of all plumbing and sewer connections done within the city and shall have the right to deputize any person equally qualified to make the actual inspections and report. He shall carry out the performance of this chapter. (Prior Code 1991, §5-205)

***Cross reference*: Officers and employees, §2-56 et seq.**

***State law reference*: Plumbing inspector, 59 O.S. §1016.**

§§ 14-57 – 14-80 RESERVED.

DIVISION 2

PLUMBING CODE

§ 14-81 Adopted.
§ 14-82 Additions, insertions, and changes.
§ 14-83 Permits; fees.
§ 14-84 Affidavit required for homeowner's permit.
§§ 14-85 – 14-110 Reserved.

§ 14-8 ADOPTED.

The latest edition of the International Plumbing Code, published by the International Code Council, Inc., three copies of which are on file in the office of the city clerk, is adopted as the plumbing code of the city for the control of buildings and structures as therein provided. Each and all of the regulations, provisions, penalties, conditions and terms of the plumbing code are hereby referred to, adopted and made a part hereof, as if fully set out in this Code of Ordinances, with additions, insertions, and changes, if any, prescribed in this chapter. (Prior Code 1991, §5-201)

***State law references*: Plumbing codes, adoption by cities, 11 O.S. §14-107; municipal regulation of plumbing and sewerage, 59 O.S. §§1015 - 1023.1.**

§ 14-82 ADDITION, INSERTIONS, AND CHANGES.

The following sections of the plumbing code are revised as follows:

1. Section 101.1, insert: the City of Purcell;

2. Section 106.6.2, insert: "in accordance with the city Code of Ordinances, or as may be set or amended by resolution";

3. Section 108.4, insert: "offense and punished as prescribed by section 1-12 of the city's Code of Ordinances";

4. Section 108.5, insert: "as prescribed by section 1-12 of the city Code of Ordinances";

5. Section 305.6, insert: "One (1) foot six (6) inches and six (6) inches".

6. Section 701.2, insert "as prescribed by the city." (Prior Code 1991, §5-202)

§ 14-83 PERMITS; FEES.

A. No plumbing work shall be undertaken without a permit from the plumbing inspector.

B. Payment of permit fees will be made upon application. (Prior Code 1991, §5-204(A), (C))

§ 14-84 AFFIDAVIT REQUIRED FOR HOMEOWNER'S PERMIT.

A homeowner shall be entitled to secure a permit for plumbing installation only upon executing an affidavit attesting to the following:

1. Ownership of the property upon which the plumbing installation is to be applied.

2. Applicant's bona fide intention to live therein.

3. Applicant has not secured a homeowner's permit for other property within the last two (2) years. A variance may be applied for.

4. Applicant will perform all of the plumbing installation in compliance with applicable codes, without any physical assistance from anyone other than members of his

immediate family living in his household.

Nothing contained in this section shall entitle anyone except a licensed plumbing contractor to secure a permit to install plumbing in any structure other than a "dwelling, single-family." (Ord. No. 01-02, §5-203, 3-5-2001)

§§ 14-8 – 14-110 RESERVED.

DIVISION 3

PLUMBERS

§ 14-111 Definitions; registration.
§§ 14-112 – 14-135 Reserved.

§ 14-111 DEFINITIONS; REGISTRATION.

A. ***Definition of terms generally.*** **The terms "journeyman plumber," "apprentice," "plumber's apprentice," "plumbing contractor," and "plumbing," when used in the ordinances, regulations, and other official acts and communications of this city, shall have the meanings respectively prescribed for them by the Plumbing License Law of 1955 (59 O.S. §1001 et seq.), unless the context clearly indicates a different meaning.**

B. ***Registration required.*** **It is unlawful for any person to engage in the business, trade, or occupation of a plumbing contractor (formerly known as a master plumber), a journeyman plumber, or a plumber's apprentice in this city unless he is registered with the city and has a current and valid certificate of registration issued by the city.**

C. ***State licenses required for registration.*** **Only persons who have current and valid licenses as plumbing contractors or as journeyman plumbers issued by the state commissioner of health as provided by the Plumbing License Law of 1955 may register as such with the city. Only persons who have current and valid certificates of registration as plumber's apprentices issued by the state commissioner of health, as provided by the law, may register as such with the city.**

D. ***Application; issuance; expiration.*** **Upon application to the city, the city shall register such applicants and issue to them certificates of registration. Such city certificates shall not be valid after the termination or expiration of the state licenses or certificates. Registration certificates of plumbing contractors and journeyman plumbers issued as provided in this section shall expire on December 31 each year. No fee shall be prorated for part of the year.**

E. ***Fees.*** **The fee for registration and renewal shall be as set by the city council by motion or resolution.**

F. ***Revocation.*** **The city council, upon at least ten (10) days' notice and adequate opportunity for a public hearing, may revoke the city registration of any plumbing contractor or journeyman plumber for violating any provisions of the ordinances or regulations of the city relating to the installation of plumbing or for any other cause specified in the Plumbing License Law of 1955.**

G. ***Plumber's apprentices.*** **The terms "apprentice" and "plumber's apprentice" mean any person sixteen (16) years of age or older who, as his principal occupation, is engaged in learning and assisting in the installation of plumbing under the direct supervision of a licensed journeyman plumber or plumbing contractor. No person shall work in the capacity of an apprentice except under direct supervision of a licensed journeyman or contractor. No person shall work in the capacity of an apprentice without having been issued a valid and unrevoked certificate of registration as a plumber's apprentice from the state department of health and a current apprentice registration issued by the city.**

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

State law reference**: State plumbing licenses and certificates, 59 O.S. §1001 et seq.**

§§ 14-112 – 14-135 RESERVED.

ARTICLE 4

GAS

DIVISION 1

GENERALLY

§ 14-136 – 14-160 Reserved.

§§ 14-136 – 14-160 RESERVED.

DIVISION 2

CODES

§ 14-161 National Fuel Gas Code adopted.
§ 14-162 NFPA LP-gas code adopted.
§§ 14-163 – 14-185 Reserved.

§ 14-161 NATIONAL FUEL GAS CODE ADOPTED.

Pamphlet No. 54 published by the National Fire Protection Association, entitled

National Fuel Gas Code, **the latest edition thereof, is hereby adopted and incorporated in this Code by reference. The pamphlet shall be in full force and effect in the city and shall govern the installation of gas piping and gas appliances in the city. Any violation of the provisions of the pamphlet shall be deemed a violation of the ordinances of the city. (Prior Code 1991, §5-501)**

§ 14-162 NFPA LP-GAS CODE ADOPTED.

It is unlawful for any person, firm, or corporation 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 has complied with and complies with all provisions of the law and ordinances relating thereto and has any license or permit which may be required by state law. The pamphlet, LP-Gas Code, as contained in Pamphlet No. 58 issued by the National Fire Protection Association, Inc., the latest edition thereof, adopted by the Oklahoma Liquefied Petroleum Gas Board, shall have full force and effect within the city. Any violation of these rules and regulations shall be deemed a violation of the ordinances of the city and shall be punished accordingly. (Prior Code 1991, §5-401)

§§ 14-163 – 14-185 RESERVED.

ARTICLE 5

MECHANICAL INSTALLATIONS

DIVISION 1

GENERALLY

§ 14-186 Definitions.
§§ 14-187 -- 14-210 Reserved.

§ 14-186 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. *Mechanical apprentice* and *apprentice* mean any person sixteen (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. (Prior Code 1991, §5-802(C))

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

***State law reference*: 59 O.S. §1850.2.**

§§ 14-187 – 14-210 RESERVED.

DIVISION 2

MECHANICAL CODE

§ 14-211 Adopted.
§ 14-212 Permit required for mechanical work; issuance.
§ 14-213 Affidavit required for homeowner's permit.
§§ 14-214 – 14-240 Reserved.

§ 14-211 ADOPTED.

The latest edition of the International Mechanical Code, published by the International Code Council, Inc., three (3) copies of which are on file in the office of the city clerk, is adopted as the mechanical code of the city. The mechanical code shall be fully applicable and enforceable in governing mechanical work in the city, save and except such portions as are hereinafter deleted, modified, or amended, as fully as if set out at length herein. If any provision of the ordinances of the city are in conflict with the provisions of the mechanical code, except as provided in this article, the provisions of the mechanical code shall prevail. (Prior Code 1991, §5-801)

§ 14-212 PERMIT REQUIRED FOR MECHANICAL WORK; ISSUANCE.

A. It is unlawful for any person to do any mechanical work in or on any building or structure in the corporate limits of this city or make extensions to any existing mechanical work without first paying a permit fee and securing a permit from the city mechanical inspector.

B. Applications for mechanical permits shall be made to the city clerk, and the applicant shall provide such plans, specifications, and other data as may be reasonably required. (Prior Code 1991, §5-803(A), (B))

§ 14-213 AFFIDAVIT REQUIRED FOR HOMEOWNER'S PERMIT.

A homeowner shall be entitled to secure a permit for mechanical installation only upon executing an affidavit attesting to the following:

1. Ownership of the property upon which the mechanical installation is to be applied.

2. Applicant's bona fide intention to live therein.

3. Applicant has not secured a homeowner's permit for other property within the last two years. A variance may be applied for.

4. Applicant will perform all of the mechanical installation in compliance with applicable codes without any physical assistance from anyone other than members of his immediate family living in his household.

Nothing herein contained shall entitle anyone except a licensed mechanical contractor to secure a permit to perform mechanical installations in any structure other than a single-family dwelling. (Ord. No. 01-02, §5-802, 3-5-2001)

§§ 14-214 – 14-240 RESERVED.

DIVISION 3

MECHANICAL TRADES

§ 14-241 Registration.
§§ 14-242 – 14-265 Reserved.

§ 14-241 REGISTRATION.

A. It is unlawful for any person to engage in the business, trade, or vocation of mechanical contractor or mechanical journeyman without a certificate of registration as such secured from the city. The initial fee for a registration certificate and any renewal to be paid to the city clerk shall be as set by the city council. After the expiration, an application for a new certificate must be requested and the initial fee paid again. No person may be registered with the city as a mechanical contractor or mechanical journeyman unless he possesses a valid and current state license or certificate of registration, as applicable, and pays the registration fee in such sum as set by the city council by resolution. This certificate is not transferable to any other individual or company.

B. After adequate opportunity for a hearing, the city council may revoke the certificate of a mechanical contractor or of a mechanical journeyman.

C. No person shall work in the capacity of a mechanical apprentice except under direct supervision of a licensed mechanical journeyman or mechanical contractor. No person shall work in the capacity of a mechanical apprentice without having been issued a valid and unrevoked mechanical apprentice license from the state department of health. (Prior Code 1991, §5-802)

***State law references*: Electrical codes, adoption by cities, 11 O.S. §14-107; Electrical License Act, 59 O.S. §1680 et seq.**

§§ 14-242 – 14-265 RESERVED.

ARTICLE VI

ELECTRICITY*

DIVISION 1

GENERALLY

§ 14-266 Definitions.
§ 14-267 Electrical inspector.
§§ 14-268 – 14-290 Reserved.

§ 14-266 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. *Electrical apprentice* means any person 16 years of age or older whose principal occupation is the learning of and assisting in the installation of electrical work under the direct supervision of a licensed journeyman electrician or electrical contractor.

2. *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. (Prior Code 1991, §§5-301, 5-310)

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

***State law reference*: Similar provisions, 59 O.S. §1682.**

§ 14-267 ELECTRICAL INSPECTOR.

The electrical inspector is appointed and removed by the city manager. Deputy or assistant inspectors may also be appointed and removed by the city manager to assist the electrical inspector with inspections or enforcement and administration of this chapter. (Prior Code 1991, §5-311)

***Cross reference*: Officers and employees, §2-56 et seq.**

§§ 14-2 – 14-290 RESERVED.

***Cross reference*: Utilities, ch. 110.**

DIVISION 2

ELECTRICAL CODES AND STANDARDS

§ 14-291 Equipment generally; Underwriters Laboratories, Inc.
§ 14-292 National Electrical Code adopted.
§ 14-293 ICC Electrical Code Administrative Provisions adopted.
§ 14-294 National Electrical Safety Code.
§ 14-295 City council may make special rulings.
§ 14-296 Permit required for electrical installations; issuance.
§ 14-297 Affidavit required for homeowner's permit.
§ 14-298 Installation not to be concealed until approved.
§ 14-299 Work "roughed in".
§ 14-300 Premises not to be connected until installation is approved.
§ 14-301 Failure to comply.
§ 14-302 Inspection no relief from responsibility.
§§ 14-303 – 14-330 Reserved.

§ 14-291 EQUIPMENT GENERALLY; UNDERWRITERS LABORATORIES, INC.

All installations of electrical equipment and all electrical equipment installed or used shall be in conformity with the provisions of this article, the statutes of the state, and any orders, rules, and regulations issued by the authority thereof, and with approved electrical standards for safety to persons and/or to property. Unless by this article, by a statute of the state, or any orders, rules, or regulations 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 or to property. (Prior Code 1991, §§5-302, 5-303)

§ 14-292 NATIONAL ELECTRICAL CODE ADOPTED.

The latest edition of the National Electrical Code, three copies of which are on file in the office of the city clerk, is adopted as the electrical code of the city. (Code 1991, § 5-302)

§ 14-293 ICC ELECTRICAL CODE ADMINISTRATIVE PROVISIONS ADOPTED.

The latest edition of the ICC Electrical Administrative Provisions, published by the International Code Council, Inc., three (3) copies of which are on file in the office of the city clerk, is adopted as the electrical code administrative provisions of the city.

§ 14-294 NATIONAL ELECTRICAL SAFETY CODE.

The latest edition of the National Electrical Safety Code, published by the Institute of Electrical and Electronic Engineers, Inc., three copies of which are on file in the office of

the city clerk, is adopted as the code of the city for the practical safeguarding of persons during the installation, operation, or maintenance of overhead and underground supply and communication lines and their associated equipment. (Ord. No. 98-21, §1, 9-8-1998)

§ 14-295 CITY COUNCIL MAYMAKE SPECIAL RULINGS.

The city council, by resolution, shall have the authority to make special rulings, when circumstances warrant, for the safeguarding of life and property and the improvement of electrical installations. In all cases, persons engaged in the installing of electrical equipment and holding an electrical license must be notified by letter of these decisions. (Prior Code 1991, §5-304)

§ 14-296 PERMIT REQUIRED FOR ELECTRICAL INSTALLATIONS; ISSUANCE.

A. It is unlawful for any person to install any electrical wiring, fixtures, or apparatus in or on any building or structure in the corporate limits of this city or make extensions to any existing electrical installations without first paying a permit fee and securing a permit from the city.

B. Applications for electrical permits shall be made to the city. The applicant shall provide such plans, specifications, and other data as may be reasonably required. (Prior Code 1991, §5-305(A), (B))

§ 14-297 AFFIDAVIT REQUIRED FOR HOMEOWNER'S PERMIT.

A homeowner shall be entitled to secure a permit for electrical installation only upon executing an affidavit attesting to the following:

1. Ownership of the property upon which the mechanical installation is to be applied.

2. Applicant's bona fide intention to live therein.

3. Applicant has not secured a homeowner's permit for other property within the last two years. A variance may be applied for.

4. Applicant will perform all of the electrical installation in compliance with applicable codes without any physical assistance from anyone other than members of his immediate family living in his household.

Nothing herein contained shall entitle anyone except a licensed electrical contractor, to secure a permit to perform electrical installation in any structure other than a single-family dwelling. (Ord. No. 01-02, §5-310, 3-5-2001)

§ 14-298 INSTALLATION NOT TO BE CONCEALED UNTIL APPROVED.

It is unlawful for any person, firm, partnership, corporation, or individual to conceal or cause to be concealed any electrical equipment used for electrical light, heat, or power until they know 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, will be sufficient notice. (Prior Code 1991, §5-307)

§ 14-299 WORK "ROUGHED IN."

After making inspection of new 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. (Prior Code 1991, §5-308)

§ 14-300 PREMISES NOT TO BE CONNECTED UNTIL INSTALLATION IS APPROVED.

It is unlawful for any person, firm, or corporation to connect or cause to be connected any service or building for the supply of electrical current for light, heat or, power until he or it has been notified by the electrical inspector that electric work has been inspected and approved and is ready for electric service. (Prior Code 1991, §5-309)

§ 14-301 FAILURE TO COMPLY.

A. Any person, firm, or corporation who shall fail to correct any defect or defects in his work or to meet the required standards after having been given notice of the unfit condition by the electrical inspector within a reasonable time shall be refused any other permit until such defect or defects have been corrected and shall be subject to revocation of license for continual defective work, or either, upon conviction for violation of the provisions of this chapter.

B. Upon failure to comply with this article, the electrical inspector shall have authority, after due notice, to cut off electric current in the locality concerned.

C. The provisions of subsections A and B of this section are in addition to any other penalties that may be imposed for such violations. (Prior Code 1991, §5-312)

§ 14-302 INSPECTION NO RELIEF FROM RESPONSIBILITY.

This article shall not be construed to relieve from or lessen the responsibilities of any person, partnership, or corporation owning, operating, or installing electrical wires, appliances, apparatus, construction, or equipment for the damage to property or persons injured by any defect therein. Nor shall the city or any agent thereof be deemed to assume

any such liability by reason of the inspection authorized herein or the certificate of inspection issued by the electrical inspector. (Prior Code 1991, §5-313)

§§ 14-303 – 14-330 RESERVED.

DIVISION 3

ELECTRICIANS*

§ 14-331 Registration.
§§ 14-332 – 14-355 Reserved.

§ 14-331 REGISTRATION.

A. *Required; initial fee; expiration; transferability.* It is unlawful for any person to engage in the business, trade, or vocation of electrical contractor, journeyman electrician, or electrical apprentice without a certificate of registration as such secured from the electrical inspector. The initial fee for an electrical contractor's registration certificate, and any renewal to be paid to the city, shall be as set by the city council. After the expiration, an application for a new certificate must be requested and the initial fee paid again. All such certificates shall expire each year. This certificate is not transferable to any other individual or company.

B. *State license or certificate required.* No person may be registered by the city unless he possesses the appropriate current and valid state license or certificate issued by the state department of health.

C. *Bells or signal systems using less than 12 volts.* For the installing of bell, telephone, or signal systems not using over 12 volts, no registration certificate or bond will be required. The installation of same must comply with all other requirements of the ordinances of the city.

D. *Revocation.* After adequate opportunity for a hearing and for just cause, the city council may revoke the certificate of an electrical contractor, an electrical apprentice, or a journeyman electrician.

E. *Apprentices.* No person shall work in the capacity of an electrical apprentice except under direct supervision of a licensed journeyman electrician or electrical contractor. No person shall work in the capacity of an apprentice without having been issued a valid and unrevoked apprentice registration certificate from the state department of health and a current apprentice registration issued by the city. (Prior Code 1991, §5-310)

§§ 14-332 – 14-355 RESERVED.

***State law reference*: Electrical License Act, 59 O.S. §1680 et seq.**

ARTICLE 7

ONE- AND TWO-FAMILY DWELLING CODE*

§ 14-356 Adopted.
§§ 14-357 – 14-380 Reserved.

§ 14-356 ADOPTED.

The latest edition of the International Residential Code for One-and Two-Family Dwellings, published by the International Code Council, Inc., three (3) copies of which are on file in the office of the city clerk, is adopted as the one-and two-family dwelling code of the city. Such code shall be fully applicable and enforceable in governing one-and two-family dwellings in the city, save and except such portions if any as are deleted, modified, or amended in this article, as fully as if set out at length herein. If any ordinance provision of the city is in conflict with the provisions of the one- and two-family dwelling code, except as provided in this article, the provisions of the one-and two-family dwelling code shall prevail. (Prior Code 1991, §5-701)

***Cross reference*: Zoning, ch. 122.**

§§ 14-357 – 14-380 RESERVED.

ARTICLE 8

PROPERTY MAINTENANCE, ENERGY CONSERVATION CODES

§ 14-381 Adopted.
§§ 14-382 – 14-405 Reserved.

§ 14-381 ADOPTED.

The latest editions of the International Property Maintenance Code and International Energy Conservation Code, published by the International Code Council, Inc., three (3) copies of which are on file in the office of the city clerk, are adopted as codes of this city. Each and all of the regulations, provisions, penalties, conditions, and terms of such codes are hereby referred to, adopted, incorporated, and made a part hereof as if fully set out in this Code with the additions, insertions, deletions, and changes, if any, prescribed in this chapter. (Prior Code 1991, §5-107)

§§ 14-382 – 14-405 RESERVED.

ARTICLE 9

MOVING BUILDINGS

DIVISION 1

GENERALLY

§ 14-406 Applicability of article.
§ 14-407 Caution signs.
§ 14-408 Protection of trees and overhead structures.
§ 14-409 Guards against danger.
§ 14-410 Notice to fire and police departments.
§ 14-411 Liability.
§§ 14-412 – 14-435 Reserved.

§ 14-406 APPLICABILITY OF ARTICLE.

A. Houses or buildings which are subject to this article shall include those where the size exceeds:

1. Twelve (12) feet in height or width; or

2. Square footage of two-hundred forty (240) feet.

B. Mobile or manufactured homes as defined in chapter 62 of this Code shall not be subject to this article. (Prior Code 1991, §5-601(C))

***Cross references*: Environment, ch. 34; streets, sidewalks, and other public places, ch. 90.**

§ 14-407 CAUTION SIGNS.

It is the duty of the permittee to place warning lights plainly visible for not less than two hundred (200) feet on each and every side of the building or structure which is being moved at the close of day and to keep such lights on throughout the entire night and until one hour after sunrise on the morning following. Such lights shall be so placed and maintained that the view of the lights will not be in any sense obstructed. If necessary, as many additional lights as may be necessary shall be placed at such other points on the building or structure as will enable any person of reasonable and ordinary prudence to take notice of the obstruction. (Prior Code 1991, §5-604)

§ 14-408 PROTECTION OF TREES AND OVERHEAD STRUCTURES.

The person who may have a permit to move a building or structure over any street

within the city shall by virtue of such permit derive no right to injure or impair the condition or usefulness of any shade tree, electric light, telephone, or telegraph poles or lines. No tree of any kind shall be cut, bruised, or scarred under any circumstances without the expressed permission in writing of the owner of the same and with the permission of the building official or public works director. In all cases where necessary to remove any electric light, telephone, or telegraph construction, it shall be the duty of the person moving such building or structure to give not less than twenty (24) hours' notice to the public utility company or person owning or operating the same, which notice shall state the place, the construction which it is necessary to be removed or temporarily changed or altered, and the day on which it is desired to have such clearance made as well as the amount of time it will be necessary to keep such space clear. It is the duty of the person moving the building or structure to deposit an amount of money estimated necessary to cover the cost of the changing or moving of public utility overhead construction and replacing the same in its former condition in a sum as set by the city with the city clerk. Upon such deposit being made with the city clerk and such notice being delivered to the owner or operator of the telephone or telegraph and line construction, it is the duty of the person owning or operating the overhead construction to make such temporary changes as are reasonably necessary to comply with the representations set forth in the notice made and delivered to him. (Prior Code 1991, §5-605)

§ 14-409 GUARDS AGAINST DANGER.

It is the duty of the house mover to station sufficient persons on guard and to establish such notices by placards or boards or other means in the immediate vicinity of the moving activities as will be necessary to apprise any reasonable person of any potential danger that might be incurred by coming closer to the moving operations or buildings being moved or the instruments or agencies used in the moving of the same. (Prior Code 1991, §5-606)

§ 14-410 NOTICE TO FIRE AND POLICE DEPARTMENTS.

Any person desiring to move any building shall show his city building-moving permit to the fire chief and to the chief of police. If for any reason any delay is occasioned by any unforeseen contingency, it is such person's duty to inform the fire chief and the chief of police of such facts, to the end that the fire chief and chief of police may keep accurate and recent information on the true conditions of the streets and alleys for fire prevention purposes. (Prior Code 1991, §5-609)

§ 14-411 LIABILITY.

No provision or condition of this article shall be construed so as to limit the civil liability of any person moving any house or building on or over the city streets, avenues, and alleys from any and all damages to any person or to his property or to the city. (Prior Code 1991, §5-610)

§§ 14-412 – 14-435 RESERVED.

DIVISION 2

PERMITS

§ 14-436 Permit required, fee.
§ 14-437 Application for permit.
§ 14-438 Bond required for permit.
§ 14-439 Limit to size of building, other restrictions, police approval.
§ 14-440 Time limit.
§§ 14-441 – 14-465 Reserved.

§ 14-436 PERMIT REQUIRED; FEE.

It is unlawful for any person, firm, corporation, partnership, or individual to move or cause to be moved on the streets or alleys of the city any house or building, or part thereof, without having first obtained a permit as required by law, and having first obtained from the building official a permit therefore as required in this article and a building permit as required in the city's building code. In addition to the requirements for a building permit, the applicant for a city building moving permit shall pay the city clerk a fee set by resolution of the city council for each such permit and shall deposit with the city clerk a good and sufficient bond as required in this article. (Prior Code 1991, §601(A), (B))

***State law reference*: House mover permits, 19 O.S. §526.**

§ 14-437 APPLICATION FOR PERMIT.

A city building-moving permit shall be obtained by making application therefore in writing. The written application shall recite the character of the thing or object to be moved and transported along or through and upon the streets and avenues, the proposed route of such transportation, proposed escorts and warning signs or lights, and the place where any equipment used in effecting such transportation shall be placed and secured. (Prior Code 1991, §5-602)

§ 14-438 BOND REQUIRED FOR PERMIT.

No city building-moving permit shall be issued under this article until such time as the applicant shall have deposited with the officer issuing such permit a cash bond in such sum as may be reasonably necessary to protect the city and cover all loss from damage accruing to it or its citizens by reason of any negligence or improper occupancy of the streets, sidewalks, and any and all property therein. Any negligence or improper occupancy of the streets, sidewalks, or other public places shall be provided against in the bond and such bond shall be deposited upon the understanding that it is to cover all of the conditions as set forth in this section of this article. All such persons as described in this

section engaged as principals in the business described in this section shall file a surety bond to be approved by the city in the sum of ten thousand ($10,000.00), conditioned that such person shall save, indemnify, and keep harmless the city against any and all liabilities, judgments, damages, costs, and expenses which may in any way accrue against the city in consequence of the granting of such permit or while acting under the same and will under all circumstances strictly comply with the terms of such permit. Any such surety bond shall not be in any manner affected by the fact of the cash deposit and bond required in this article. Any such person as referred to in this section or his laborer, servant, or agent or employee shall cause a sufficient passageway to be kept open for vehicles to pass on one side or both sides of any building, structure, edifice, object, or thing while the same is being moved upon any street, avenue, or alley and, when possible, the same shall be kept moving each day unless the actual elements render this impossible. (Prior Code 1991, §5-603)

§ 14-439 LIMIT TO SIZE OF BUILDING, OTHER RESTRICTIONS, POLICE APPROVAL.

A. No city permit shall be issued to move any building which in the judgment of the building official might by any chance result in an injury to the pavements, bridges, conduits, or other street improvements within the city.

B. No such permit may be issued by the building official without advance approval of the chief of police, particularly with reference to the moving times, proposed route, escorts, and traffic coordination with this section. (Prior Code 1991, §5-607)

§ 14-440 TIME LIMIT.

At the time of application for a city building moving permit it is the duty of the mover of any building or structure to estimate the reasonable time required for the moving of the building from its present location to its proposed location and shall state in his application for permit what he deems to be such reasonable time. The mover shall bind himself to pay a sum as set by the city per day for each and every day all or any part of which the building or structure remains on the street in excess of the number of days allowed in the permit, and his cash deposit in addition to his bond shall be made liable for the payment of the amount. Nothing but the Act of God shall be a defense against the payment of the sums. (Prior Code 1991, §5-608)

§§ 14-441 – 14-465 RESERVED.

ARTICLE X

DILAPIDATED BUILDINGS*

§ 14-466 Definitions.
§ 14-467 Report; hearing.
§ 14-468 Condemnation; notice; removal; lien.

§ 14-469 Boarding and securing dilapidated buildings.
§ 14-470 Cleaning up premises from which buildings have been removed, torn down, or demolished by order of state fire marshal or pursuant to this article.
§ 14-471 Preservation review of demolition activities.
§ 14-472 Penalty.

§ 14-466 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:

A. *Boarding and securing* and *boarded and secured* mean the closing, boarding, or locking of any or all exterior openings so as to prevent entry into the structure.

B. *Dilapidated building* means:

1. A structure which through neglect or injury lacks necessary repairs or otherwise is in a state of decay or partial ruin to such an extent that the structure is a hazard to the health, safety, or welfare of the general public;

2. A structure which is unfit for human occupancy due to the lack of necessary repairs and is considered uninhabitable or is a hazard to the health, safety, and welfare of the general public;

3. A structure which is determined by the city council or administrative officer of the city council to be an unsecured building more than three times within any twelve (12) month period;

4. A structure which has been boarded and secured, as defined in this section for more than thirty-six (36) consecutive months; or

5. A structure declared by the city council to constitute a public nuisance.

C. *Owner* means the owner of record as shown by the most-current tax rolls of the county treasurer.

D. *Unfit for human occupancy* means a structure that due to lack of necessary repairs is considered uninhabitable and is a hazard to the health, safety, and welfare of the general public.

E. *Unsecured building* means any structure which is not occupied by a legal or equitable owner therefore by a lessee of a legal or equitable owner and into which there are one or more unsecured openings such as broken windows, unlocked windows, broken doors, unlocked doors, holes in exterior walls, holes in the roof, broken basement or cellar

hatchways, unlocked basement or cellar hatchways, or other similar unsecured openings which would facilitate an unauthorized entry into the structure. (Prior Code 1991, §§8-502(8), 8-503(C)(12))

***Cross reference*: Definitions generally, §1-2; Environment, ch. 34.**

***State law reference*: Similar provisions, 11 O.S. §§22-112, 22-112.1.**

§ 14-467 REPORT; HEARING.

A. Any officer or employee of this city who discovers or receives a report of a dilapidated building shall report it to the building official.

B. Upon receiving the report prescribed by subsection (a) of this section or upon receipt of equivalent information from any reliable source, the building official shall request that the city manager place upon the agenda of the city council for hearing and consideration at any appropriate date of meeting thereof, such as will permit giving the notices prescribed by statutory law. (Prior Code 1991, §8-501)

§ 14-468 CONDEMNATION; NOTICE; REMOVAL; LIEN.

A. The city council may cause dilapidated buildings within the city limits to be torn down and removed in accordance with the following procedure:

1. At least ten (10) days' notice that a building is to be torn down or removed shall be given to the owner of the property before the city council holds a hearing. A copy of the notice shall be posted on the property to be affected. In addition, a copy of the notice shall be sent by mail to the property owner at the address shown by the current year's tax rolls in the office of the county treasurer. Written notice shall also be mailed to any mortgage holder as shown by the records in the office of the county clerk to the last-known address of the mortgagee. At the time of mailing of notice to any property owner or mortgage older, the city shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee.

However, if neither the property owner nor the mortgage holder can be located, notice may be given by posting a copy of the notice on the property or by publication as defined in 11 O.S. §1-102. The notice may be published once not less than ten days prior to any hearing or action by the city pursuant to the provisions of this section.

2. A hearing shall be held by the city council to determine if the property is dilapidated and has become detrimental to the health, safety, or welfare of the general public and the community or if the property creates a fire hazard which is dangerous to other property.

3. Pursuant to a finding that the condition of the property constitutes a

detriment or a hazard and that the property would be benefitted by the removal of such conditions, the city council may cause the dilapidated building to be torn down and removed. The city council shall fix reasonable dates for the commencement and completion of the work. The city clerk shall immediately file a notice of dilapidation and lien with the county clerk describing the property, the findings of the city at the hearing, and stating that the city claims a lien on the property for the destruction and removal costs and that such costs are the personal obligation of the property owner from and after the date of filing of the notice. The agents of the city are granted the right of entry on the property for the performance of the necessary duties as a governmental function of the city if the work is not performed by the property owner within dates fixed by the city council.

4. The city council shall determine the actual cost of the dismantling and removal of dilapidated buildings and any other expenses that may be necessary in conjunction with the dismantling and removal of the buildings, including the cost of notice and mailing. The city clerk shall forward a statement of the actual cost attributable to the dismantling and removal of the buildings and a demand for payment of such costs by mail to the property owner. In addition, a copy of the statement shall be mailed to any mortgage holder at the address provided for in subsection (A) (1) of this section. At the time of mailing of the statement of costs to any property owner or mortgage holder, the city shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. If the city dismantles or removes any dilapidated buildings, the cost to the property owner shall not exceed the actual cost of the labor, maintenance, and equipment required for the dismantling and removal of the dilapidated buildings. If dismantling and removal of the dilapidated buildings are done on a private contract basis, the contract shall be awarded to the lowest and best bidder.

5. When payment is made to the city for costs incurred, the city clerk shall file a release of lien, but if payment attributable to the actual cost of the dismantling and removal of the buildings is not made within six (6) months from the date of the mailing of the statement to the owner of such property, the city clerk shall forward a certified statement of the amount of the cost to the county treasurer. Once certified to the county treasurer, payment may only be made to the county treasurer except as otherwise provided for in this section. The costs shall be levied on the property and collected by the county treasurer as are other taxes authorized by law. Until finally paid, the costs and the interest thereon shall be the personal obligation of the property owner from and after the date of the notice of dilapidation and lien is filed with the county clerk. In addition, the cost and the interest thereon shall be a lien against the property from the date the notice of the lien is filed with the county clerk. The lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the cost is fully paid. At the time of collection, the county treasurer shall collect a fee of five dollars ($5.00) for each parcel of property. The fee shall be deposited to the credit of the general fund of the county. If the county treasurer and the city agree that the county treasurer is unable to collect the assessment, the city may pursue a civil remedy for collection of the amount owing and interest thereon including an action in personam against the property owner and an action

in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, the city clerk shall forward to the county treasurer a notice of such payment and shall direct discharge of the lien.

B. The council hereby designates the city manager or his designee to perform the duties of the council under this section. The property owner shall have the right of appeal to the city council from any order of the city manager or his designee. Such appeal shall be taken by filing written notice of appeal with the city clerk within ten days after the administrative order is rendered. (Prior Code 1991, §§8-501(B), 8-502(1), (7))

***State law reference*: Similar provisions, 11 O.S. §22-112.**

§ 14-469 BOARDING AND SECURING DILAPIDATED BUILDINGS.

A. *Authorization to board and secure.* After a building has been declared dilapidated, as provided in section 14-468, and before the commencement of the tearing and removal of a dilapidated building, the city council may authorize that such a building be boarded and secured. However, if the dilapidated building is vacant and unfit for human occupancy, the city council may authorize the structure to be demolished pursuant to section 14-468.

B. *Cleaning of trash and weeds.* The city council may cause the premises on which an unsecured building is located to be cleaned of trash and weeds in accordance with the provisions of 11 O.S. §22-111.

C. *Procedure for boarding and securing.* The city council may cause an unsecured building to be boarded and secured in accordance with the following procedures:

1. Before the city council orders such action, at least ten (10) days' notice that such unsecured building is to be boarded and secured shall be given by mail to any property owners and mortgage holders as provided in section 14-468. At the time of mailing of notice to any property owner or mortgage holder, the city shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. A copy of the notice shall also be posted on the property to be affected. However, if neither the property owner nor the mortgage holder can be located, notice may be given by posting a copy of the notice on the property or by publication as defined in 11 O.S. §1-102. Such notice shall be published one time, not less than ten (10) days prior to any hearing or action by the city pursuant to the provisions of this section. If the city council anticipates summary abatement of a nuisance in accordance with the provisions of subsection (C)(8) of this section, the notice shall state: that any subsequent need for boarding and securing the building within a six (6) month period after the initial boarding and securing of the building pursuant to such notice may be summarily boarded

and secured by the city council; that the costs of such boarding and securing shall be assessed against the owner; and that a lien may be imposed on the property to secure such payment, all without further prior notice to the property owner of mortgage holder.

2. The owner of the property may give written consent to the city authorizing the boarding and securing of such unsecured building and to the payment of any costs incurred thereby. By giving written consent, the owner waives any right the owner has to a hearing by the city council.

3. If the property owner does not give written consent to such actions, a hearing may be held by the city council to determine whether the boarding and securing of such unsecured building would promote and benefit the public health, safety, or welfare. Such hearing may be held in conjunction with a hearing on the accumulation of trash or the growth of weeds or grass on the premises of such unsecured building held pursuant to the provisions of subsection 14-468 (A) (3). In making such determination, the city council shall apply the following standard: the city council may order the boarding and securing of the unsecured building when the boarding and securing thereof would make such building less available for transient occupation, decrease a fire hazard created by such building, or decrease the hazard that such building would constitute an attractive nuisance to children. Upon making the required determination, the city council may order the boarding and securing of the unsecured building.

4. After the city council orders the boarding and securing of the unsecured building is the city clerk shall immediately file a notice of unsecured building and lien with the county clerk describing the property, stating the findings of the city at the hearing at which such building was determined to be unsecured, and stating that the city claims a lien on the property for the costs of boarding and securing such building and that such costs are the personal obligation of the property owner from and after the date of filing the notice.

5. Pursuant to the order of the city council, the agents of the city are granted the right of entry on the property for the performance of the boarding and securing of such building and for the performance of all necessary duties as a governmental function of the city.

6. After an unsecured building has been boarded and secured, the city council shall determine the actual costs of such actions and any other expenses that may be necessary in conjunction therewith including the cost of the notice and mailing. The city clerk shall forward a statement of the actual costs attributable to the boarding and securing of the unsecured building and a demand for payment of such costs by mail to any property owners and mortgage holders as provided in section 14-468 above. At the time of mailing of the statement of costs to any property owner or mortgage holder, the city shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. If the city boards and secures any unsecured building, the cost to the property owner shall not exceed the actual cost of the labor,

materials, and equipment required for the performance of such actions. If such actions are done on a private contract basis, the contract shall be awarded to the lowest and best bidder.

7. When payment is made to the city for costs incurred, the city clerk shall file a release of lien, but if payment attributable to the actual costs of the boarding and securing of the unsecured building is not made within thirty (30) days from the date of mailing of the statement to the owner the of such property, the city clerk shall forward a certified statement of the amount of the costs to the county treasurer. Once certified to the county treasurer, payment may only be made to the county treasurer except as otherwise provided for in this section. At the time of collection, the county treasurer shall collect a fee of five dollars ($5.00) for each parcel of property and such fee shall be deposited to the general fund of the county. The costs shall be levied on the property and collected by the county treasurer as are other taxes authorized by law. Until fully paid, the costs and the interest thereon shall be the personal obligation of the property owner from and after the date the notice of unsecured building and lien is filed with the county clerk. In addition, the costs and the interest thereon shall be a lien against the property from the date the notice of the lien is filed with the county clerk. The lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the costs and interest are fully paid. If the county treasurer and the city agree that the county treasurer is unable to collect the assessment, the city may pursue a civil remedy for collection of the amount owing and interest thereon by an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest if severed from the surface owner shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, the city clerk shall forward to the county treasurer a notice of such payment and shall direct discharge of the lien.

8. If the city council causes a structure within the city limits to be boarded and secured, any subsequent need for boarding and securing within a six (6) month period constitutes a public nuisance and may be summarily boarded and secured without further prior notice to the property owner or the mortgage holder. At the time of each such summary boarding and securing, the city shall notify the property owner and the mortgage holder of the boarding and securing and the costs thereof. The notice shall state that the property owner may request an appeal with the city clerk within ten (10) days after the mailing of the notice. The notice and hearing shall be as provided for in subsection (C)(1) of this section. Unless otherwise determined at the hearing, the cost of such boarding and securing shall be determined and collected as provided for in subsections (C)(6) and (7) of this section.

9. The city council may determine that a building is unsecured and order that such building be boarded and secured in the manner provided for in this section even though such building has not been declared by the city council to be dilapidated.

D. *City agent designated; right of appeal.* The city hereby designates the city

manager or his designee to carry out the duties of the council specified in this section. The property owner or mortgage holder shall have a right of appeal to the council from any order of the city manager or his designee. Such appeal shall be taken by filing written notice of appeal with the clerk within ten (10) days after the administrative order is rendered.

E. ***Application of section to land zoned agricultural.*** **The provisions of this section shall not apply to any property zoned and used for agricultural purposes. (Prior Code 1991, §8-503)**

State law reference**: Similar provisions, 11 O.S. §22-112.1.**

§ 14-470 CLEANING UP PREMISES FROM WHICH BUILDINGS HAVE BEEN REMOVED, TORN DOWN, OR DEMOLISHED BY ORDER OF STATE FIRE MARSHAL OR PURSUANT TO THIS ARTICLE.

In all cases in which a house or building has been removed before the taking effect of this article or a house or building is torn down or demolished pursuant to order of the state fire marshal or one of his assistants or the sheriff of the county or the fire chief as provided by the state law or as provided in this article and in which any of the following conditions exist, then the owner or owners of the lot or lots and the person, firm, or corporation who tore down the house or building shall immediately comply with the provisions of this article by having all of the following done:

1. The premises have not been cleaned up;

2. The premises are cleaned up and all lumber, brick, concrete, cement, plaster, nails, wire, and other material have not been removed;

3. The materials removed but the cellar space and excavations have not been filled;

4. A cistern or well has not been filled or safely and securely closed and all openings to sanitary sewers have not been plugged to meet the requirements of the city plumbing inspector and securely closed; and

5. The lot or lots have not been leveled and left entirely free from trash or the same be not immediately done. (Prior Code 1991, §8-504)

§ 14-471 PRESERVATION REVIEW OF DEMOLITION ACTIVITIES.

The preservation review commission shall have the power to make recommendations regarding the proposed demolition of designated landmarks or historic structures, including public demolition procedures initiated through statutory "nuisance abatement" processes, as well as other public or privately initiated demolition processes.

No permit to demolish all or part of such landmarks or structures shall be granted by the building official nor shall an abatement order be implemented, except as follows:

1. Except as otherwise provided, no person, including an agent of the city in charge of a landmark or historic site improvement in a historic district shall be granted a permit or permission to demolish, partially or in total, such property without the written approval of the preservation review commission;

2. Upon the filing of an application with the preservation review commission, the commission shall determine whether the proposed change would destroy or adversely affect the historical features of the landmark, historic site, or historic district property;

3. If the preservation review commission determines that the landmark, historic site, or property within a historic district would be adversely affected by the proposed change, it may withhold its consent of the granting of permission or of the permit. The commission shall make its decision within thirty (30) days after the filing of the application and shall state in writing the reasons for withholding consent, mailing same to the applicant; and

4. If the preservation review commission refuses to grant permission or approve issuance of a permit for demolition, it shall cooperate with the applicant to arrive at a mutually agreeable plan to avoid demolition, maintain historic integrity, and achieve the applicant's objectives. If no plan is greed upon within six (6) months of the filing of the application, the building official may issue the permit to demolish the subject property or the city agent may proceed without the approval of the commission. (Prior Code 1991, §8-505)

§ 14-472 PENALTY.

Any person who shall tear down or begin the tearing down of any house or building within the city limits of the city without having first procured permit therefore as herein provided shall be guilty of an offense against the city and upon conviction thereof shall be punished as provided in section 1-12 of this Code. (Prior Code 1991, §8-506)

CHAPTER 22

CEMETERIES*

§ 22-1 Definitions.
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***Cross Reference*: Streets, sidewalks, and other public places, Part 90.**

***State Law Reference*: Municipal cemeteries, 11 O.S. §26-101 et seq.**

CHAPTER 22

CEMETERIES*

§ 22-1 Definitions.
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§ 22-15 Replat of babyland lots.
§ 22-16 Penalty.

§ 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:

1. Cemetery and city cemetery mean Hillside Cemetery and any other cemetery that is a part of the city cemetery system.

***Cross Reference*: Definitions generally, §1-2.**

§ 22-2 DUTIES OF CEMETERY SUPERINTENDENT.

A. The cemetery superintendent shall open and close all graves and keep and maintain the cemetery in a sanitary and orderly manner at all times and prevent any unlawful use or injury to any of the properties of the city that are part of the city cemetery system or individuals owning lots therein.

B. The cemetery superintendent shall make no openings of graves until the applicant presents a statement from the city clerk showing ownership of the lot and the payment of costs for the same. (Prior Code 1991, §11-301)

§ 22-3 CEMETERY BOARD.

A. A cemetery board is created to be composed of five members, all of whom shall be residents of the city. The members of the cemetery board shall be appointed as provided in 2-86 and shall serve without salary.

B. A cemetery board shall act in an advisory capacity to the city council and shall, from time to time, make recommendations for improvements in the maintenance and operation of the city cemetery system. The cemetery board shall also inquire into complaints and recommend solution of such complaints to the city council. (Prior Code 1991, §11-302)

§ 22-4 CEMETERY DEED RECORDS.

The city clerk shall keep a plat of the city cemetery showing the lots and blocks by number. He is hereby authorized to make sales of the lots for the purpose of interment, upon payment of the fees established for the same including the number thereof, as laid down in the plat. In case of sale, he shall draw a deed showing the description of the lot, the price or consideration, and the name of the purchaser and shall present the same to the mayor for his signature. The city clerk shall countersign the deed, under the seal of the city. He shall keep a complete record of all lots and blocks in the cemetery showing whether sold or not, to whom sold and the date of the sale. (Prior Code 1991, §11-303)

§ 22-5 CEMETERY GRAVES.

When any person desires any grave to be opened, he shall apply to the city clerk and deposit the fee therefore. The city clerk shall notify the cemetery superintendent to open the grave, naming the lot and block to be used. All closings shall be done by the cemetery superintendent or under his supervision. A minimum of a concrete ground box shall be required. (Prior Code 1991, §11-304)

§ 22-6 NOTICE FOR GRAVE OPENING.

Any person desiring that a grave be opened shall give at least twenty-four (24) hours' notice to the cemetery superintendent. Exceptions may be made in case of emergency. (Prior Code 1991, §11-305)

§ 22-7 REGULATIONS FOR UNIFORMITY WITHIN THE CEMETERY.

A. The following provisions shall regulate uniformity with the city's cemetery system:

1. Headstones shall be in line at heads of grate.

2. Footstones shall be in line and flush with the ground so as not to obstruct

mowers.

3. There shall be no curbing.

4. There shall no fencing.

5. There shall be no trees or shrubs planted.

B. The cemetery superintendent will enforce and maintain uniformity. (Prior Code 1991, §11-307; Ord. No. 91-2108, §1, 6-3-1991)

§ 22-8 MONUMENT SETTING PERMIT FEE.

A. A fee will be collected for the issuance of a permit to set a monument in the city's Hillside Cemetery.

B. The city clerk will collect the fee to set the monument and issue the permit.

C. All monuments shall be set with a four (4) inch thick, precast concrete base that is two (2) feet wide and, as a minimum, the same length as the monument being set. The length of the base shall not exceed four (4) feet per grave space. If an apron is desired at the ends of the monument, it shall neither extend more than six (6) inches from each end nor exceed the four (4) foot overall length requirement. All aprons extending beyond the monument shall be at ground level.

D. Monuments and/or markers. All monuments and/or grave markers to be placed on any lot in the Hillside Cemetery shall be professionally manufactured and installed per city installation specifications. Materials are limited to professional granite, marble, or bronze. This does not include the footing, which may be concrete or other similar material. (Prior Code 1991, §11-310; Ord. No. 94-08, §1, 8-11994; Ord. No. 02-05, §1, 3-4-2002)

***Editor's Note*: Ord. No. 02-05, §1, adopted March 4, 2002, did not specify manner of inclusion; hence, inclusion as §22-8(d) is at the discretion of the editor.**

§ 22-9 MAUSOLEUMS OR CRYPTS.

No mausoleums or aboveground crypts shall ever be erected or constructed within the confines of city cemeteries. (Prior Code 1991, §11-311; Ord. No. 98-01, §1(11-311), 5-4-1998)

§ 22-10 RESIDUE OF CREMATED BODY.

Burial of residues of a cremated body requires a permit issued from the city to assure proper legal description of grave space. Permit fees are to be established by

resolution of the city council. (Prior Code 1991, §11-312; Ord. No. 98-10, §2(11-312), 5-4-1998; Ord. No. 00-09, §§1, 2, 5-1-2000)

§ 22-11 RESALE PRICE OF LOTS.

All lots bought prior to May 6, 1991, if resold to the city, shall be resold to the city at the price paid originally. (Prior Code 1991, §11-313)

§ 22-12 FUNERALS PROHIBITED.

Funerals are disallowed and prohibited in the city's Hillside Cemetery on Sundays, on Memorial Day, on Thanksgiving Day, on Christmas Day, on New Year's Day, and after 12:00 noon on the Saturday before Memorial Day. (Prior Code 1991, §11-314; Ord. No. 98-10, §3(11-314), 5-4-1998)

§ 22-13 TIME SCHEDULE.

Regular business hours for the Hillside Cemetery shall be 8:00 a.m. to 4:00 p.m., Monday through Friday. Courtesy hours for Saturdays and holidays shall be from 8:00 a.m. to 12:00 noon. An overtime fee will be incurred for any service continuing past the hours stated in this section. (Ord. No. 98-10, §4, 5-4-1998; Ord. No. 00-09, §§1, 4, 5-1-2000; Ord. No. 01-09, §1, 8-6-2001)

§ 22-14 FEES.

The city council shall establish fees, charges, assessments, etc., for any and all city cemeteries by appropriately adopted resolutions. (Ord. No. 98-10, §5, 5-4-1998)

§ 22-15 REPLAT OF BABYLAND LOTS.

Babyland section lots shall be replatted to three (3) lots for each twenty (20) feet. Surface stones only will be permitted with the city to set the footing. (Ord. No. 01-09, §2, 8-6-2001)

§ 22-16 PENALTY.

Any person who violates any provision of this chapter shall be fined not more than one-hundred ($100.00) dollars.

***State Law Reference*: Similar provisions, 11 O.S. §26-105.**

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CHAPTER 26

EMERGENCY MANAGEMENT*

ARTICLE 1

IN GENERAL

§§ 26-1 – 26-25 Reserved.

ARTICLE 2

EMERGENCY MANAGEMENT

§ 26-26 Definitions.
§ 26-27 Purpose; duty of emergency management organization.
§ 26-28 Office of emergency management created; director.
§ 26-29 Director of emergency management; powers and duties.
§ 26-30 Members of organization; compensation; injuries.
§ 26-31 Emergency powers; duties of director.
§ 26-32 Emergency operations center.

***Cross References*: Administration, Part 2; fire prevention and protection, Part 38; law enforcement, Part 54.**

***State Law References*: Oklahoma Riot Control and Prevention Act, 21 O.S. §1321.1 et seq.; ordinances authorized, 21 O.S. §1321.9; Emergency Management and disaster relief, 63 O.S. §663 et seq.; local Emergency Management organizations, 63 O.S. §683.11 et seq.; Emergency Interim Executive and Judicial Succession Act, 63 O.S. §685.1 et seq.; Emergency Management Emergency Interim Legislative Succession Act, 63 O.S. §686.1 et seq.; Emergency Management Emergency Interim Relocation Act, 63 O.S. §687.1 et seq.**

ARTICLE 1

IN GENERAL

§ 26-1 – 26-25 Reserved.

§§ 26-1 – 26-25 RESERVED.

ARTICLE 2

EMERGENCY MANAGEMENT

§ 26-26 Definitions.
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§ 26-28 Office of emergency management created; director.
§ 26-29 Director of emergency management; powers and duties.
§ 26-30 Members of organization; compensation; injuries.
§ 26-31 Emergency powers; duties of director.
§ 26-32 Emergency operations center.

§ 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:

1. Emergency management 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 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 as to cause an extreme emergency situation to arise which by declaration of the governor jeopardizes the welfare of the citizens of this city. These emergency functions include, but are not limited to, firefighting services; police services; medical and health services; rescue, engineering, and 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 industrial emergency plans into Emergency Management 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 emergency functions.

2. Emergency means any occasion or instance for which, in the determination

of the President of the United States or the Governor of the state of Oklahoma, federal or state assistance is needed to supplement state and local efforts and capabilities to save lives and to protect property and public health and safety or to lessen or avert threat of a catastrophe in any part of the city. (Prior Code 1991, §§13-401, 13-405)

***Cross Reference*: Definitions generally, §1-2.**

***State Law Reference*: Similar provisions, 63 O.S. §683.3.**

§ 26-27 PURPOSE; DUTY OF EMERGENCY MANAGEMENT ORGANIZATION.

The purpose of this article is to create an emergency management organization for the city to be prepared for and to function in the event of emergencies. The duty of such emergency management organization shall be the performance of emergency management functions within the territorial limits of the city and outside such territorial limits as may be required by 63 O.S. §683.1 et seq. (Prior Code 1991, §13-401)

§ 26-28 OFFICE OF EMERGENCY MANAGEMENT CREATED; DIRECTOR.

There is hereby established under the executive branch of the government of the city an office of emergency management, which shall consist of:

1. A director of emergency management who shall be appointed by the city manager and serve at his pleasure;

2. A emergency management advisory committee. This committee shall consist of the city manager as chairman and five (5) members appointed by the city manager and serving at his pleasure. The committee shall select from its members a vice-chairman and secretary. The committee shall function in an advisory capacity on all matters pertaining to emergency management. The committee shall hold such meetings as are directed by the city manager; and

3. Such other volunteer emergency management advisory committees as may be created by the director for the evaluation of technical, professional, or other phases of the work of the office of emergency management and which may provide advisory assistance on any matters pertaining to the city's emergency management. (Prior Code 1991, §13-402)

***Cross Reference*: Officers and employees, §2-56 et seq.**

§ 26-29 DIRECTOR OF EMERGENCY MANAGEMENT; POWERS AND DUTIES.

The director of emergency management shall be the executive head of the office of emergency management and shall be responsible to the city manager for carrying out the

emergency management program of the city. He shall have all necessary power and authority to form committees or other bodies and to appoint and designate the chairman or chief officer of such bodies as may be necessary to perfect such an organization. He shall coordinate the activities of all organizations for emergency management within the city and shall maintain liaison with and cooperate with emergency management agencies of other governmental units, both within and without the state, including the state and federal governments. He shall have such additional authority, duties, and responsibilities as may be authorized by this article or by other law. The director shall have general direction and control of the office of emergency management. He is further authorized to formulate written plans and gather information and keep written records thereof to govern the functions of the emergency management organization. (Prior Code 1991, §13-403)

§ 26-30 MEMBERS OF ORGANIZATION; COMPENSATION; INJURIES.

All members of the emergency management organization created pursuant to this article shall serve without compensation, and except as otherwise provided in 51 O.S. § 151 et seq., the city shall not be liable for any personal injury received by any member of such organization while acting in the line of duty. (Prior Code 1991, §13-404)

§ 26-31 EMERGENCY POWERS; DUTIES OF DIRECTOR.

In the event of any emergency, the director of emergency management, after due authorization from the city manager, shall have the power and authority to enforce all rules and regulations relating to emergency management and, if necessary, take control of transportation, communications, stocks of fuel, food, clothing, medicine, and public utilities for the purpose of protecting the civilian population. He shall cooperate in every way with the activities of other governmental agencies or emergency management organizations and, if required by the city manager, shall have control over any and all funds allocated from any source for the purpose of alleviating distress conditions in the city. (Prior Code 1991, §13-405(A))

§ 26-32 EMERGENCY OPERATIONS CENTER.

An emergency management emergency operations center is hereby established for the city to operate in conformance with any rules or regulations of the city council (Prior Code 1991, §13-406)

CHAPTER 30

COURTS*

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******Charter Reference*: Judicial department, art. V.**

***Cross References*: Administration, Part 2; law enforcement, Part 54; offenses and miscellaneous provisions, Part 70; traffic and vehicles, Part 106.**

***State Constitution References*: Officers, personal attention to duties, intoxication, OK Const. Art. 2 §11; jurisdiction of municipal courts, OK Const. Art. 7 §1; removal of judges from office, OK Const. Art. 7-A §1.**

***State Law References*: Enforcement and penalties for violation of municipal ordinances, 11 O.S. §14-111; municipal courts, 11 O.S. §27-101 et seq.; additional grounds for removal of judicial officer, 20 O.S. §1404; contempts of court, 21 O.S. §565 et seq.; criminal procedure, 22 O.S.; warrant of arrest, 22 O.S. §171 et seq.; removal of officers, 22 O.S. §1181 et seq.; ouster by action, 51 O.S. §91 et seq.**

ARTICLE 1

IN GENERAL

§§ 30-1 – 30-25 Reserved.

<u>§§ 30-1 – 30-25</u> <u>RESERVED</u>.

ARTICLE 2

MUNICIPAL COURT

DIVISION 1

GENERALLY

§ 30-26 Definitions.
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§ 30-30 Prosecuting attorney; duties; conflict of interest.
§§ 30-1 – 30-25 Reserved.

<u>§ 30-26</u> <u>DEFINITIONS</u>.

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. Clerk means the city clerk and any deputy or member of the office staff of the clerk while performing duties of the court clerk's office.

2. Court means the municipal court of the city.

3. Judge means the municipal judge and any acting municipal judge or alternate municipal judge, as provided for by the statutes of this state and this article.

4. This judicial district means the district court judicial district of this state wherein the government of this city is situated. (Code 1991, §§6-102(1)-(3), (5))

***<u>Cross Reference</u>*: Definitions generally, §1-2.**

<u>§ 30-27</u> <u>PURPOSE OF ARTICLE; CONFLICTS</u>.

This article shall govern the organization and operation of the municipal court of the city as put into operation by resolution duly passed on September 25, 1979, and filed in

accordance with law as authorized by 11 O.S. §§27-101 and 27-102. To the extent of conflict between any provisions of this article and the provisions of any other ordinance provision of this city, the provisions of this article shall control. (Prior Code 1991, §6-101)

§ 30-28 JURISDICTION.

The municipal court shall have original and exclusive jurisdiction to hear and determine all offenses against the Charter and ordinances of the city, including any prosecutions transferred to the court in accordance with applicable law. (Prior Code 1991, §6-103)

§ 30-29 TRAFFIC VIOLATIONS BUREAU.

A. A traffic violations bureau is established as a division of the office of the clerk of the court to be administered by the clerk or by subordinates designated by him for that purpose. Persons who are cited for violation of one of the traffic regulatory ordinances of this city may elect to pay a fine in the traffic violations bureau according to the schedule of fines to be determined by the city council by motion or resolution.

B. The court may adopt rules to carry into effect this section. Payment of a fine under this section shall constitute a final determination of 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 this article. (Prior Code 1991, §6-124)

§ 30-30 PROSECUTING ATTORNEY; DUTIES; CONFLICT OF INTEREST.

The attorney for the city, or his duly designated assistant, may be prosecuting officer of the court. He may also prosecute all alleged violations of the ordinances of the city. He shall be authorized, in his discretion, to prosecute and resist appeals and proceedings in error and review from this court to any other court of the state, and to represent the city in all proceedings arising out of matters in this court. (Prior Code 1991, §6-115)

§§ 30-31 – 30-55 RESERVED.

DIVISION 2

JUDGES

§ 30-56 Qualifications.
§ 30-57 Alternate judges.
§ 30-58 Acting judge.
§ 30-59 Appointment.
§ 30-60 Compensation.
§ 30-61 Term.
§ 30-62 Rules of court.

§ 30-63 Enforcement of orders, rules, and judgments.
§ 30-64 Disqualification of judge.
§ 30-65 Vacancy in office of judge.
§§ 30-66 – 30-90 Reserved.

§ 30-56 QUALIFICATIONS.

There shall be two municipal judges. The judges need not be attorneys licensed to practice law in the state. A judge who is a licensed attorney may engage in the practice of law in other courts, but he shall not accept employment inconsistent with his duties as judge or arising out of facts which give rise to or are connected with cases within the jurisdiction of the court, pending therein, or which might become the subject of proceedings therein. Judges shall meet the qualifications set by state law. (Prior Code 1991, §6-104)

***Cross Reference*: Officers and employees, §2-56 et seq.**

§ 30-57 ALTERNATE JUDGES.

There may be appointed, for each judge of the court, an alternate judge 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 case if the judge is absent from the court, unable to act as judge, or disqualified from acting as judge in the case. (Prior Code 1991, §6-106)

§ 30-58 ACTING JUDGE.

If at any time there is no judge, duly appointed and qualified, available to sit as judge, the mayor may appoint some person possessing the qualifications required by this article for a judge, who shall preside as acting judge over the court in the disposition of pending matters until such time as a judge shall be available. (Prior Code 1991, §6-107)

§ 30-59 APPOINTMENT.

The council shall appoint the municipal judges. (Prior Code 1991, §6-108)

§ 30-60 COMPENSATION.

A. A municipal judge shall receive a salary prescribed by the council.

B. An alternate or acting judge shall be paid an amount not to exceed the amount currently established for the municipal judge, or ten dollars ($10.00) per day of duty. Any amount paid to the alternate or acting judge shall, at the discretion of the city council, be deducted from the salary which would have been due to the judge who failed or was unable to perform his duties as judge. (Prior Code 1991, §6-109)

§ 30-61 TERM.

The official term of the judges shall be two (2) years, expiring on the January 31 in each odd numbered year. Each judge, unless sooner removed, shall serve until his successor is appointed and qualified. (Prior Code 1991, §6-105)

§ 30-62 RULES OF COURT.

The municipal judges may prescribe rules consistent with the laws of the state and with the ordinances of this city for the proper conduct of the business of the court. (Prior Code 1991, §6-117)

§ 30-63 ENFORCEMENT OF ORDERS, RULES, AND JUDGMENTS.

Obedience to the orders, rules, and judgments made by a municipal judge or by the court may be enforced by a municipal judge, who may fine or imprison for contempt committed as to him while holding court or committed against process issued by him, in the same manner and to the same extent as the district courts of this state. (Prior Code 1991, §6-118)

§ 30-64 DISQUALIFICATION OF JUDGE.

In prosecutions before the court no change of venue shall be allowed, but the judge before whom the case is pending may certify his disqualification or he may be disqualified from sitting under the terms, conditions, and procedures provided by law for courts of record. If a judge is disqualified, the matter shall be heard by an alternate or acting judge appointed as provided in this article. (Prior Code 1991, §6-112)

§ 30-65 VACANCY IN OFFICE OF JUDGE.

A vacancy in the office of judge shall occur if the incumbent:

1. Dies;

2. Resigns;

3. Ceases to possess the qualifications for the office; or

4. Is removed and the removal proceedings have been affirmed finally in judicial proceedings or are no longer subject to judicial review.

Upon the occurrence of a vacancy in the office of judge, the council shall appoint a successor to complete the unexpired term in the same manner as an original appointment is made.

§§ 30-66 – 30-90 RESERVED.

DIVISION 3

CLERK

§ 30-91 Duties.
§ 30-92 Bond.
§§ 30-93 – 30-115 Reserved.

§ 30-91 DUTIES.

The city clerk or a deputy designated by the city clerk shall be ex officio clerk of the court. The clerk shall:

1. Assist the municipal judges in recording the proceedings of the court, preparation of writs, processes, or other papers;

2. Administer oaths required in judicial or other proceedings before the court;

3. Be responsible for the entry of all pleadings, processes, and proceedings in the dockets of the court;

4. Receive and give receipt for and disburse or deliver to the city treasurer all fines, forfeitures, fees, deposits, and sums of money properly payable to the municipal court. Such funds and sums of money while in the custody of the clerk shall be deposited and disbursed upon vouchers as directed by the city council; and

5. Perform such other clerical duties in relation to the proceedings of the court as the municipal judges shall direct.

All money paid to the city clerk shall be placed in the general fund of the city, or in such other funds as the city council may direct, and it shall be used in the operation of the city government in accordance with budgetary arrangements governing the fund in which it is placed. (Prior Code 1991, §6-114)

***Cross Reference*: Officers and employees, §2-56 et seq.**

***State Law Reference*: Similar provisions, 11 O.S. §27-109.**

§ 30-92 BOND.

The clerk of the court shall give bond, in the form provided by 11 O.S. §27-111, in a sum to be determined by the city council. When executed, the bond shall be submitted to the city council for approval. When approved, it shall be filed in the office of the city clerk and retained in the city archives. (Prior Code 1991, §6-116)

§§ 30-93 – 30-115 RESERVED.

DIVISION 4

PROCEDURES

§ 30-116 Written complaints to prosecute ordinance violations.
§ 30-117 Arrests; citation; bail.
§ 30-118 Release on personal recognizance; arraignment; plea; failure to plead or appear.
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§ 30-121 Writs; processes; chief of police.
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§ 30-125 Trials and judgments.
§ 30-126 Jury trials; qualifications of jurors.
§ 30-127 Witness fees.
§ 30-128 Sentencing.
§§ 30-129 – 30-155 Reserved.

§ 30-116 WRITTEN COMPLAINTS TO PROSECUTE ORDINANCE VIOLATIONS.

All prosecutions for violations of ordinances of this city shall be styled "The City of Purcell, Oklahoma vs. (naming the person or persons charged)." Except as provided hereinafter, prosecution shall be initiated by the filing of a written complaint, subscribed and verified by the person making complaint, and setting forth concisely the offense charged. (Prior Code 1991, §6-119)

§ 30-117 ARRESTS; CITATION; BAIL.

A. If a resident of this city is arrested by a law enforcement officer for the violation of any traffic ordinance for which 11 O.S. §27-117.1 does not apply or is arrested for the violation of a non-traffic ordinance, the officer shall immediately release such person if the person acknowledges receipt of a citation by signing it. Provided, however, the arresting officer need not release such person if it reasonably appears to the officer that the person may cause injury to himself or others or damage to property if released, that the person will not appear in response to the citation, or the person is arrested for an offense against a person or property. If the person fails to appear in response to the citation, a warrant shall be issued for his arrest and his appearance shall be compelled.

B. If the arrested resident is not released by being permitted to sign a citation as provided for in subsection (a) of this section, he shall be admitted to bail either before or after arraignment or shall be released on personal recognizance. The city may prescribe a fine for up to the maximum amount authorized by courts not of record for failure of a person to have a valid driver's license when charged with a traffic violation.

C. If a nonresident of this city is arrested by a law enforcement officer for a violation of any ordinance for which 11 O.S. §27-117.1 does not apply, the defendant shall be eligible to be admitted to bail either before or after arraignment.

D. If the 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, at a place reasonably likely to come to the notice of the operator, a citation conforming substantially to that prescribed in this section, with such variation as the circumstances require, and 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 under this section. (Prior Code 1991, §6-120)

***State Law References*: Similar provisions, 11 O.S. §27-117; arrest for misdemeanor traffic violation other than parking or standing, bail, 11 O.S. §27-117.1.**

§ 30-118 RELEASE ON PERSONAL RECOGNIZANCE; ARRAIGNMENT; PLEA; FAILURE TO PLEAD OR APPEAR.

A. *Conditions for release*. In addition to other provisions of law for posting bail, any person, whether a resident of this state or a nonresident, who is arrested by a law enforcement officer solely for a misdemeanor violation of a state traffic law or city traffic ordinance shall be released by the arresting officer upon personal recognizance if:

1. The arrested person has been issued a valid license to operate a motor vehicle by this state or by another state jurisdiction within the United States which is a participant in the Nonresident Violator Compact (47 O.S. §789 et seq.), or any party jurisdiction of the Nonresident Violator Compact;

2. The arresting officer is satisfied as to the identity of the arrested person;

3. The arrested person signs a written promise to appear as provided for on the citation, unless the person is unconscious or injured and requires immediate medical treatment as determined by a treating physician; and

4. The violation does not constitute:

a. A felony;

b. Negligent homicide;

c. Driving or being in actual physical control of a motor vehicle while impaired or under the influence of alcohol or other intoxicating substances, unless the person is unconscious or injured and requires immediate medical treatment as determined by a treating physician;

d. Eluding or attempting to elude a law enforcement officer;

e. Operating a motor vehicle without having been issued a valid driver license or while the driving privilege and driver license is under suspension, revocation, denial or cancellation;

f. An arrest based upon an outstanding warrant;

g. A traffic violation coupled with any offense stated in subsections A(4)(a) through (f) of this section;

h. An overweight violation or the violation of a special permit exceeding the authorized permit weight; or

i. A violation relating to the transportation of hazardous materials.

B. *Duty of arresting officer*. If the arrested person is eligible for release on personal recognizance as provided for in subsection A of this section, then the arresting officer shall:

1. Designate the traffic charge;

2. Record information from the arrested person's driver license on the citation form, including the name, address, date of birth, personal description, type of driver license, driver license number, issuing state, and expiration date;

3. Record the motor vehicle make, model, and tag information;

4. Record the arraignment date and time on the citation; and

5. Permit the arrested person to sign a written promise to appear as provided for in the citation. The arresting officer shall then release the person upon personal recognizance based upon the signed promise to appear. The citation shall contain a written notice to the arrested person that release upon personal recognizance based upon a signed written promise to appear for arraignment is conditional and that failure to timely appear for arraignment shall result in the suspension of the arrested person's driving privilege and driver license in this state or in the nonresident's home state pursuant to the Nonresident Violator Compact (47 O.S. §789 et seq.).

C. *Election of plea; payment of fines and costs*. A defendant released upon personal recognizance may elect to enter a plea of guilty or nolo contendere to the violation charged at any time before the defendant is required to appear for arraignment by indicating such plea on the copy of the citation furnished to the defendant or on a legible copy thereof, together with the date of the plea and signature. The defendant shall be responsible for assuring full payment of the fine and costs to the appropriate court clerk. Payment of the fine and costs may be made by personal, cashier's, traveler's, certified or guaranteed bank check, postal or commercial money order, or other form of payment approved by the court in an amount prescribed as bail for the offense. Provided, however,

the defendant shall not use currency for payment by mail. If the defendant has entered a plea of guilty or nolo contendere as provided for in this subsection, such plea shall be accepted by the court and the amount of the fine and costs shall be:

1. As prescribed in 22 O.S. §1115.3 as bail for the violation;

2. In case of a city violation, as prescribed by city ordinance for the violation charged; or

3. In the absence of such law or ordinance, then as prescribed by the court.

D. *Warrant for arrest*.

1. If, pursuant to the provisions of subsection C of this section, the defendant does not timely elect to enter a plea of guilty or nolo contendere and fails to timely appear for arraignment, the court may issue a warrant for the arrest of the defendant and the municipal or district court clerk, within one hundred twenty (120) calendar days from the date the citation was issued by the arresting officer, shall notify the department of public safety that:

a. The defendant was issued a traffic citation and released upon personal recognizance after signing a written promise to appear for arraignment as provided for in the citation;

b. The defendant has failed to appear for arraignment without good cause shown;

c. The defendant has not posted bail, paid a fine, or made any other arrangement with the court to satisfy the citation; and

d. The citation has not been satisfied as provided by law.

Additionally, the court clerk shall request the state department of public safety to either suspend the defendant's driving privilege and driver's license to operate a motor vehicle in this state or to notify the defendant's home state and request suspension of the defendant's driving privilege and driver license in accordance with the provisions of the Nonresident Violator Compact (47 O.S. §789 et seq.). Such notice and request shall be on a form approved or furnished by the state department of public safety.

2. The court clerk shall not process the notification and request provided for in subsection 1 of this section if, with respect to such charges:

a. The defendant was arraigned, posted bail, paid a fine, was jailed, or otherwise settled the case;

b. The defendant was not released upon personal recognizance upon a signed written promise to appear as provided for in this section or, if released, was not permitted to remain on such personal recognizance for arraignment;

c. The violation relates to parking or standing, an overweight violation, an overweight permit, or the transportation of hazardous materials; or

d. A period of one hundred twenty (120) calendar clays or more has elapsed from the date the citation was issued by the arresting officer.

E. Maintenance of driver privilege or license suspension; proof of settlement of case. The municipal or district court clerk shall maintain a record of each request for driving privilege and driver license suspension submitted to the state department of public safety pursuant to the provisions of this section. When the court or court clerk receives appropriate bail or payment of the fine and costs, settles the citation, makes other arrangements with the defendant, or otherwise closes the case, the court clerk shall furnish proof thereof to such defendant, if the defendant personally appears, or shall mail such proof by first class mail, postage prepaid, to the defendant at the address noted on the citation or at such other address as is furnished by the defendant. Additionally, the court or court clerk shall notify the home jurisdiction of the defendant as listed on the citation, if such jurisdiction is a member of the Nonresident Violator Compact (47 O.S. §789 et seq.) and shall, in all other cases, notify the department of the resolution of the case. The form of proof and the procedures for notification shall be approved by the department of public safety. Provided, however, the court or court clerk's failure to furnish such proof or notice in the manner provided for in this subsection shall in no event create any civil liability upon the court, the court clerk, the state or any political subdivision thereof, or any state department or agency or any employee thereof but duplicate proof shall be furnished to the person entitled thereto upon request.

F. Procedures. Procedures for arraignment, continuances and scheduling, timely appearances, pleas of guilty or nolo contendere, posting bail, payment of fines and costs, issuance of arrest warrants, and requests for suspension of drivers license shall be as required in 22 O.S. §§1115.1-1115.5. (Prior Code 1991, §6-121)

***State Law Reference*: Similar provisions, 22 O.S. §1115.1.**

§ 30-119 BAIL; BOND; SCHEDULE.

A. Upon arrest, or upon appearance without arrest in response to citation or summons, or at any time before trial, before or after arraignment, the defendant may be eligible to be released upon giving bail for his appearance in an amount and upon conditions fixed by this article or by a municipal judge, who shall prescribe appropriate rules of court for the receipt of bail and release of the defendant. In case of arrests made at night or under other conditions of emergency or when a municipal judge is not available, the rules shall authorize the chief of police, or his designated representative, to accept a temporary cash bond of not less than ten dollars ($10.00) nor more than the maximum

monetary penalty provided by ordinance for the offense charged. A municipal judge or chief of police is authorized, subject to conditions as may be prescribed by the judge, to release a resident of the city on personal recognizance.

B. The city's bail bond schedule setting forth specific offenses and bail bond amounts and procedures therefore, as amended from time to time, is hereby adopted and incorporated in this article by reference. (Prior Code 1991, §6-122)

§ 30-120 FAILURE TO APPEAR ACCORDING TO TERMS OF BOND; FORDEITURE.

A. If, without sufficient excuse, a defendant fails to appear according to the terms or conditions of a bond given by a bail bondsman as defined in 59 O.S. §1301, either for hearing, arraignment, trial, or judgment, or upon any other occasion when the presence of the defendant in court or before the judge may be lawfully required:

1. The court shall perform the procedures set forth in 59 O.S. §1332 whereby the municipal court clerk shall issue the required notices; or

a. The municipal judge shall issue an order declaring the bond to be forfeited on the day the defendant failed to appear and stating the reasons therefore; and

b. Within five (5) days of the order of forfeiture, the municipal court clerk shall file a certified copy of the order with the district court in county. The district court clerk treat the certified order of forfeiture as a foreign judgment and proceed in accordance with the provisions of 59 O.S. §1332. A surety shall have all remedies available under the provisions of 22 O.S. §1108 and 59 O.S. §§1301-1340.

B. Court costs shall be collectible from the proceeds of a forfeited bond.

C. A prosecution in a court provided for herein shall be a bar to prosecution in another court for the same or a lesser included offense. (Prior Code 1991, §6-123)

***State Law Reference*: Similar provisions, 11 O.S. §27-118.**

§ 30-121 WRITS; PROCESSES; CHIEF OF POLICE.

All writs or processes of the court shall be directed, in his official title, to the chief of police of the city, who shall be the marshal of the court. (Prior Code 1991, §6-113)

§ 30-122 CITATION TO APPEAR; ISSUANCE; SUMMONS; FAILURE TO APPEAR.

A. A law enforcement officer who has arrested a person on a misdemeanor charge or a violation of a city ordinance without a warrant may a citation to such person to appear in court.

B. In issuing a citation hereunder the officer shall proceed as follows:

1. He shall prepare a written citation to appear in court, containing the name and address of the cited person and the offense charged, and stating when the person shall appear in court. Unless the person requests an earlier date, the time specified in the citation to appear shall be at least five days after the issuance of the citation.

2. One copy of the citation to appear shall be delivered to the person cited and such person shall sign a duplicate written citation which shall be retained by the officer.

3. The officer shall thereupon release the cited person from any custody.

4. As soon as practicable, the officer shall file one copy of the citation with the court specified therein and shall deliver one copy to the prosecuting attorney.

C. In any case in which the judicial officer finds sufficient grounds for issuing a warrant, he may issue a summons commanding the defendant to appear in lieu of a warrant.

D. If a person summoned fails to appear in response to the summons, a warrant for his arrest shall issue, and any person who willfully fails to appear in response to a summons is guilty of a misdemeanor. (Prior Code 1991, §6-125)

***State Law Reference*: Similar provisions, 22 O.S. §209.**

§ 30-123 FORM OF ARREST WARRANT.

A. Except as otherwise provided in the ordinances of the city, upon the filing of a complaint approved by the endorsement the attorney of this city or by the judge, there shall be issued a warrant of arrest in substantially the following form:

"City of Purcell, The State of Oklahoma To the Chief of Police of the Municipal Court of Purcell, Oklahoma: Complaint upon oath having been this day made before me that the offense of (designating it) has been committed and accusing C. D. thereof, you are therefore commanded forthwith to arrest the above named C. D. and bring him before me at the municipal courtroom.

Dated at Purcell, Oklahoma, this _____ day of _____, 20____.

/s/_____
Municipal Judge"

B. It is the duty of the chief of police, personally, or through a duly constituted member of the police force of this city, or through any other person lawfully authorized so to act, to execute a warrant as promptly as possible. (Prior Code 1991, §6-126)

***State Law Reference*: Similar provisions, 22 O.S. §172.**

§ 30-124 ARRAIGNMENT AND PLEADINGS BY DEFENDANT, FAILURE TO APPEAR.

A. Upon making his appearance before the court, the defendant shall be arraigned. A municipal judge or the city attorney shall read the complaint to the defendant, inform him of his legal rights, including the right of trial by jury, if available, and of the consequences of conviction, and ask him whether he pleads guilty or not guilty. If the defendant pleads guilty, the court may proceed to judgment and sentence or may continue the matter for subsequent disposition. If the defendant pleads not guilty and the case is not for jury trial, the court may proceed to try the case or may set it for hearing at a later date.

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 as provided in 1-112 of this Code. (Prior Code 1991, §6-127)

§ 30-125 TRIALS AND JUDGMENTS.

A. *Postponement*. Before trial commences, either party, upon good cause shown, may obtain a reasonable postponement thereof.

B. *Personal presence or representation*. The defendant must be present in person at the trial or be represented by counsel if permitted by the judge.

C. *Applicable procedures*. In all trials, as to matters not covered in this article, or by the statutes relating to municipal courts, or by rules duly promulgated by the Supreme Court of Oklahoma, the procedure applicable in trials of misdemeanors in the district courts shall apply to the extent that they can be made effective.

D. *Judgment and penalty*. If the defendant pleads guilty or is convicted after the court must render judgment thereon, fixing the penalty within the limits prescribed by the applicable ordinance and imposing sentence accordingly.

E. *Judgment rendered immediately*. At the close of trial, judgment must be rendered immediately by the judge who shall cause it to be entered in his docket.

F. ***Discharge upon acquittal*. If judgment is of acquittal, and the defendant is not to be detained for any other legal cause, he must be discharged at once.**

G. ***Enforcement of payment on defendants of means*. If a defendant who is financially able refuses or neglects to pay a fine or court costs or both, payment may be enforced:**

l. By imprisonment in the McClain County Jail until same shall be satisfied at the rate of five dollars ($5.00) per day; and

2. In addition to the sum set forth in subsection of this section, if the court requires the defendant to pay the city's costs of his incarceration after the court's determination that such payment would not impose a manifest hardship on the defendant and would not require the loss of property of the defendant that is needed for the maintenance and support of his immediate family, the defendant shall pay such costs of twenty-seven dollars ($27.00) per day, which is subject to change, and when changed, the amount paid by a defendant shall change in accordance therewith; or

3. In the same manner as in subsection H of this section for a defendant who is without means to make such payment.

H. ***Enforcement of payment on defendants without means*. If the defendant is without means to pay the fine or costs, the municipal judge may direct the total amount due to be entered upon the court minutes and to be certified to the district court in this county, where it shall be entered upon the district court judgment docket and shall have the full force and effect of a district court judgment. Thereupon the same remedies shall be available for the enforcement of the judgment as are available to any other judgment creditor.**

I. ***Determination of financial ability*. The determination of whether or not a person is financially able to pay a fine or court costs shall be made by the municipal judge and may be made at any time before or after judgment and sentence is imposed. (Prior Code 1991, §6-12B; Ord. No. 97-12, §§1-3, 1-5-1997)**

§ 30-126 JURY TRIALS; QUALIFICATIONS OF JURORS.

A. In all prosecutions in the municipal court for any offense for which the city, with the concurrence of the court, seeks imposition of a fine of more than five-hundred dollars ($500.00), excluding court costs, or imprisonment, or both such fine and imprisonment, a jury trial shall be had unless waived by the defendant and the city. In prosecutions for all other offenses, or in cases wherein a jury trial is waived by the defendant and the city, trial shall be to the court. A jury in the municipal court shall consist of six (6) jurors, five (5) of whom may return verdict. Jurors shall be good and lawful men or women, citizens of the county in which the court sits, having the qualifications of jurors in the district court.

B. At arraignment, the defendant shall be asked whether he demands or waives trial by jury. His election shall be recorded in the minutes of the arraignment and entered on the docket of the court respecting proceedings in the case.

C. An election waiving jury trial made at arraignment may be changed by the defendant at any time prior to the day for which trial by the court is set. An election demanding jury trial may be changed at any time prior to the commencement of proceedings to impanel the jury for the trial, but if that change occurs after the case has been set for jury trial, it may not thereafter be re-changed so as again to demand trial by jury. (Prior Code 1991, §6-129; Ord. No. 99-32, §1, 11-1-1999; Ord. No. 11-01, 1-3-2011)

***State Law Reference*: Fine over $200.00 or imprisonment to be determined by jury trial, 11 O.S. §27-119.**

§ 30-127 WITNESS FEES.

Witnesses in any proceeding in the court other than the police officers or peace officers shall be entitled to a fee as set by the council per each day of attendance, plus mileage 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 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 name 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 the 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. (Prior Code 1991, §6-130)

§ 30-128 SENTENCING.

A municipal judge who is licensed to practice law in this state imposing a judgment and sentence, at his discretion, is empowered to modify, reduce, suspend, or defer the imposition of such sentence or any part thereof and to authorize probation for a period not to exceed six months from the date of sentence under such 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. The judge 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 such period of time the judge may allow the city attorney to amend the charge to a lesser offense. If a deferred sentence is imposed, an administrative fee of not to exceed two hundred dollars ($200.00) may be imposed as costs in the case. (Prior Code 1991, §6-131(B); Ord. No. 99-32, §2, 11-1-1999)

§§ 30-129 – 30-155 RESERVED.

DIVISION 5

DISPOSITION OF CASES; COSTS

§ 30-156 Failure to appear; court costs; penalty.
§ 30-157 Fines and costs; warrants.
§ 30-158 Penalties and fees in addition to fines.

§ 30-156 FAILURE TO APPEAR; COURT COSTS; PENALTY.

Any person who files a complaint in the municipal court against another person or persons and fails to appear to prosecute or testify on the complaint so filed or moves to dismiss the same without court approval is liable for and shall be assessed and pay all court costs incurred in the filing of the complaint. Any defendant failing to appear as required shall constitute a separate offense punishable as provided in section 1-112 of this Code. (Prior Code 1991, §6-134)

§ 30-157 FINES AND COSTS; WARRANTS.

A. If judgment of conviction is entered, the clerk of the court shall tax the costs to the defendant, which shall be the maximum allowed by state law, plus the fees and mileage of jurors and witnesses, but the total amount of fine may not exceed the amount set out in section 1-112 of this Code.

B. A warrant shall be issued for any unpaid citation or complaint. The defendant who has been issued a warrant shall pay a fee over and above the fine and costs in the amount of twenty-five dollars ($25.00) for the warrant. (Prior Code 1991, §6-133)

§ 30-158 PENALTIES AND FEES IN ADDITION TO FINES.

In addition to any fines and court costs assessed, the court shall collect any penalty assessments required by state statutes.

***State Law Reference*: Similar provisions, 20 O.S. §§1313.2-1313.6.**

CHAPTER 34

ENVIRONMENT*

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***State Law References*: Authority of city to abate nuisances, 11 O.S. §22-121; nuisances generally, 50 O.S. §1 et seq.; municipal power to define and summarily abate nuisances, 50 O.S. §16; powers and duties of county superintendent of health, 63 O.S. §1-204; health nuisances, 63 O.S. §1-1011.**

ARTICLE 1

IN GENERAL

§§ 34-1 – 34-25 Reserved.

<u>§§ 34-1 – 34-25</u> <u>RESERVED</u>.

ARTICLE 2

NOISE

§ 34-26 Prohibited noises.
§ 34-27 Detrimental noises prohibited.
§ 34-28 Enumeration of prohibited noises.
§ 34-29 Noise for entertainment purposes.
§ 34-30 Commercial advertising.
§ 34-31 Temporary exemptions.
§ 34-32 Exceptions.
§§ 34-33 – 34-55 Reserved.

<u>§ 34-26</u> <u>PROHIBITED NOISES</u>.

Subject to the provisions of this chapter, the creating of any unreasonably loud and disturbing noise within the limits of the city is prohibited. (Prior Code 1991, §8-601)

<u>§ 34-27</u> <u>DETRIMENTAL NOISES PROHIBITED</u>.

A. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual or in disturbance of the public peace and welfare is prohibited.

B. The city manager or his designee is authorized to issue a permit for the conduct and operation of drag boat racing on the Purcell City lake. The city council may establish permit fees, hours of operation and days of operation provided that drag boat racing shall be permitted during daylight hours only. (Code 1991, §8-602; Ord. No. 07-03, §1, 1-8-2007)

<u>§ 34-28</u> <u>ENUMERATION OF PROHIBITED NOISES</u>.

Except where otherwise permitted by this code or by the city, the following acts are declared to be loud, disturbing noises and noises in violation of this chapter. This enumeration shall not be deemed to be exclusive:

1. The sounding of any horn or signal device on any automobile, motorcycle, or bus except when reasonably necessary to ensure safe operation; the creation by means of

any such signal device or any unreasonably loud or harsh sound; and the sounding of such device for an unreasonable period of time.

2. The playing of any radio, phonograph, or a musical instrument in such a manner or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m., as to disturb the quiet, comfort, or repose of any persons in any office, hospital, dwelling, hotel, or any other type of residence or of any persons in the vicinity.

3. Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any time or place so as to disturb the quiet, comfort, or repose of any persons in any hospital, dwelling, hotel or any other type of residence or of any persons in the vicinity.

4. The keeping of any animal, bird, or fowl which, by causing frequent or long-continued noise, disturbs the comfort or repose of any person in the vicinity.

5. The use of any automobile or motorcycle so out of repair, so loaded, or in such manner as to cause loud and unnecessary grating, grinding, rattling, or other noises.

6. The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper city authorities.

7. To discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motor boat engine except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

8. The erection, including excavation, demolition, alteration, or repair, of any building in any residential district or section, the excavation of streets and highways in any residential district or section, other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building official, which permit may be granted for a period not to exceed thirty (30) days while the emergency continues; if the building official should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways within the ours of 6:00 p.m. and 7:00 a.m., and if he further determines that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 6:00 p.m. and 7:00 a.m. upon application being made at the time the permit for the work is awarded or during the progress of the work.

9. The creation of any excessive noise on any street adjacent to any school, institution of learning, church, or court while the same are in session or adjacent to any hospital, which unreasonably interferes with the working or sessions thereof.

10. The creation of a loud or excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.

11. The use or operation of a loudspeaker or sound-amplification device in connection with any radio, phonograph, tape reorder, microphone or other devices in which the emanated sounds are of such a strength, character, intensity, or duration as to be a public nuisance, cause interference with pedestrian or vehicular traffic, be detrimental to the life or health of any individual, or be in disturbance of the public peace and welfare. (Prior Code 1991, §8-603)

******Cross References*: Noise; music; amplified sound, §70-76.**

§ 34-29 NOISE FOR ENTERTAINMENT PURPOSES.

A. *Use of machines or devices*. It is unlawful for any person or persons to play, use, operate, or permit to be played, used, or operated any radio, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound:

1. If such sound is for the purpose of entertainment or is used for that purpose; and

2. If the noise source is:

a. Located in or upon a public street, highway, building, sidewalk, park, thoroughfare, or other public area, or is located in or upon a public access area, such a shopping mall, parking lot, etc., or on any private property, and the sound can be heard more than fifty (50) feet from its source; or

b. In a building or other structure and the sound can be heard more than one hundred (100) feet away from the building or structure or the boundaries of the property surrounding such building or structure, whichever is greater.

B. *Prima facie evidence*. It shall be prima facie evidence of a violation of this section if the sound can be heard outside the limits described.

C. *Presumption of permission within buildings or structures*. Where the noise source is located in a building or other structure, the owner, occupant, resident, manager, or other person in charge of the premises shall, if present, be presumed to have permitted the noise in the absence of evidence to the contrary.

D. *Presumption of permission in public*. Where portable noise-producing devices such as radios, tape machines, etc., are present in or being transported through a public area, street, etc., the person or persons in possession of the device shall be presumed to have permitted the noise in the absence of evidence to the contrary.

E. ***Warning and arrest*. A police officer may, if he has probable cause to believe a prima facie violation of this section is being committed in his presence, view, or hearing, warn the apparent perpetrator or perpetrators to cease such noise as violates this section. If the violation persists after such warning, the officer may arrest without warrant the perpetrator or perpetrators of the violation, and it shall not be necessary for the officer to have received a complaint in order to so act. (Prior Code 1991, §8-604)**

§ 34-30 COMMERCIAL ADVERTISING.

A. It shall be unlawful for any person, group, association, company, partnership, corporation, or other commercial enterprise to broadcast sound over a speaker, loudspeaker, or other device for the producing or reproducing of sound in any manner so as to allow the sound to be audible to normal human hearing beyond a distance of one hundred (100) feet from the premises of the building or property wherein such device is located or upon which or to which such device is affixed.

B. The owner, manager, or other person in charge of the building or premises from which such sound emanates shall be presumed to be responsible therefore in the absence of evidence to the contrary.

C. A law enforcement officer hearing such sound more than one hundred (100) feet from the boundaries of the premises may investigate to determine the identity of the person responsible and may, after knocking, enter peacefully upon the property to make the necessary inquiries. Without the necessity of a complaint from a private party, the officer may seek a warrant, summons, or other appropriate process for the violation.

D. A violation of this section shall be a misdemeanor and the person, company, or other organization found guilty of such a violation shall be subject to a fine as provided in section 1-112 of this Code. Every day upon which the offending noise is broadcast shall be considered a separate violation. (Prior Code 1991, §8-605)

§ 34-31 TEMPORARY EXEMPTIONS.

A permit for a temporary exemption from the provisions of this article may be issued by the city manager for commercial, political, civic, charitable, and other organizations and activities such as fund raisers, carnivals, bazaars, meetings, and other activities of other than a day-to-day nature. The city manager is empowered to issue such permits whenever possible, after considering the date, time of day, nature of the activity, reason for the activity, and impact upon the surrounding area, together with other relevant circumstances. (Prior Code 1991, §8-606)

§ 34-32 EXCEPTIONS.

None of the terms or prohibitions of this chapter shall apply to or be enforced against:

1. Any vehicle of the city while engaged upon necessary public business; or

2. Excavations or repairs of bridges, streets, or highways by or on behalf of the city, county, or the state during the night, when the public welfare and convenience renders it impracticable to perform such work during the day. (Prior Code 1991, §8-607)

§§ 34-33 – 34-55 RESERVED.

ARTICLE 3

NUISANCES

§ 34-56 Definitions.
§ 34-57 Procedure cumulative.
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§ 34-68 Cost to be determined; statement of cost to be sent.
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§ 34-70 Damages and prosecution for public offense.
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§ 34-56 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:

1. Nuisance means unlawfully doing an act, or omitting to perform a duty, or is any thing or condition which either:

a. Annoys, injures, or endangers the comfort, repose, health, or safety of others;

b. Offends decency;

c. Unlawfully interferes with, obstructs, or tends to obstruct or renders dangerous for passage any lake or navigable river, stream, canal or basin, or any public park, square, street or other public property; or

d. In any way renders other persons insecure in life or in the use of property.

2. Private nuisance means every nuisance not included in the definition of "public nuisance" in this section.

3. Public nuisance means every nuisance that affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal. (Prior Code 1991, §8-401)

***Cross Reference*: Definitions generally, §1-2.**

***Cross References*: Animal nuisances, §10-61 et seq.; junked, wrecked vehicles a nuisance, §106-403.**

***State Law References*: Nuisances in municipalities, 11 O.S. §22-121; nuisances generally, 50 O.S. §1 et seq.**

§ 34-57 PROCEDURE CUMULATIVE.

The various procedures for abating nuisances prescribed by this article and by other provisions of law and ordinance shall be cumulative to any other penalties or procedures authorized. (Prior Code 1991, §8-417)

§ 34-58 PENALTY.

Any person, firm, or corporation which violates any of the provisions of this article or shall allow the premises occupied to become unsanitary, or who shall in any manner violate any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished as provided in section 1-112 of this Code. (Prior Code 1991, §8-418)

§ 34-59 PROHIBITED.

A. It shall be unlawful for any person, including, but not limited to, any owner or lessee of property to create or maintain a nuisance within the city.

B. It shall be unlawful for any person in charge or control of any property in the city, whether as owner, tenant, occupant, lessee, or otherwise, to permit a nuisance to exist or remain on the property. Every successive owner of property who neglects to abate a continuing nuisance upon or in the use of such property created by a former owner is liable therefore in the same manner as the one who first created it. (Prior Code 1991, §§8-402, 8-413)

§ 34-60 TIME DOES NOT LEGALIZE.

No lapse of time can legalize a public nuisance amounting to an actual obstruction of public right. (Prior Code 1991, §8-403)

§ 34-61 REMEDIES AGAINST PUBLIC NUISANCES.

The remedies against a public nuisance are:

1. Prosecution on complaint before the municipal court;

2. Prosecution on information or indictment before another appropriate court;

3. Civil action; or

4. Abatement:

a. By person injured as provided in 50 O.S. §12; or

b. By the city in accordance with law or ordinance. (Prior Code 1991, §8-404)

§ 34-62 REMEDIES AGAINST PRIVATE NUISANCES.

The remedies against a private nuisance are:

1. Civil action; and

2. Abatement:

a. By person injured as provided in 50 O.S. §§14, 15;

b. By the city in accordance with law or ordinance. (Prior Code 1991, §8-405)

§ 34-63 CITY HAS POWER TO DEFINE AND SUMMARILY ABATE NUISANCES.

As provided in 50 O.S. §16, the city has the right and power to determine what is and what shall constitute a nuisance within its corporate limits and, for the protection of the public health, the public parks, and the public water supply, has such power outside of its corporate limits. Whenever it is practical to do so, the city has the power summarily to abate any such nuisance after notice to the owner and an opportunity for him to be heard, if this can be given. (Prior Code 1991, §8-406)

§ 34-64 CERTAIN PUBLIC NUISANCES DECLARED.

In addition to other public nuisances declared by other sections of this Code or by law, the following are hereby declared to be public nuisances:

1. The sale, or offering for sale, of unwholesome food or drink; or the keeping of a place where such sales or offerings are made;

2. The sale, offering for sale, or furnishing of alcoholic beverages in violation of the state law or ordinances of the city; or keeping of a place where alcoholic beverages are sold, offered for sale, or furnished in violation of the state law or ordinances of the city;

3. The exposure, display, sale, or distribution of obscene pictures, books, pamphlets, magazines, papers, documents, or objects; or the keeping of a place such are exposed, displayed, sold, or distributed;

4. The keeping of a place where persons gamble, whether by cards, slot machines, punchboards or otherwise;

5. The keeping of a bawdy-house, house of ill-fame, house of assignation, house of prostitution, or any other house or place for persons to visit for unlawful sexual intercourse, or for any other lewd, obscene, or indecent purpose;

6. The keeping of a place where activities in violation of state law or ordinance are practiced or carried on;

7. The conduct or holding of public dances in violation of the ordinances of the city; or the keeping of a place where such dances are held;

8. The public exposure of a person having a contagious disease;

9. The continued making of loud or unusual noises which disturb persons of ordinary sensibilities; or the keeping of an animal which makes such noises;

10. The operation or use of any electrical apparatus or machine which materially or unduly interferes with radio, television, or other telecommunications reception by others;

11. Any use of a street or sidewalk or a place adjacent thereto which causes crowds of people to gather so as to obstruct traffic on such street or sidewalk, or which otherwise by law or ordinance;

12. Permitting water or other liquid to flow or fall, or ice or snow to fall, from any building or structure upon any street or sidewalk;

13. All wells, pools, cisterns, bodies, or containers of water in which mosquitoes breed or are likely to breed, which are so constructed, formed, conditioned, or situated as to endanger the public safety;

14. Rank weeds or grass, carcasses, accumulations of manure, refuse, or other things which are, or are likely to be, breeding places for flies, mosquitoes, vermin, or disease germs and the premises on which such exist;

15. Any pit, hole, or other thing which is so constructed, formed, conditioned, or situated as to endanger the public safety;

16. Any fire or explosion hazard which endangers the public safety;

17. Any occupation or activity which endangers the public peace, health, morals, safety or welfare;

18. Any motor vehicle (whether in operating condition or not) or any trailer without a current vehicle license plate and current safety inspection sticker as required by law for vehicles used on the public highways, when stored or kept in a residence district;

19. Any stable or other place where animals are kept that may become obnoxious or disturbing to any resident of this city by reason of any noise or noises made by the animal therein or by reason of lack of sanitation is hereby declared to be a nuisance; and

20. Every building or other structure that is or shall become unsafe and dangerous to the public health or safety because of fire, damage, decay, or other cause or condition or shall become hazardous from fire, by reason of age, decay, construction, location or other causes or shall be detrimental or dangerous to the health, safety, or welfare of this city or its inhabitants from any cause is hereby declared to be a nuisance.

The enumeration of certain public nuisances in this section shall be cumulative and not limit other provisions of law or ordinances defining public or private nuisances either in more general or more specific terms. (Prior Code 1991, §8-407)

***State Law Reference*: Similar provisions, 21 O.S. §1025.**

§ 34-65 SUMMARY ABATEMENT.

A. *Justification*. Some nuisances are of such nature as to constitute a grave and immediate danger to the peace, health, safety, morals, or welfare of one or more persons or of the public generally. It is recognized that circumstances may be such as to justify and even to require the city manager or other appropriate officer or agency of the city government to take immediate and proper action summarily to abate such nuisances or to reduce or suspend the danger until more deliberate action can be taken toward such abatement.

B. ***Statement of existence and recommendation of abatement*. The fire chief, the chief of police, the city attorney, the health officer, or any other designated subordinate of the city manager or any councilmember or resident may submit, through or with the consent of the city manger to the code administration officer, a statement as to the existence of a nuisance as defined by the ordinances of the city or state law and a request or recommendation that it be abated.**

C. ***Investigation and notification*. Upon receiving the complaint or observing the nuisance himself, the city manager or his designee will investigate the alleged nuisance. If he determines that a public nuisance exists, he will notify the person responsible for the nuisance. Such notice to the owner and other persons concerned shall be given in writing, by mail, or by service by a police officer if their names and addresses are known, but if the names and addresses are not known, and the public peace, health, safety, morals, or welfare would not be unduly jeopardized by the necessary delay, a notice of the hearing shall be published in a paper of general circulation within the city. Such notice shall provide not less than ten (10) days nor more than sixty (60) days, at the discretion of the city manager or his designee, in which to abate such nuisance or to request a hearing as hereinafter set forth.**

D. ***Hearing upon abatement notice*. If the person receiving the abatement notice wishes a hearing, he must request it in writing within ten (10) days and mail or file it with the city clerk. The hearing on his request will be before the city manager and will be held as soon as possible after the request is filed. The city manager shall render his decision by written memorandum and file the same with the city clerk, who shall thereupon mail a copy to the person or persons requesting the hearing at the last known mailing address.**

E. ***Appeal to city council*. If the person responsible for a nuisance wishes to appeal the city manager's decision, he may request a hearing before the city council. Such request must be in writing and submitted to the city clerk within five (5) days after notice of the decision of the city manager is mailed to him.**

F. ***Council to determine nuisance in fact*. The council shall determine whether or not the alleged nuisance is a nuisance in fact. For the purpose of gathering evidence on the subject, the council shall have power to subpoena and examine witnesses, books, papers, and other effects.**

G. ***Determination of nuisance by council*. If the council finds that a nuisance does in fact exist, it shall direct the owner or other persons responsible for or causing the nuisance to abate it within a specified time if the peace, health, safety, morals, or welfare of the person or persons or public adversely affected would not be unduly jeopardized by the consequent delay. If such peace, health, safety, morals, or welfare would be unduly jeopardized by the consequent delay, or if the owner or other persons responsible for or causing the nuisance do not abate it within the specified time, the council shall direct the city manager to abate the nuisance or to have it abated, if summary abatement is practical, as authorized by 50 O.S. §16. The city clerk shall send a statement of the cost of such**

summary abatement to the owner or other persons responsible for or causing the nuisance, as may be just under the circumstances, if the names and addresses are known.

Until paid, such cost shall constitute a debt to the city, collectible as other debts of the city may be collected. (Prior Code 1991, §8-408)

§ 34-66 ABATEMENT BY SUIT IN DISTRICT COURT.

In cases where it is deemed impractical summarily to abate a nuisance, the city may bring suit in the district court of the county in which the nuisance is located, as provided in 50 O.S. § 17. (Prior Code 1991, §8-409)

§ 34-67 COST OF ABATEMENT.

If the person responsible for the nuisance is unable to pay for its removal, the work may be done by the employees of this city under supervision of the city manager, or it may be let by contract to the lowest and best bidder, after appropriate notice, in the manner for letting other contracts. (Prior Code 1991, §8-410)

§ 34-68 COST TO BE DETERMINED; STATEMENT OF COST TO BE SENT.

Upon the completion of the work ordered to be performed under section 34-65, the city manager shall prepare a report on the cost thereof. Such report shall be itemized as to each tract, as follows: labor, machinery rental or depreciation, fuel and supplies, cost of notice, and other costs. The city manager shall determine the total actual costs of the work and shall direct the city clerk to forward a statement and demand payment thereof by certified mail with return receipt requested to the owner of the property at the address shown by the current tax rolls in the office of the treasurer of the county in which the property lies. If the statement is not paid within twenty (20) days after such statement is mailed, the council may direct the city attorney to institute action to establish its lien against the property on which such work was done and to request the court to cause such property to be sold and the lien paid. (Prior Code 1991, §8-411)

§ 34-69 FAILURE TO PAY COSTS; COSTS TO BE CERTIFIED TO COUNTY TREASURER.

In the event the city does not elect to proceed by legal action as set forth in this article, then six (6) months from the date of mailing the notice prescribed by section 34-67, the city clerk shall forward a certified statement of the amount of such costs to the county treasurer, which costs shall be levied upon the property and shall be collected by the county treasurer in the manner prescribed by the laws of the state. (Prior Code 1991, §8-412)

§ 34-70 DAMAGES AND PROSECUTION FOR PUBLIC OFFENSE.

The fact that the city has abated and removed a nuisance shall in no way excuse the party responsible therefore from any damages which may have resulted prior thereto.

Neither shall the order of abatement prevent the chief of police or other person from filing a complaint where the nuisance constitutes a public offense. The chief of police may file a complaint in each and every instance where the nuisance amounts to a public offense, and the person responsible therefore shall be prosecuted on such complaint. On determination of guilt, he shall be punished as provided for punishment of public offenses. (Prior Code 1991, §8-414)

§ 34-71 HEALTH NUISANCES; ABATEMENT.

A. Pursuant to authority granted by 63 O.S. §1-1011, the health officer shall have 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 other condition adversely affecting the public health, within twenty-four (24) hours or within such other time as may be reasonable, and a failure to do so shall constitute an offense. Such 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 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. If the premises is 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.

B. If the order is not complied with, the health officer may cause the order to be executed and complied with and the cost thereof shall be certified to the city clerk and the cost of removing or abating such nuisance 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 such other utility service. The cost shall be treated as a part of such 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.

C. If the owner or occupant is not a user of any city utility service, and if the order is not complied with, the health officer may cause the order to be executed and complied with and the cost thereof shall be certified to the county clerk, who shall add the same to the ad valorem taxes assessed against the property, and such cost shall be a lien against the property until paid and shall be collected in the same manner as ad valorem taxes against the property, and when collected shall be paid to the local health officer, or successor thereof, issuing the order, for reimbursement of the funds used to pay such cost. (Prior Code 1991, §8-415)

***State Law Reference*: Similar provisions, 63 O.S. §1011.**

§ 34-72 TOILET FACILITIES REQUIRED; NUISANCE.

A. *Definition*. For the purpose of this section, the following terms shall have the respective meanings ascribed to them in this section:

1. Human excrement means the bowel and kidney discharge of human beings.

2. Sanitary pit privy means a privy which is built, rebuilt, or constructed so as to conform with the specifications approved by the state health department.

3. Sanitary water closet means the 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.

B. *Installation and maintenance of sanitary facilities*. Every owner of a residence or other building in which humans reside, are employed, or congregate within this city shall install, equip, and maintain adequate sanitary facilities for the disposal of human excrement by use of a sanitary water closet. The closets and toilets hereby required shall be of the sanitary water closet type when located within three hundred (300) feet of a sanitary sewer and accessible thereto and of the sanitary water closet type (notwithstanding a greater distance from a sanitary sewer) or the water closet type emptying into a septic tank system. A septic tank system or a pit privy may be used in such cases only if it meets the standards of the state environmental quality board and is approved by the state department of environmental quality or a person authorized by the department.

C. *Disposal of human excrement*. All human excrement disposed of within this city shall be disposed of by depositing it in closets of the type provided for in this section. It is unlawful for any owner of property within the city to permit the disposal of human excrement thereon in any other manner or for any person to dispose of human excrement within the city in any other manner.

D. *Cleanliness and sanitation*. Any privy shall be kept clean and sanitary at all times, and the covers of the seats of privies shall be kept closed at all times when the privies are not being used. No wash water, kitchen slop, or anything other than human excrement and toilet paper shall be emptied into a privy.

E. *Endangerment of public health*. All facilities for the disposal of human excrement in a manner different from that required by this section, and all privies and closets 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. Any person maintaining any such nuisance is guilty of an offense, and each day upon which any such nuisance continues is a separate offense. (Prior Code 1991, §8-416)

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CHAPTER 38

FIRE PREVENTION AND PROTECTION*

ARTICLE 1

IN GENERAL

§ 38-1 Definitions.
§§ 38-2 – 38-25 Reserved.

ARTICLE 2

FIRE PROTECTION

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GENERALLY

§§ 38-26 – 38-50 Reserved.

DIVISION 2

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§ 38-52 Duties of fire chief.
§ 38-53 Subordinates; duties of assistant fire chief.
§ 38-54 Use of fire equipment, inventory, and repair.
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DIVISION 3

VOLUNTEER FIRE DEPARTMENT

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§ 38-82 Secretary-treasurer.
§ 38-83 New members.
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§ 38-170 New materials, processes, and occupancies.
§ 38-171 Appeals.
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******Cross references*: Civil emergencies, Part 26; burning refuse prohibited, §46-113; fire protection on mobile home, manufactured home, and travel trailer parks, §62-42; interference with fire hydrants, §70-43; storing or keeping explosives, §70-74; vehicle blocking fire exits or hydrants, §106-371 et seq.**

***State Constitution Reference*: firemen's pensions, OK Const. Art. 5 §41.**

***State Law References*: Adoption of fire prevention code, 11 O.S. §14-107; municipal regulation of fireworks, 11 O.S. §22-110; fire hazards, 11 O.S. §22-113; fire departments, 11 O.S. §29-101 et seq.; volunteer fire departments, 11 O.S. §29-201 et seq.; Oklahoma Firefighters Pension and Retirement System, 11 O.S. §49-100.1 et seq.; contract with fire protection district, 19 O.S. §901.25; liquefied petroleum gases, 52 O.S. §420.1 et seq.; nitroglycerine, 63 O.S. §128.1 et seq.**

ARTICLE 1

IN GENERAL

§ 38-1 Definitions.
§§ 38-2 – 38-25 Reserved.

§ 38-1 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:

1. Fire prevention code and life safety code mean such codes as adopted in article V of this chapter.

***Cross Reference*: Definitions generally, §1-2.**

§§ 38-2 – 38-25 RESERVED.

ARTICLE 2

FIRE PROTECTION

DIVISION 1

GENERALLY

§§ 38-26 – 38-50 Reserved.

§§ 38-26 – 38-50 RESERVED.

DIVISION 2

FIRE DEPARTMENT

§ 38-51 Created; duties; fire chief.
§ 38-52 Duties of fire chief.
§ 38-53 Subordinates; duties of assistant fire chief.
§ 38-54 Use of fire equipment, inventory, and repair.
§§ 38-55 – 38-80 Reserved.

§ 38-51 CREATED; DUTIES; FIRE CHIEF.

There shall be a fire department, the head of which shall be the fire chief. It is the duty of the fire department, among other duties that may be provided for by the council, 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, to promote fire prevention, and unless otherwise provided to enforce all ordinances relating to fires, fire prevention, and safety of persons from fire and explosions in theaters, stores, and other public buildings. (Prior Code 1991, §13-201)

§ 38-52 DUTIES OF FIRE CHIEF.

The fire chief shall be at the head of the department, subject to the city Charter, the ordinances of the city, and the laws of the state.

1. The fire chief shall be responsible for the general condition and efficient operation of the department, the training of members, and the performance of all other duties imposed upon him;

2. The fire chief may inspect or cause to be inspected by members of the department the fire hydrants, cisterns and other sources of water supply at least twice each year;

3. The fire chief shall maintain a library or file of publications on fire prevention and fire protection and shall make use of it to the best advantage of all members;

4. The fire chief shall make every effort to attend all fires and direct the officers and members in the performance of their duties;

5. The fire chief shall see that the citizens are kept informed on fire hazards in the community and on the activities of the department;

6. The fire chief shall see that each fire is carefully investigated to determine its cause, and in the case of suspicion of incendiarism shall notify proper authorities and secure and preserve all possible evidence for future use in the case;

7. The fire chief, or any agent designated by the city manager, is authorized to enter any building or premises in the city at any reasonable hour for the purpose of making inspections and to serve written notice on the owners or occupants to correct any hazard or violation that may be found; and

8. The fire chief, or any agent designated by the city manager, shall ensure that complete records are kept of all fires, inspections, apparatus and equipment, personnel, and other information of the department and shall make reports to the city manager as he may require. (Prior Code 1991, §13-202)

§ 38-53 SUBORDINATES; DUTIES OF ASSISTANT FIRE CHIEF.

In the absence of the fire chief, the assistant fire chief on duty shall command the department and be held responsible therefore in all respects with the full powers and responsibilities of the fire chief. Unless the city manager delegates any such appointive authority to the fire chief, the city manager shall appoint:

1. The assistant fire chief; and

2. Other officers and employees of the fire department, as deemed necessary, after consultation with the fire chief. (Prior Code 1991, §13-203)

§ 38-54 USE OF FIRE EQUIPMENT, INVENTORY, AND REPAIR.

A. No person shall use any fire apparatus or equipment for any private purpose, nor shall any person willfully and without proper authority take away or conceal any article used in any way by the fire department. No person shall enter any place where fire apparatus is housed or handle any apparatus or equipment belonging to the fire department unless accompanied by, or having the special permission of, an officer or authorized member of the fire department.

B. The fire chief shall prepare and keep a complete inventory of all property belonging to the fire department and shall at the expiration of his term turn over such inventory and all such property to his successor, together with all books, records, reports and data of the department. (Prior Code 1991, §13-204)

§§ 38-55 – 38-80 RESERVED.

DIVISION 3

VOLUNTEER FIRE DEPARTMENT

§ 38-81 Selection requirements for company officers.
§ 38-82 Secretary-treasurer.
§ 38-83 New members.
§ 38-84 Rules and regulations.
§ 38-85 Other rules and regulations.
§§ 38-86 – 38-110 Reserved.

§ 38-81 SELECTION REQUIREMENTS FOR COMPANY OFFICERS.

The company officers of the volunteer fire department shall be selected upon their ability to meet the following requirements:

1. Their knowledge of firefighting;

2. Their leadership ability; and

3. Their knowledge of firefighting equipment. (Prior Code 1991, §13-210)

***State Law Reference*: Volunteer fire departments, 11 O.S. §29-201 et seq.**

§ 38-82 SECRETARY-TREASURER.

One member elected by the volunteer fire department shall be secretary-treasurer. His duties shall consist of the following:

1. Calling the roll of the opening of each meeting;

2. Keeping the minutes of each meeting; and

3. Collecting any money due the department by the members. (Prior Code 1991, §13-211)

§ 38-83 NEW MEMBERS.

A. All new members shall be on probation for one year after their appointment. New probationary members shall be recommended by the fire chief and appointed by the city manager.

B. New volunteer members upon completion of their probation period must be approved by the fire chief and appointed by the city manager. (Prior Code 1991, §13-212)

§ 38-84 RULES AND REGULATIONS.

The volunteer fire department shall be subject to the following rules and regulations which shall be incorporated in the bylaws of the department:

1. A volunteer firefighter is required, when notified, to respond to alarms of fire and other emergencies;

2. A volunteer firefighter is required to be present at all regular meetings, call meetings, and schools presented for the benefit of the firefighters;

3. There shall be at least one regular business meeting each month;

4. Any volunteer firefighter having two unexcused absences in succession or three unexcused absences in a period of three months will be dropped from the fire department rolls;

5. Volunteer firefighters leaving the city for an extended period of time will be required to notify the fire chief;

6. Any volunteer firefighter refusing to attend training classes provided for him will be dropped from the rolls; and

7. Any volunteer member of the fire department shall be dropped from the rolls for the following offenses:

a. Conduct unbecoming a firefighter;

b. Any act of insubordination;

c. Neglect of duty;

d. Any violation of rules and regulations governing the fire department; or

e. Conviction of a felony. (Prior Code 1991, §13-213)

§ 38-85 OTHER RULES AND REGULATIONS.

The council, by ordinance, is hereby authorized to adopt other rules and regulations governing the fire department. (Prior Code 1991, §13-214)

§§ 38-86 – 38-110 RESERVED.

ARTICLE 3

CALLS OUTSIDE CORPORATE LIMITS

§ 38-111 Contracts authorized outside city limits.
§ 38-112 Contract terms; fees for services.
§ 38-113 Authority of fire department.
§ 38-114 Compensation; pension fund.
§ 38-115 Department considered agent of state; liability for damages.
§§ 38-116 – 38-140 Reserved.

§ 38-111 CONTRACTS AUTHORIZED OUTSIDE CITY LIMITS.

The city is hereby authorized and empowered to enter into contracts or agreements with individuals, firms, private corporations or associations, or 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. (Prior Code 1991, §13-220)

***State Law Reference*: Mutual aid, fire protection outside corporate limits, 11 O.S. §29-105 et seq.**

§ 38-112 CONTRACT TERMS; FEES FOR SERVICES.

A. The city shall charge a reasonable amount for fire services outside the city limits, the owner, association, or political subdivision for which services are furnished shall be responsible for payment.

B. Any contract entered into by the city with an individual owner, firm, private corporation, association, or political subdivision for outside aid or mutual aid for fire protection shall provide for the payment by the owner, firm, private corporation or association, or political subdivision to the city for such fire apparatus and personnel at the rate as set by the council. (Prior Code 1991, §13-221; Ord. No, 99-37, §1, 12-6-1999)

§ 38-113 AUTHORITY OF FIRE DEPARTMENT.

The fire department may respond to all requests from outside the corporate limits for services within the scope of its duties within the corporate limits, unless, in the opinion of the fire chief, it is inexpedient to do so because of another fire in the city, broken apparatus, impassable or dangerous highways, or other physical conditions. (Prior Code 1991, §13-222)

§ 38-114 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 - 29-108 shall be considered as serving in their regular line of duty as full as if they were serving within the corporate limits of the city; but 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 firefighting or fire prevention work or rescue, resuscitation, first aid, inspection, or any other official work has been within the corporate limits of the city. (Prior Code 1991, §13-223)

***State Law Reference*: Similar provisions, 11 O.S. §29-107.**

***Ed. Note*: Ord. Nos. 369; 97-10 and 2006 all pertaining to the pay for volunteer firefighters have been repealed by Ord. No. 10-10, 8/2/2010.**

§ 38-115 DEPARTMENT CONSIDERED AGENT OF STATE; LIABILITY FOR DAMAGES.

The fire department of the city 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 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. (Prior Code 1991, §13-224; Ord. No. 99-37, §2, 12-6-1999)

§§ 38-116 – 38-140 RESERVED.

ARTICLE 4

RURAL FIRE SERVICE

§ 38-141 Established.
§ 38-142 Advisory board established.
§§ 38-143 – 38-165 Reserved.

§38-141 ESTABLISHED.

A. *Establishment; direction*. There is hereby established the "Purcell Rural Fire Service," to be operated by the city fire department and be under the direction of the city council and city manager.

B. *Operation for rural residents*. The rural fire service shall be operated primarily for the purpose of providing fire protection to rural residents living outside of the corporate limits of the city, but within the area encompassed generally by the city mailing route or any other area recommended by the rural fire advisory board and approved by the city council.

C. *Annual membership fee*. This service is provided upon the annual payment of a membership fee, as set by the city council, by each home or property owner or resident. Payment of an annual membership fee by each home or property owner or resident will provide a fire truck and equipment for a rural fire service, purchased from the rural fire service membership fee and independent of the city fire equipment.

D. *Costs for nonpaying members*. The costs of fire calls to rural residents who are nonpaying members of the rural fire service shall be the same as the costs established in section 38-112.

E. *Membership fee due date*. Payment of the membership fee is due on or before July 1 of each year.

F. *Payment of claims and financial transactions*. Payment of claims and other financial transactions involving the use of funds derived from the rural fire service shall be made and processed in accordance with the requirements of state statutes, city ordinances and accepted city procedures.

G. ***Responsibility for damages by fire department*. In the performance of fire prevention or protection services outside the corporate limits of the city, the city fire department shall not assume responsibility for damages to structures incurred prior to the arrival of the department nor shall the department assume responsibility for damages to structures incurred as a result of late notification of the members of the department.**

H. ***Collection of unpaid fees*. Unpaid fees, charges, or annual memberships may be subject to collection by the city in any manner normally employed by the city, including the use of small claims procedures in the district court.**

I. ***Expense to members*. The expense to a rural fire member for a fire call shall be directed to the member's insurer based on the same rate as established in section 38-112. (Prior Code 1991, §13-230; Ord. No. 99-37, §3, 12-6-1999)**

§ 38-142 ADVISORY BOARD ESTABLISHED.

A. ***Establishment*. There is hereby established a "Purcell Rural Fire Service Advisory Board," for the purpose of advising the city council concerning the operation of the rural fire service.**

B. ***Composition*. The advisory board shall consist of a city representative and four additional members, who shall be appointed by the city council from the rural members of the rural fire service.**

C. ***Eligibility; terms*. All paying members of the rural fire service shall be eligible to serve on the advisory board. The board members shall serve for three (3) year staggered terms.**

D. ***Meetings*. The advisory board shall normally meet once each quarter of the year.**

E. ***Submission of purchases and activities for board's review*. The fire chief shall be responsible for ensuring that proposed fire protection-related purchases and activities are submitted to the advisory board for their recommendation and comment prior to final action by the city council, if in excess of $1,000.00. Failure to submit such proposals to the advisory board shall not invalidate city council action on any such proposal. (Prior Code 1991, §13-231; Ord. No. 99-37, §4, 12-6-1999)**

§§ 38-143 – 38-165 RESERVED.

******Cross References*: Civil emergencies, Part 26; burning refuse prohibited, §46-113; fire protection on mobile home, manufactured home, and travel trailer parks, §62-42; interference with fire hydrants, §70-43; storing or keeping explosives, §70-74; vehicle blocking fire exits or hydrants, §106-371 et seq.**

***State Constitution Reference*: firemen's pensions, OK Const. Art. 5 §41.**

***State Law References*: Adoption of fire prevention code, 11 O.S. §14-107; municipal regulation of fireworks, 11 O.S. §22-110; fire hazards, 11 O.S. §22-113; fire departments, 11 O.S. §29-101 et seq.; volunteer fire departments, 11 O.S. §29-201 et seq.; Oklahoma Firefighters Pension and Retirement System, 11 O.S. §49-100.1 et seq.; contract with fire protection district, 19 O.S. §901.25; liquefied petroleum gases, 52 O.S. §420.1 et seq.; nitroglycerine, 63 O.S. §128.1 et seq.**

ARTICLE 5

FIRE PREVENTION

§ 38-166 Adoption of Fire Prevention Code, Life Safety Code.
§ 38-167 Enforcement of codes.
§ 38-168 Storage of flammable liquids in outside aboveground tanks, LPG, explosives.
§ 38-169 Modifications.
§ 38-170 New materials, processes, and occupancies.
§ 38-171 Appeals.
§ 38-172 Penalties.

§ 38-166 ADOPTION OF FIRE PREVENTION CODE, LIFE SAFETY CODE.

There is hereby adopted by the city council for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion those certain codes known as the Fire Prevention Code, recommended by the National Fire Protection Association, and the Life Safety Code, recommended by the National Fire Protection Association, being particularly the latest editions thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified, or amended by this code. At least one copy of each code is on file in the office of the city clerk. The codes are hereby adopted and incorporated as fully as if set out at length in this article. The provisions thereof shall be controlling within the limits of the city. (Prior Code 1991, §13-101)

§ 38-167 ENFORCEMENT OF CODES.

A. *Administration*. The Fire Prevention Code and the Life Safety Code shall be administered and enforced by the "authority having jurisdiction," as used in such codes, which shall be the fire department, under the supervision of the fire chief or other city manager designee.

B. *Fire inspectors*. The fire chief may detail such members of the fire department as inspectors as may be necessary from time to time.

C. *Issuance of permits*. The fire chief shall issue all permits required by this article except as may be otherwise provided.

D. ***Definition of open burning*****. Open burning shall be defined as the burning of any materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. For the purpose of this definition, a chamber shall be regarded as enclosed when, during the time combustion occurs, only apertures, ducts, stacks, flues, or chimneys necessary to provide combustion air and permit the escape of exhaust gas are open.**

E. ***Open burning regulated*****. No person shall cause or permit open burning in any public or private place outside any building, provided that open burning may be conducted if no public nuisance is or will be created, as follows:**

1. Fires purposely set for the instruction and training of firefighting personnel when authorized by the fire chief.

2. Fires set for the elimination of fire hazards or hazardous material where there is no other practical or lawful method of disposal and such burning is authorized by the fire chief.

3. Recreation fires:

a. Campfires, bonfires, ceremonial occasions, or non-preparation of food with the following provisions:

1) All bonfires require a permit and will not be more than five (5) feet by five (5) feet by five (5) feet in dimension and shall burn for less than three (3) hours. Sponsors for special community events may apply to the fire chief for a special bonfire permit for a larger bonfire. A bonfire shall consist of seasoned dry wood. No gasoline or liquid hydrocarbon fuels shall be used for ignition.

2) Campfires are not permitted in residentially zoned areas. Campfires require a permit and approval of the fire chief.

3) Barbecue grills or other wood burning grills are allowed at public parks and recreational facilities if approved by the park manager. All fires on public park and recreation property shall be attended at all times by at least one adult individual until the fire is completely extinguished.

4) Fires used for food preparation purposes, fueled by wood, charcoal, and gas if confined within a metal or masonry appliance designed for such use are allowed without a permit, provided:

i. The fires are supervised;

ii. The size of fire does not present a fire-spread danger; and

iii. The fires are being used expressly for the preparation of food. Food preparation fires are not permitted directly on the ground, unless the containment is approved by the fire chief.

iv. Barbecuing on combustible decks or balconies at multistory apartment complexes is not allowed.

4. Fires purposely set for the management of forest or game in accordance with practices recommended by the state department of agriculture or the United States Forest Service and which are authorized by the fire chief.

5. Any burning within the city shall comply with all applicable provisions of the Oklahoma Clean Air Act (27A O.S. §2-5-101 et seq.) and the Air Pollution Control Rules adopted thereunder.

6. The city will comply with any burn ban declared by the state.

A permit, authorized by the fire chief, must be attained from the fire department seven days prior to any open burning permitted in this section. (Prior Code 1991, §13-102; Ord. No. 01-11, §1, 8-6-2001)

§ 38-168 STORAGE OF FLAMMABLE LIQUIDS IN OUTSIDE ABOVEGROUND TANKS, LPG, EXPLOSIVES.

The limits referred to in the Fire Prevention Code in which:

1. Storage of flammable liquids in outside aboveground tanks is prohibited;

2. New bulk plants for flammable liquids are prohibited;

3. Bulk storage of liquefied petroleum is prohibited; and

4. Storage of explosives and blasting agents is prohibited;

shall be as established by the city council. This section shall not prohibit installations described in subsections 1 and 2 of this section which are in existence at the initial effective date of the ordinance from which this section derives. (Prior Code 1991, §13-103)

***Cross Reference*: Environment, Part 34.**

§ 38-169 MODIFICATIONS.

The city manager and fire chief, with the approval of the city council, shall have power to modify any of the provisions of the Fire Prevention Code or of the Life Safety Code upon application in writing by the owner or lessee, or his duly authorized agent, 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. The particulars of such modification when granted or allowed and the decision of the manager, fire chief, and council thereon shall be entered upon the records of the council and a signed copy shall be furnished to the applicant. (Prior Code 1991, §13-104)

§ 38-170 NEW MATERIALS, PROCESSES, AND OCCUPANCIES.

The city manager, the fire chief, and one person appointed by the city council shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes, or occupancies which shall require permits in addition to those now enumerated in the Fire Prevention Code or the Life Safety Code. The fire chief shall post such list in a conspicuous place in his office and distribute copies thereof to interested persons. (Prior Code 1991, §13-105)

§ 38-171 APPEALS.

Whenever the fire chief or the city manager shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the Fire Prevention Code or the Life Safety Code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the city manager to the city council within thirty (30) days from the date of the decision appealed. (Prior Code 1991, §13-106)

§ 38-172 PENALTIES.

A. Any person who violates any of the provisions of the Fire Prevention Code or Life Safety Code or fails to comply therewith, or who violates or fails to comply with any order made thereunder, or who builds 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 fails to comply with such an order as affirmed or modified by the city council or by a court of competent jurisdiction, within the time fixed therein, shall severally for every such violation and noncompliance respectively be guilty of an offense punishable as provided in section 1-112 of this Code. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects within a reasonable time. When not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

B. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions. (Prior Code 1991, §13-107)

CHAPTER 42

FLOODS*

§ 42-1 Statutory authorization.
§ 42-2 Findings of fact.
§ 42-3 Statement of purpose.
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§ 42-6 Lands to which this chapter applies.
§ 42-7 Basis for establishing the areas of special flood hazard.
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§ 42-17 Provisions for flood hazard reduction-General standards.
§ 42-18 Same-Specific standards.
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§ 42-20 Same-Standards for areas of shallow flooding *(AO/AH* zones).
§ 42-21 Same-Floodways.
§ 42-22 Same-Penalties for noncompliance.

***Editor's Note*: Ord. No. 07-14, §1, adopted October 1, 2007, amended Part 42 in its entirety to read as herein set out. Formerly, Part 42 pertained to similar subject matter, and derived from Ord. No. 95-03, Arts. 1-5.**

***Cross References*: Buildings and building regulations, Part 14; environment, Part 34; health and sanitation, Part 46; manufactured homes and trailers, Part 62; natural resources, Part 66; planning, Part 82; streets, sidewalks, and other public places, Part 90; subdivisions, Part 94; utilities, Part 110; zoning, Part 122; floodway, F-l district, §122-506 et seq.; floodway fringe, F-2 district, §122-536 et seq.**

***State Law References*: Oklahoma Flood Hazard Mitigation Program, 63 O.S. §690.1 et seq.; application of the Oklahoma Floodplain Management Act to municipalities, 82 O.S. §1618.**

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§ 42-19 Same-Standards for subdivision proposals.
§ 42-20 Same-Standards for areas of shallow flooding (AO/AH zones).
§ 42-21 Same-Floodways.
§ 42-22 Same-Penalties for noncompliance.

§ 42-1 STATUTORY AUTHORIZATION.

The legislature of the state has in 82 O.S. §§1601-1618, as amended, chapter 23 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the city ordains the following. (Ord. No. 07-14, §1, 10-1-2007)

§ 42-2 FINDINGS OF FACT.

A. The flood hazard areas of the city 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 loses 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 hazards 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. 07-14, §1, 10-1-2007)

§ 42-3 STATEMENT OF PURPOSE.

It is the purpose of this chapter 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; and

7. Insure that potential buyers are notified that property is in a flood area. (Ord. No. 07-14, §1, 10-1-2007)

§ 42-4 METHODS OF REDUCING FLOOD LOSSES.

In order to accomplish its purposes, this chapter uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

2. Require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;

3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

4. Control filling, grading, dredging and other development, which may increase flood damage;

5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands. (Ord. No. 07-14, §1, 10-1-2007)

§ 42-5 DEFINITIONS.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. Accessory structures mean structures which are on the same parcel of property as the principle structure and the use of which is incidental to the use of the principle structure (such as garages and storage sheds).

2. Area of shallow flooding means a designated AO or AH zone on a community's flood insurance rate map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth 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.

3. 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. The area may be designated as zone A on the flood hazard boundary map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, zone A usually is refined into zones A, AE, AH, AO or A1-99.

4. Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

5. Base flood elevation means the elevation in feet above mean sea level of the base flood or one percent chance flood.

6. Basement means any area of the building having its floor sub-grade (below ground level) on all sides.

7. Board means the Oklahoma Water Resources Board.

8. 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.

9. Development means any man-made 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.

10. Elevated building means a non-basement building built, in the case of a building in zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, 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 A1-30,

AE, A, A99, AO, AH, B, C, X, and D, "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 flood waters.

11. 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."

12. 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 the effective date of the floodplain management regulations adopted by a community.

13. 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),

14. Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

a. The overflow of inland or tidal waters.

b. The unusual and rapid accumulation or runoff of surface waters from any source.

15. Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

16. Flood insurance study means the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the floodway width, section area and mean velocity.

17. Floodplain administrator means a person accredited by the board and designated by a floodplain board, to administer and implement laws and regulations relating to the management of the floodplains.

18. Floodplain board means the city council.

19. Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of flooding).

20. 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.

21. Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) 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.

22. 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 a community 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.

23. Flood proofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

24. Floodway (regulatory 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.

25. 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 long-term storage or related manufacturing facilities.

26. Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

27. Historic structure means any structure that is:

a. 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;

b. 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;

c. 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

d. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:

1) By an approved state program as determined by the secretary of the interior or;

2) Directly by the secretary of the interior in states without approved programs.

28. Levee means a man-made 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.

29. 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.

30. 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 non-elevation design requirement of section 60.3 of the national flood insurance program regulations.

31. 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".

32. 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.

33. 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 a community's flood insurance rate map are referenced.

34. 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 a community and includes any subsequent improvements to such structures.

35. 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 a community.

36. Recreational vehicle means a vehicle which is:

a. Built on a single chassis;

b. Four hundred (400) square feet or less when measured at the largest horizontal projections;

c. Designed to be self-propelled or permanently towable by a light duty truck; and

d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

37. Start of construction, (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 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 one-hundred eighty (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.

38. 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.

39. 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 fifty (50) percent of the market value of the structure before the damage occurred.

40. Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before "start of construction" of the structure before "start of construction" of the improvement. This inc1udes structures that have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

a. 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

b. Any alteration of a "historic structure" provided that the alteration would not prec1ude the structure's continued designation as a "historic structure."

41. Variance is a grant of relief to a person from the requirement of these regulations or ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by these regulations. (For full requirements see section 60.6 of the national flood insurance program regulations.)

42. Violation means the failure of a structure or other development to be fully compliant with this community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in sections 60.3(b)(5), (c)(4), (c)(10) or (d)(3) is presumed to be in violation until such time as that documentation is provided.

43. Water surface elevation means the height, in relation to the North American Vertical Datum (NA "'1) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplain of coastal or riverine areas. (Ord. No. 07-14, §1, 10-1-2007)

§ 42-6 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the city. (Ord. No. 07-14, §1, 10-1-2007)

§ 42-7 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for McClain County, Oklahoma and Incorporated Areas" dated November 16, 2007, and "The Flood Insurance Study for Cleveland County and Incorporated Areas" with accompanying Flood Insurance Rate Map (FIRM) dated September 26, 2008, are hereby adopted by reference and declared to be a part of this ordinance. However, the current existing flood damage prevention ordinance shall remain in effect until September 26, 2008. This amendment will then become effective on September 26, 2008. (Ord. No. 07-14, §1, 10-1-2007; Ord. No. 08-08, 8/4/2008)

§ 42-8 ESTABLISHMENT OF DEVELOPMENT PERMIT.

A development permit shall be required to ensure conformance with the provisions of this chapter. (Ord. No. 07-14, §1, 10-1-2007)

§ 42-9 COMPLIANCE.

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this chapter and other applicable regulations. (Ord. No. 07-14, §1, 10-1-2007)

§ 42-10 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and any other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. No. 07-14, §1, 10-1-2007)

§ 42-11 INTERPRETATION.

In the interpretation and application of this chapter, all provisions shall be:

1. Considered as minimum requirements;

2. Liberally construed in favor of the governing body; and

3. Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. No. 07-14, §1, 10-1-2007)

§ 42-12 WARNING AND DISCLAIMER OR LIABILITY.

The degree of flood protection required by this chapter 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 man-made or natural causes. This chapter 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 chapter shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made hereunder. (Ord. No. 07-14, §1, 10-1-2007)

§ 42-13 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR.

The city council shall appoint, by resolution, a floodplain administrator to administer and implement the provisions of this chapter and other appropriate sections of 44 CFR (national flood insurance program regulations) pertaining to floodplain management. (Ord. No. 07-14, §1, 10-1-2007)

§ 42-14 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

1. Maintain and hold open for public inspection all records pertaining to the provisions of these regulations.

2. Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.

3. Review, approve or deny all applications for development permits required by adoption of these regulations.

4. Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval are required.

5. 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) the floodplain administrator shall the necessary interpretation.

6. Notify, in riverine situations, adjacent communities and the state coordinating agency, the Oklahoma Water Resources Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

8. When base flood elevation data has not been provided in accordance with section 42-7, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of sections 42-17 - 42-22.

9. When a regulatory 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 zones AI-30 and AE on the community's 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 community.

10. Under the provisions of 44 CFR chapter 1, section 65.12, of the national flood insurance program regulations, a community may approve certain development in zones AI-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first complies with 44 CFR, chapter 1, section 65.12.

11. Become accredited by the board in accordance with 82 O.S. §§1601-1618, as amended.

12. After a disaster or other type of damage occurrence to structures in the city, determine if the residential and non-residential structures and manufactured homes located in the SFHA have been substantially damaged and enforce the substantial improvement requirement. (Ord. No. 07-14, §1, 10-1-2007)

§ 42-15 PERMIT PROCEDURES.

A. 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;

2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

3. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of subsection 42-18(2);

4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;

5. Maintain a record of all such information in accordance with subsection 42-14(1).

B. Approval or denial of a development permit by the floodplain Administrator shall be based on all of the provisions of these regulations 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 maybe 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;

10. The relationship of the proposed use to the comprehensive plan for that area. (Ord. No. 07-14, §1, 10-1-2007)

§ 42-16 VARIANCE PROCEDURES.

A. The appeal board is the board of adjustment and shall hear and render judgment on requests for variances from the requirements of this chapter.

B. The appeal board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this chapter.

C. Any person or persons aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.

D. The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

E. 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 chapter.

F. 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 subsection 42-15(2) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

G. Upon consideration of the factors noted above and the intent of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter (section 42-13).

H. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

I. 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.

J. Pre-requisites for granting variances:

1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

2. Variances shall only be issued upon:

a. Showing a good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

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.

3. A written notice will be provided to any person granted a variance to build a structure below the base flood elevation. This notice will inform the variance applicant that 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.

K. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

1. The criteria outlined in subsections (a)(i) are met, and

2. 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.

L. Any person seeking a variance shall file a petition with the floodplain board, accompanied by a filing fee of twenty-five dollars ($25.00).

M. A copy of any variance issued shall be sent to the OWRB within in fifteen (15) days of issuance. (Ord. No. 07-14, §1, 10-1-2007)

§ 42-17 PROVISIONS FOR FLOOD HAZARD REDUCTION-GENERAL STANDARDS.

In all areas of special flood hazard 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/or 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 flood waters into the system;

6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and

7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Ord. No. 07-14, §1, 10-1-2007)

§ 42-18 SAME-SPECIFIC STANDARDS.

In all areas of special flood hazards 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 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 as proposed in subsection 42-15(1), 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 as proposed in subsection 42-15(1), 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.

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 a community's FHBM or FIRM shall be installed using methods and practices that minimize flood damage and have the bottom of the I-beam elevated at least one foot 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. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for a licensed installer shall install resisting wind forces and the home and comply with state law.**

b. **Require that manufactured homes that are placed or substantially improved within zones AI-30, AR, and AE on the community's 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 elevated at least one foot above the base flood elevation, at and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. Also, the home shall be installed by a licensed installer and comply with state law.**

c. **Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with zones AI-30, AH and AE on the community's FIRM that are not subject to the provisions of subsection (4) be elevated so that the bottom of the I-beam of the manufactured home is 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 support the manufactured home chassis and also installed by a licensed installer that complies with state law.**

5. **Recreational vehicles. Require that recreational vehicles placed on sites within zones AI-30, AR, and AE on the community's FIRM either:**

a. **Be on the site for fewer than one-hundred eighty (180) consecutive days;**

b. **Be fully licensed and ready for highway use; or**

c. **Meet the permit requirements of subsection 42-15(1), and the elevation and anchoring requirements for "manufactured homes" in subsection (4). 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.**

a. **Structure is low valued and represents a minimal investment.**

b. **Structure shall be small and not exceed six hundred (600) square feet in size.**

c. **Structure shall be unfinished on the interior.**

d. **Structure can be used only for parking and limited storage.**

e. **Structure shall not be used for human habitation (including work, sleeping, living, cooking, or restroom areas).**

f. **Service facilities such as electrical and heating equipment must be elevated to or above the BFE or floodproofed.**

g. **Structure is constructed and placed on building site so as to offer the minimum resistance to the flow of floodwaters.**

h. **Structure is designed to have low flood damage potential i.e. constructed with flood resistance materials.**

i. **Structure is firmly anchored to prevent flotation, collapse, and lateral movement.**

j. **Floodway requirements must be met in the construction of the structure.**

k. **Openings to relieve hydrostatic pressure during a flood shall be provided below the BFE.**

l. **Structure is to be located so as not to cause damage to adjacent and nearby structures. (Ord. No. 07-14, §1, 10-1-2007)**

§ 42-19 SAME-STANDARDS FOR SUBDIVISION PROPOSALS.

A. **All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with sections 42-2, 42-3, and 42-4.**

B. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet development permit requirements of sections 42-8, 42-15 and 42 §§17-42-22.

C. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than fifty (50) lots or five acres, whichever is lesser, if not otherwise provided pursuant to section 42-7 or subsection 42-14(8).

D. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

E. All subdivision proposals 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. 07-14, §1, 10-1-2007)

§ 42-20 SAME-STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES).

Located within the areas of special flood hazard established in section 42-7 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 and where the path of flooding is unpredictable and where velocity flows may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

2. All new construction and substantial improvements of non-residential structures;

a. Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or

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 of effects of buoyancy.

3. A registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section, as proposed in section 42-15(1), are satisfied.

4. Require within zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures. (Ord. No. 07-14, §1, 10-1-2007)

§ 42-21 SAME-FLOODWAYS.

Floodways located within areas of special flood hazard established in section 42-7, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory 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 community during the occurrence of the base flood discharge.

2. If subsection (1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of sections 42-17 - 42-22.

3. Under the provisions of 44 CFR chapter 1, section 65.12, of the national flood insurance regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community complies with all of 44 CFR Chapter 1, Section 65.12. (Ord. No. 07-14, §1, 10-1-2007)

§ 42-22 SAME-PENALTIES FOR NONCOMPLIANCE.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter 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 chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than five hundred dollars ($500.00) or imprisoned for not more than thirty (30) days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city councilor city attorney from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. No. 07-14, §1, 10-1-2007)

CHAPTER 46

HEALTH AND SANITATION*

ARTICLE 1

IN GENERAL

§ 46-1 **Food service establishments.**
§§ 46-2 – 46-25 **Reserved.**

ARTICLE 2

ENFORCEMENT; PENALTY

§ 46-26 **Health officer designated to enforce health ordinances.**
§ 46-27 **Interference.**
§ 46-28 **Quarantine; violations.**
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ARTICLE 3

TOBACCO; SMOKING

DIVISION 1

GENERALLY

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§ 46-81 **Minors prohibited from receiving tobacco products.**
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******Cross References*: Animals, ch. 10; buildings and building regulations, ch. 14; environment, ch. 34; floods, ch. 42; manufactured homes and trailers, ch. 62; natural resources, ch. 66; utilities, ch. 110.**

***State Law References*:** **Milk and dairy products and milk products plants, 2 O.S. §7-1.1 et seq.; municipal hospitals, 11 O.S. §22-104; cleaning and mowing of property, 11 O.S. §22-111; health in municipalities, 11 O.S. §22-120 and 63 O.S. §1-209; Oklahoma Public Health Code, 63 O.S. §1-101 et seq.; food, 63 O.S. §1-1101 et seq.**

ARTICLE 1

IN GENERAL

§ 46-1 Food service establishments.
§§ 46-2 – 46-25 Reserved.

§ 46-1 FOOD SERVICE ESTABLISHMENTS.

A. The latest edition of the permanent rules of the state department of health pertaining to food service establishments, as codified in title 310, chapter 256 of the Oklahoma Administrative Code (O.A.C. §310:256-1-1 et seq.), promulgated for the purpose of implementing 63 O.S. §§1-1101-1-1139, is adopted as a part of this section as if set out at length in this section. Three copies of such rules are on file in the office of the city clerk. The rules shall govern the definitions; inspection of food service establishments; the issuance, suspension, and revocation of permits to operate food service establishments; the prohibiting of the sale of adulterated or misbranded food or drink; and the enforcement of this section.

B. Any person who violates any of the provisions of this section shall be guilty of misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-112 of this Code. In addition thereto, any person convicted of violation may be enjoined from continuing the violation. (Prior Code 1991, §8-201)

§§ 46-2 – 46-25 RESERVED.

***Cross Reference*: Businesses, ch. 18.**

ARTICLE 2

ENFORCEMENT; PENALTY

§ 46-26 Health officer designated to enforce health ordinances.
§ 46-27 Interference.
§ 46-28 Quarantine; violations.
§ 46-29 Penalty.
§§ 46-30 – 46-55 Reserved.

§ 46-26 HEALTH OFFICER DESIGNATED TO ENFORCE HEALTH ORDINANCES.

It is the intent and purpose of the city council to delegate the enforcement of the health ordinances of this city to the health officer, and any decisions rendered under this section shall be subject to review by the city council upon an appeal from an offender. (Prior Code 1991, §8-801)

***Cross Reference*: Officers and employees, §2-56 et seq.**

§ 46-27 INTERFERENCE.

It is unlawful for any person to willfully obstruct or interfere with the health officer or any other officer charged with the enforcement of the health ordinances of this city. (Prior Code 1991, §8-802)

§ 46-28 QUARANTINE; VIOLATIONS.

It is unlawful for any person to willfully violate or refuse or omit to comply with any lawful order, direction, prohibition, rule, or regulation of the board of health or any officer charged with enforcement of such order, direction, prohibition, rule or regulation. (Prior Code 1991, §8-803)

***State Law Reference*: Local health services, 63 O.S. §1-201 et seq.**

§ 46-29 PENALTY.

Any person who violates any provision of this chapter is guilty of an offense and upon conviction thereof shall be punished as provided in section 1-112 of this Code. In addition thereto, such person may be enjoined from continuing such violations. (Prior Code 1991, §8-804)

§§ 46-30 – 46-55 RESERVED.

ARTICLE 3

TOBACCO; SMOKING

DIVISION 1

GENERALLY

§ 46-56 State law adopted.
§§ 46-57 – 46-80 Reserved.

§ 46-56 STATE LAW ADOPTED.

A. The Smoking in Public Places Act (63 O.S. §§1-15521 - 1-1527), as now or hereafter amended, is hereby adopted as if set out at length in this section and any violation of such act shall be punishable as provided in section 1-112 of this Code.

B. The use of any tobacco-related products, including, but not limited to, smoking products, chewing tobacco, dip, snuff, etc., is prohibited within all building/structures regardless if owned, leased or operated by the city and/or the city

public works authority. Additionally, if a designated area is established, tobacco products shall only be permitted in that designated location. (Prior Code 1991, §8-701; Ord. No. 02-13, §1, 9-3-2002)

§§ 46-57 – 46-80 RESERVED.

DIVISION 2

USE OF TOBACCO BY MINORS

§ 46-81 Minors prohibited from receiving tobacco products.
§ 46-82 Providing tobacco to minors.
§ 46-83 Distribution of tobacco product samples.
§ 46-84 Minors may assist in enforcement.
§§ 46-85 – 46-110 Reserved.

§ 46-81 MINORS PROHIBITED FROM RECEIVING TOBACCO PRODUCTS.

A. It is unlawful for a person who is under eighteen (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 eighteen (18) years of age to handle tobacco products when required in the performance of the employee's duties.

B. The city shall impose a fine not to exceed one hundred dollars ($100.00), plus costs, for violation of subsection A of this section. (Ord. No. 01-07, §1, 8-6-2001)

§ 46-82 PROVIDING TOBACCO TO MINORS.

A. *Prohibited; exception*. It is unlawful for any person to sell or furnish in any manner any tobacco product to another person who is under eighteen (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 eighteen (18) years of age to handle tobacco products when required in the performance of the employee's duties.

B. *Proof of age*. 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 eighteen (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 eighteen (18) years of age, the failure to subsequently require proof of age shall not constitute a violation of this section.

C. *Fine for violation*. The city shall impose a fine of not more than one-hundred dollars ($100.00), plus costs, for violation of subsections A and B of this section.

D. ***Defense*****. Proof that the person engaged in the sale or distribution of tobacco products 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 upon proof of age, and that person shall not be found guilty of violation of this section if the person proves that:**

1. The individual who purchased or received the tobacco products presented a driver's license or other government-issued photo identification purporting to establish that the individual was eighteen (18) years of age or older.

2. The person cited for the violation confirmed the validity of the driver's license or other government-issued photo identification presented by the individual by performing a transaction scan by means of a transaction scan device.

3. 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's license or other government-issued photo identification was that of the individual who presented it. The availability of the defense described in subsection D of this section does not affect the availability of any other defense under any other provision of law.

E. ***Sales to employees*****. If the sale is made by an employee of the owner of a store at which tobacco products are sold at retail, the employee shall be guilty of the violation and shall be subject to the fine. If the sale is made by an employee who has previously been twice found to be in violation of this section, the owner of the store, if the owner knew of the employee's previous violations, shall also be found to be in violation and shall be subject to an identical fine.**

F. ***Individual locations deemed separate entities*****. For purposes of determining the liability of a person controlling franchises or business operations in multiple locations for any violation of subsection A or B of this section, each individual franchise or business location shall be deemed a separate entity. (Ord. No. 01-07, §3, 8-6-2001)**

§ 46-83 DISTRIBUTION OF TOBACCO PRODUCT SAMPLES.

A. It shall be unlawful for any person to distribute tobacco product samples to any person under eighteen (18) years of age.

B. Notwithstanding subsection A of this section, no person shall distribute tobacco product samples in or on any public street, sidewalk, or park that is within three-hundred (300) feet of any playground, school, or other facility when the facility is being used primarily by persons under eighteen (18) years of age.

C. The city shall impose a fine of not more than one-hundred dollars ($100.00) plus costs for violation of subsection A or B of this section. (Ord. No. 01-07, §3, 8-6-2001)

§ 46-84 MINORS MAY ASSIST IN ENFORCEMENT.

Persons under eighteen (18) years of age may be enlisted by the city to assist in enforcement of this division, provided such persons may be used to test compliance only if written parental consent has been provided and the testing is conducted under the direct supervision of the city police department or conducted by another law enforcement agency if such agency has given written notice to the city. (Ord. No. 01-07, §4, 8-6-2001)

§§ 46-85 – 46-110 RESERVED.

ARTICLE 4

WEEDS; TRASH

DIVISION 1

GENERALLY

§ 46-111 Definitions.
§ 46-112 Unlawful to deposit rubbish.
§ 46-113 Burning refuse prohibited.
§ 46-114 Abandonment of refrigerators and iceboxes in places accessible to children.
§ 46-115 Penalty.
§§ 46-116 – 46-140 Reserved.

§ 46-111 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. Cleaning means the removal of trash from property.

***Cross Reference*: Vegetation, ch. 114.**

***State Law Reference*: Cleaning and mowing of property, 11 O.S. §22-111.**

2. Excessive weed, grass, and other such vegetation growth means such vegetation that is growing to a height of six inches or more.

3. Litter means any flaming or glowing substances except those which by law may be placed upon highway rights-of-way, any substance which may cause a fire and any other used, disposed of, or abandoned bottles, cans, garbage, street cleanings, appliances, paper wrappings, cigarette butts, cardboard, yard clippings, wood, grass, bedding, or waste paper. The term "litter" also means to place, throw, drop, dump, deposit, discard, scatter any used or disposed of object or substance that is referred to in this definition.

4. Owner means the owner of record as shown by the most current tax rolls of the county treasurer.

5. 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.

6. Weed includes, but is not limited to, poison ivy, poison oak, or poison sumac and all vegetation at any state of maturity which:

a. Exceeds twelve (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;

b. Regardless of height, harbors, conceals, or invites deposits or accumulation of refuse or trash;

c. Harbors rodents or vermin;

d. Gives off unpleasant or noxious odors;

e. Constitutes a fire or traffic hazard; or

f. Is dead or diseased.

The term "weed" shall not include tended crops on land zoned for agricultural use which are planted more than one-hundred fifty (150) feet from a parcel zoned for other than agricultural use. (Code 1991, §§8-102, 8-111(A); Ord. No. 03-01, §1, 2-3-2003)

***Editor's Note*: Conflicts and redundancies within the above section have been eliminated by deleting language from the definition of "litter." Any changes in, or additions to, the wording of the definition of "litter" that may be made by the city may also require changes in other definitions in the above section.**

***Cross Reference*: Definitions generally, §1-2.**

***State Law Reference*: Similar provisions, 11 O.S. §22-111(D) and 21 O.S. §1753.3.**

§ 46-112 ULAWFUL TO DEPOSIT RUBBISH.

It is unlawful for any person to throw, place, or deposit any rubbish, trash, slop, garbage, filthy substance, grass, weeds, tree, brush, or any other refuse or waste matter in any street, avenue, alley, or in any ditch or watercourse, or upon the premises of another, or upon any public ground in this city. (Prior Code 1991, §8-109)

§ 46-113 BURNING REFUSE PROHIBITED.

It is unlawful to bum refuse, including all kinds of rubbish and trash, within the city limits, except as may be permitted in the city's fire code. "Refuse" is defined as garbage, rubbish, and all other wastes generated by a trade, business, industry, building operation, or household. Any burning within the city shall comply with all applicable provisions of the Oklahoma Clean Air Act (27A O.S. §2-5-101 et seq.) and the Air Pollution Control Rules adopted thereunder. (Ord. No. 01-11, §1, 8-6-2001)

***Cross Reference*: Fire prevention and protection, ch. 38.**

§ 46-114 ABANDONMENT OF REFRIGERATORS AND ICEBOXES IN PLACES ACCESSIBLE TO CHILDREN.

Any person, firm, or corporation who abandons or discards in any place accessible to children any refrigerator, icebox, or ice chest of a capacity of one and one-half (1½) cubic feet or more which has an attached lid or door which may be opened or fastened shut by means of an attached latch or who, being the owner, lessee, or manager of such place, knowingly permits such abandoned or discarded refrigerator, icebox, or ice chest to remain in such condition shall be deemed negligent as a matter of law and shall be guilty of a misdemeanor. (Prior Code 1991, §8-115)

***State Law Reference*: Similar provisions, 21 O.S. §120S.**

§ 46-115 PENALTY.

Any person, firm, or corporation who violates any of the provisions of this article or who shall allows any premises occupied to become unsanitary, shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished as provided in section 1-112 of this Code. (Prior Code 1991, §8-116)

§§ 46-116 – 46-140 RESERVED.

DIVISION 2

ACCULULATION, GROWTH GENERALLY

§ 46-141 Accumulation of trash, growth, or standing weeds unlawful.
§ 46-142 Reports of violations.

§ 46-143 Receipt of report; hearing and notice; summary abatement.
§ 46-144 Right of entry, work done by employees or contract.
§ 46-145 Determination and assessments of costs.
§ 46-146 Council may designate officer to perform duties; appeals.
§§ 46-147 – 46-170 Reserved.

§ 46-141 ACCUMULATION OF TRASH, GROWTH, OR STANDING WEEDS UNLAWFUL.

A. It is unlawful for any owner or any other person 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 to accumulate or weeds to grow or stand upon such premises, and it is the duty of such owner to remove or destroy any such trash or weeds.

B. The provision of this division shall not apply to any property zoned and used for agricultural purposes. (Prior Code 1991, §8-101)

***State law reference*: Authority to prohibit trash, weeds on property, 11 O.S. §22-111(C).**

§ 46-142 REPORTS OF VIOLATIONS.

A. Any officer or employee of the city who discovers an accumulation of trash or the growth of grass and weeds, or both these conditions, upon any premises within the limits of the city shall report the condition to the city manager if, as a result of the accumulation or growth, the premises appear to be:

1. Detrimental to the health, benefit, and welfare of the public and the community;

2. A hazard to traffic; or

3. A fire hazard to property.

B. The code enforcement officer or any other person authorized by the city manager shall, on a citizen's complaint or upon his own notice, inspect subject property. If his inspection reveals a violation of one or more of the conditions in subsections A (1) through (3) of this section, he shall report his findings to the city manager. (Prior Code 1991, §8-103)

***State Law Reference*: Cleaning and mowing of property, procedures and powers, 11 O.S. §22-111.**

§ 46-143 RECEIPT OF REPORT; HEARING AND NOTICE; SUMMARY ABATEMENT.

A. Upon receiving the report provided for in section 46-142, or upon receipt of equivalent information from any reliable source, the city manager shall cause property within the city limits to be cleaned of trash and weeds or grass to be cut or mowed in accordance with the following procedure:

1. At least ten (10) days' notice shall be given to the owner of the property by mail at the address shown by the current year's tax rolls in the county treasurer's office before the city manager holds a hearing or takes action. The notice shall order the property owner to clean the property of trash or to cut or mow the weeds or grass on the property, as appropriate, and the notice shall further state that unless such work is performed within ten (10) days of the date of the notice, the work shall be done by the city and a notice of lien shall be filed with the county clerk against the property for the costs due and owing the city. At the time of mailing of notice to the property owner, the city shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. However, if the property owner cannot be located within ten days from the date of mailing by the city manager, notice may be given by posting a copy of the notice on the property or by publication, as defined in 11 O.S. §1-102, one time not less than ten (10) days prior to any hearing or action by the city. If the city manager anticipates summary abatement of a nuisance in accordance with the provisions of subsection B of this section, the notice, whether by mail, posting, or publication, shall state that any accumulations of trash or excessive weed or grass growth on the owner's property occurring within six months from and after the date of this notice may be summarily abated by the city manager; that the costs of such abatement shall be assessed against the owner; and that a lien may be imposed on the property to secure such payment, all without further prior notice to the property owner.

2. The owner of the property may give written consent to the city authorizing the removal of the trash or the mowing of the weeds or grass. By giving written consent, the owner waives the owner's right to a hearing by the city.

3. A hearing may be held by the city manager to determine whether the accumulation of trash or the growth of weeds or grass has caused the property to become detrimental to the health, benefit, and welfare of the public and the community or a hazard to traffic or creates a fire hazard to the danger of property.

4. Upon a finding that the condition of the property constitutes a detriment or hazard and that the property would be benefitted by the removal of such conditions, the agents of the city are granted the right of entry on the property for the removal of trash, mowing of weeds or grass, and performance of the necessary duties as a governmental function of the city. Immediately following the cleaning or mowing of the property, the city clerk shall file a notice of lien with the county clerk describing the property and the work performed by the city and stating that the city claims a lien on the property for the cleaning or mowing costs.

5. The city manager shall determine the actual cost of such cleaning and mowing and any other expenses as may be necessary in connection therewith, including the cost of notice and mailing. The city clerk shall forward by mail to the property owner specified in subsection (A)(1) of this section a statement of such actual cost and demanding payment. If the cleaning and mowing is done by the city, the cost to the property owner for the cleaning and mowing shall not exceed the actual cost of the labor, maintenance, and equipment required. If the cleaning and mowing is done on a private-contract basis, the contract shall be awarded to the lowest and best bidder.

6. If payment is not made within thirty (30) days from the date of the mailing of the statement, the city clerk shall forward a certified statement of the amount of the cost to the county treasurer and the same shall be levied on the property and collected by the county treasurer as other taxes authorized by law. Once certified by the county treasurer, payment may only be made to the county treasurer, except as otherwise provided for in this section. Until fully paid, the cost and the interest thereon shall be the personal obligation of the property owner from and after the date the cost is certified to the county treasurer. In addition, the cost and the interest thereon shall be a lien against the property from the date the cost is certified to the county treasurer, coequal with the lien of ad valorem taxes and all other taxes and special assessments and prior and superior to all other titles and liens against the property, and the lien shall continue until the cost shall be fully paid. At the time of collection the county treasurer shall collect a fee of five dollars ($5.00) for each parcel of property. The fee shall be deposited to the credit of the general fund of the county. If the county treasurer and the city agree that the county treasurer is unable to collect the assessment, the city may pursue a civil remedy for collection of the amount owing and interest thereon by an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, if any, the city clerk shall forward to the county treasurer a notice of such payment and directing discharge of the lien.

B. If a notice is given by the city manager to a property owner ordering the property within the city limits to be cleaned of trash and weeds or grass to be cut or mowed in accordance with the procedures provided for in subsection (A) above, any subsequent accumulations of trash or excessive weed or grass growth on the property occurring within a six (6) month period may be declared to be a nuisance and may be summarily abated without further prior notice to the property owner. At the time of each such summary abatement the city shall notify the property owner of the abatement and the costs thereof. The notice shall state that the property owner may request a hearing within ten days after the date of mailing the notice. The notice and hearing shall be as provided for in subsection (A) of this section. Unless otherwise determined at the hearing, the cost of such abatement shall be determined and collected as provided for in subsections (A)(5) and (A)(6) of this section. This subsection shall not apply if the records of the county clerk show that the property was transferred after notice was given pursuant to subsection (A) of this section.

C. The provisions of this section shall not apply to any property zoned and used for agricultural purposes or to railroad property under the jurisdiction of the state corporation commission. However, the city manager may cause the removal of weeds or trash from property zoned and used for agricultural purposes pursuant to the provisions of this section but only if such weeds or trash pose a hazard to traffic and are located in or within ten (10) yards of the public rights-of-way at intersections. (Prior Code 1991, §§8-104, 8-107)

***State Law Reference*: Similar provisions, 11 O.S. §22-111.**

§ 46-414 RIGHT OF ENTRY, WORK DONE BY EMPLOYEES OR CONTRACT.

A. Upon finding that the condition of the property constitutes a detriment or hazard as specified in section 46-142 and that the property would be benefitted by the removal of such conditions, the agents of the city are granted the right of entry on the property to remove trash, mow weeds or grass, and perform necessary duties as a governmental function.

B. The work ordered to be performed under section 46-143 may be done by the employees of this city under supervision of the city or it may be let by contract in the manner for letting other contracts. (Prior Code 1991, § 8-105)

§ 46-145 DETERMINATION AND ASSESSMENTS OF COSTS.

Upon the completion of the work ordered to be performed under section 46-144, the city manager shall prepare a report on the cost thereof. Such report may be itemized as to each tract of property involved as follows: labor, machinery rental or depreciation, fuel and supplies, cost of notice and other allowable costs. The city clerk shall forward a statement and demand payment of the total cost by mail to the owner of the property at the address shown by the current tax rolls in the office of the treasurer of the county in which the property lies. (Prior Code 1991, §8-106)

§ 46-146 COUNCIL MAY DESIGNATE OFFICER TO PERFORM DUTIES; APPEALS.

The city council hereby designates the city manager or his designee to carry out the duties of the city council in this article. The property owner 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. (Prior Code 1991, §8-108)

§§ 46-147 – 46-170 RESERVED.

DIVISION 3

PROPERTY ABUTTING OR ADJOINING STREETS

§ 46-171 Maintenance and upkeep of property by adjoining property owner; penalty for violation.
§§ 46-172 – 46-195 Reserved.

§ 46-171 MAINTENANCE AND UPKEEP OF PROPERTY BY ADJOINING PROPERTY OWNER; PENALTY FOR VIOLATION.

A. The owner of any property abutting or adjoining any street of this city shall mow and keep mowed any grass, weeds, or similar vegetation in that area between the roadway and the owner's property line and between sidewalks and the roadway as well as between the edge of any street and the right-of-way for such street. The premises shall be maintained in compliance to applicable city codes and regulations. Such vegetation shall not be allowed to exceed a height of twelve (12) inches above the ground.

B. Any owner who fails, refuses, or neglects to mow and keep mowed vegetation as provided in subsection (a) of this section after receiving at least ten (10) days' notice from the city manager, or his designee, to do so is guilty of an offense against the city and subject to a fine in accordance with section 1-112, as amended. Every day the owner fails, refuses, or neglects to mow and keep mowed such vegetation after the expiration of the ten (10) days' notice shall be and is a separate offense. (Ord. No. 99-36, §§1, 2, 12-6-1999)

§§ 46-147 – 46-170 RESERVED.

DIVISION 4

LITTER

§ 46-196 Generally.
§ 46-197 Throwing from motor vehicles.
§ 46-198 Accumulation on property.

§ 46-196 GENERALLY.

It is unlawful for any person to litter upon the public streets, alleys, roadways, curbs, gutters, and sidewalks of the city, except in public receptacles, or upon any real property owned or occupied by another. The preceding sentence shall not apply to the lawful use of a refuse receptacle nor to any object or substance placed beside a public road for collection by a garbage or collection agency or deposited upon or within public property designated by a state or local government or any of its agencies as an appropriate place for such deposit if the person making the deposit is authorized to use the property for such purpose. (Prior Code 1991, §8-111(B))

§ 46-197 THROWING FROM MOTOR VEHICLES.

It is unlawful for any person to throw any litter from any automobile or other motor vehicle being operated and driven upon and over the streets, alleys, and roadways of the city. The operator or driver of the vehicle, unless any other person in the vehicle admits to or is identified as having committed a violation of the preceding sentence, shall be punishable for such violation. (Prior Code 1991, §8-112)

***Cross Reference*: Traffic and vehicles, ch. 106.**

§ 46-198 ACCUMULATION ON PROPERTY.

A. It is hereby declared to be unlawful for any person, firm, or corporation occupying any real property, either as tenant or owner, to allow litter to accumulate upon such real property or premises or on the sidewalk in front of such property or premises.

B. It is unlawful for any person, firm, or corporation occupying any real property, either as tenant or owner, to allow accumulated litter to be carried from the occupied premises, either by the wind, elements, or otherwise, to any adjoining or other real estate not so owned or occupied by the offender. (Prior Code 1991, §8-113)

CHAPTER 50

HUMAN RELATIONS*

ARTICLE 1

IN GENERAL

§§ 50-1 – 50-25 Reserved.

ARTICLE 2

FAIR HOUSING

DIVISION 1

GENERALLY

§ 50-26 Purposes; construction.
§ 50-27 Definitions.
§ 50-28 Discriminatory housing practices.
§ 50-29 Exempt practices and acts.
§§ 50-30 – 50-55 Reserved.

DIVISION 2

FAIR HOUSING BOARD

§ 50-56 Created.
§ 50-57 Duties.
§ 50-58 Procedure.
§ 50-59 Notices.

***Cross Reference*: Administration, Part 2.**

***State Law Reference*: Discrimination in housing, 25 O.S. §1451 et seq.**

ARTICLE 1

IN GENERAL

§§ 50-1 – 50-25 Reserved.

§§ 50-1 – 50-25 RESERVED.

ARTICLE 2

FAIR HOUSING

DIVISION 1

GENERALLY

§ 50-26 Purposes; construction.
§ 50-27 Definitions.
§ 50-28 Discriminatory housing practices.
§ 50-29 Exempt practices and acts.
§§ 50-30 – 50-55 Reserved.

§ 50-26 PURPOSES; CONSTRUCTION.

The general purposes of this article are:

1. To secure for all people equal access to housing in all neighborhoods; and

2. To preserve the public safety, health, and welfare. (Prior Code 1991, §5-1001)

§ 50-27 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:

1. *Age*. An unlawful discriminatory practice because of age is an act prohibited by section 50-28 against a person at least eighteen (18) years of age or older solely on that basis.

2. *Aggrieved person* means any person who:

a. Claims to have been injured by a discriminatory housing practice; or

b. Believes that he will be injured by a discriminatory housing practice that is about to occur.

3. *Board* means the fair housing board.

4. *Complainant* means a person or the board, who files a complaint pursuant to section 50-28 of this article.

***5.* *Conciliation* means the attempted resolution of issues raised by a complaint or by the investigation of the complaint through informal negotiations involving the aggrieved person, the respondent, and the board.**

6. Discriminatory housing practice means an act prohibited by section 50-28.

7. *Dwelling* means:

a. Any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residency by one or more families; or

b. Any vacant land that is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure by subsection (1) of this definition.

8. *Elderly person* means any natural person fifty-five (55) years of age or older.

9. *Familial status*. A discriminatory act is committed because of familial status only if the act is committed because the person who is the subject of discrimination is:

a. Pregnant;

b. Domiciled with an individual less than eighteen (18) years of age in regard to whom the person:

1) Is the parent or legal custodian; or

2) Has the written permission of the parent or legal custodian for domicile with that person; or

c. In the process of obtaining legal custody of an individual less than eighteen (18) years of age.

10. Family includes a single individual.

11. *Handicap* means a mental or physical impairment that substantially limits at least one major life activity when there is a record of such an impairment or the individual is regarded as having such an impairment. The term "handicap" does not include current

illegal use of or addiction to any drug or illegal or federally controlled substance. The terms "an individual with a handicap" and "handicap" do not apply to an individual because of sexual orientation or the sexual preference of the individual or because that individual is a transvestite.

12. Housing for older persons, as used in this article, means housing:

a. That the board determines is specifically designed and operated to assist elderly persons pursuant to a federal or state program;

b. Intended for, and solely occupied by, persons sixty-two (62) years of age or older; or

c. Intended and operated for occupancy by at least one person fifty-five (55) years of age or older per unit as determined by rules of the state human rights commission.

13. *Person* means and includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries, the state, and all political subdivisions and agencies thereof.

14. *Respondent* means:

a. The person accused of a violation of this article in a complaint of a discriminatory housing practice; or

b. Any person identified by the board as an additional or substitute respondent pursuant to or an agent of an additional or substitute respondent.

15. *Restrictive covenants* means any specification limiting the transfer, rental, or lease of any dwelling because of race, color, religion, sex, national origin, age, handicap, or familial status.

16. *To rent* means and includes to lease, to sublease, to let, or to otherwise grant for a consideration the right to occupy premises not owned by the occupant. (Prior Code 1991, §§5-1004, 5-1006)

***Cross Reference*: Definitions generally, §1-2.**

***State Law References*: Similar provisions, 25 O.S. §§1451, 1453; joinder of additional or substitute respondent, 25 O.S. §1502.5.**

§ 50-28 DISCRIMINATORY HOUSING PRACTICES.

It shall be an unlawful discriminatory housing practice, for any person, or for any agent or employee of such person:

1. To refuse to sell or rent after the making of a bona fide offer or to refuse to negotiate for the sale or rental of any housing or otherwise make unavailable or deny any housing because of race, color, religion, gender, national origin, age, familial status, or handicap;

2. To discriminate against any person in the terms, conditions, or privileges of sale or rental of housing or in the provision of services or facilities in connection with any housing because of race, color, religion, gender, national origin, age, familial status, or handicap;

3. To make, print, publish, or cause to be made, printed, or published any notice, statement, or advertisement with respect to the sale or rental of housing that indicates any preference, limitation, discrimination, or intention to make any such preference, limitation, or discrimination because of race, color, religion, gender, national origin, age, familial status, or handicap;

4. To represent to any person, for reasons of discrimination, that any housing is not available for inspection, sale, or rental because of race, color, religion, gender, national origin, age, familial status, or handicap when such housing is in fact so available;

5. To deny any person access to, or membership or participation in, a multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings or discriminate against a person in the terms or conditions of access, membership, or participation in such an organization, service, or facility because of race, color, religion, gender, national origin, age, familial status, or handicap;

6. To include in any transfer, sale, rental, or lease of housing any restrictive covenant that discriminates or for any person to honor or exercise, or attempt to honor or exercise any discriminatory covenant pertaining to housing because of race, color, religion, gender, national origin, age, familial status, or handicap;

7. To refuse to consider the income of both applicants when both applicants seek to buy or lease housing because of race, color, religion, gender, national origin, age, familial status, or handicap;

8. To refuse to consider as a valid source of income any public assistance, alimony, or child support awarded by a court when that source can be verified as to its amount, length of time received, regularity, and receipt because of race, color, religion, gender, national origin, age, familial status, or handicap;

9. To discriminate against a person in the terms, conditions, or privileges relating to the obtaining or use of financial assistance for the acquisition, construction, rehabilitation, repair, or maintenance of any housing because of race, color, religion, gender, national origin, age, familial status, or handicap;

10. To discharge, demote, or discriminate in matters of compensation or working conditions against any employee or agent because of obedience of such employee agent to the provisions of this article;

11. To solicit or attempt to solicit the listing of housing for sale or lease by door-to-door solicitation, in person, by telephone, or by distribution of circulars if one of the purposes is to change the racial composition of the neighborhood;

12. To knowingly induce or attempt to induce another person to transfer an interest in real property or to discourage another person from purchasing real property by representations regarding the existing or potential proximity of real property owned, used, or occupied by person of any particular race, color, religion, gender, national origin, age, familial status, or handicap or to represent that such existing or potential proximity shall or may result in:

a. The lowering of property values;

b. A change in the racial, religious, or ethnic character of the block, neighborhood, or area in which the property is located;

c. An increase in criminal or antisocial behavior in the area; or

d. A decline in quality of the schools serving the area;

13. To refuse to rent or lease housing to a blind, deaf, or handicapped person on the basis of the person's use or possession of a bona fide, properly trained guide, signal, or service dog;

14. To demand the payment of an additional nonrefundable fee or an unreasonable deposit for rent from a blind, deaf, or handicapped person for such dog. Such blind, deaf, or handicapped person may be liable for any damage done to the dwelling by such dog;

15. To discriminate:

a. In the sale or rental or otherwise make available or deny a dwelling to any buyer or renter because of a handicap of:

1) That buyer or renter;

2) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or

3) Any person associated with that buyer or renter;

b. 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 with the dwelling because of a handicap of:

1) That person;

2) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

3) Any person associated with that person;

16. For purposes of handicap discrimination in housing pursuant to this article, the term "discrimination" includes:

a. A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises, provided that such person also provides a surety bond guaranteeing restoration of the premises to their prior condition, if necessary to make the premises suitable for non-handicapped tenants;

b. A refusal to make reasonable accommodations in rules, policies, practices, or services when the accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling; or

c. In connection with the design and construction of covered multifamily dwellings for first occupancy thirty (30) months after the date of enactment of the Federal Fair Housing Amendments Act of 1988 (Public Law 100-430), a failure to design and construct those dwellings in a manner that:

1) The public use and common use portions of the dwellings are readily accessible to and usable by a handicapped person;

2) All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide enough to allow passage by handicapped persons in wheelchairs; and

3) All premises within the dwellings contain the following features of adaptive design:

i. An accessible route into and through the dwelling;

ii. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

iii. Reinforcements in bathroom walls to allow later installation of grab bars; and

iv. Usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about those spaces;

d. Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people, commonly cited as "ANSI A 117.1," suffices to satisfy the requirements of subsection (16)c.3 of this section.

e. As used in this subsection, the term "covered multifamily dwellings" means:

1) Buildings consisting of four (4) or more units if the buildings have one or more elevators; and

2) Ground floor units in other buildings consisting of four (4) or more units;

f. Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others;

17. A. A person whose business includes engaging in residential real estate-related transactions may not discriminate against a person in making a real estate-related transaction available or in the terms or conditions of a real estate-related transaction because of race, color, religion, gender, handicap, familial status, national origin, or age;

B. In this section, "residential real estate-related transaction" means:

1. Making or purchasing loans or providing other financial assistance:

a. To purchase, construct, improve, repair, or maintain a dwelling; or

b. To secure residential real estate; or

2. Selling, brokering, or appraising residential real property. (Prior Code 1991, §5-1002)

***State Law Reference*: Similar provisions, 25 O.S. §1452.**

§ 50-29 EXEMPT PRACTICES AND ACTS.

A. Nothing provided for in this division shall:

1. Prohibit a religious organization, association, or society, or any nonprofit 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 housing which it owns or operates for other than a commercial purposes to persons of the same religion or from giving preferences to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this division apply to a private membership club which is a bona fide club and which is exempt from taxation pursuant to section 501(c) of the Internal Revenue Code of 1954;

2. Prohibit a religious organization, association, or society or a nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society from:

a. Limiting the sale, rental, or occupancy of dwellings that it owns or operates for other than a commercial purpose to persons of the same religion; or

b. Giving preference to persons of the same religion, unless membership in the religion is restricted because of race, color. or national origin;

3. Prohibit a private club not open to the public that, as an incident to its primary purpose, provides lodging that it owns or operates for other than a commercial purpose from limiting the rental or occupancy of that lodging to its members or from giving preference to its members;

4. Prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, age, religion, gender, handicap, familial status, or national origin;

5. Affect a reasonable local or state restriction on the maximum number of occupants permitted to occupy a dwelling or restriction relating to health or safety standards;

6. Prevent or restrict the sale, lease, rental, transfer, or development of housing designed or intended for the use of the handicapped;

7. Affect a requirement of nondiscrimination in any other state or federal law;

8. Prohibit the transfer of property by will, intestate succession, or by gift.

B. Nothing provided for in this division relating to familial status applies to housing for older persons.

C. Application of division.

1. Subject to subsection (c)(I)a.2 of this section, this division does not apply to:

a. The sale or rental of a single-family house sold or rented by an owner if:

1) The owner does not:

i. Own more than three single-family houses at any one time; or

ii. Own any interest in or is there owned or reserved on his behalf, pursuant to any express or voluntary agreement, title to or any right to any part of the proceeds from the sale or rental of more than three (3) single-family houses at any one time; and

2. The house was sold or rented without:

a. The use of the sales or rental facilities or services of a real estate broker, agent, or salesman licensed pursuant to the Oklahoma Real Estate License Code (59 O.S. §858-101 et seq.) or of an employee or agent of a licensed broker, agent, or salesman, or the facilities or services of the owner of a dwelling designed or intended for occupancy by five (5) or more families; or

b. The publication, posting, or mailing of a notice, statement, or advertisement prohibited by section 50-28; or

D. The sale or rental of rooms or units in a dwelling containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner maintains and occupies one of the living quarters as the owner's residence;

1. The exemption in subsection (c)(1)a of this section applies to only one sale or rental in a twenty-four (24) month period, if the owner was not the most recent resident of the house at the time of the sale or rental. (Prior Code 1991, §5-1003)

§§ 50-30 – 50-55 RESERVED.

***State Law Reference*: Similar provisions, 25 O.S. §1453.**

DIVISION 2

FAIR HOUSING BOARD

§ 50-56 Created.
§ 50-57 Duties.

§ 50-58 Procedure.
§ 50-59 Notices.

§ 50-56 CREATED.

There is hereby created a fair housing board of the city, composed of the members of the city council. (Prior Code 1991, §5-1004)

§ 50-57 DUTIES.

It is the duty of the fair housing board to:

1. Initiate, receive, and investigate complaints charging unlawful housing practices;

2. Seek conciliation of such complaints, hold hearings, make findings of fact, and publish its findings of fact; and

3. Adopt such rules and regulations as may be necessary within the limits of this section and carry out the purposes and provisions of this section. (Prior Code 1991, §5-1005)

§ 50-58 PROCEDURE.

A. Any person aggrieved by discriminatory practice prohibited by this article may file with the fair housing board a complaint in writing under oath. The complaint shall be signed by the person claiming to be aggrieved, shall state the name and address of the person alleged to have violated the provisions of this article, shall further set forth the particulars of the violation, and may include such other information as may be required by the board. Complaints filed under this section must be filed within one hundred eighty (180) days after the alleged violation has occurred or terminated, whichever is later, and failure to file within the time shall be considered a waiver of the application of this section. The board may issue a complaint on its own initiative at any time it is within the knowledge of the board that a person has violated any of the provisions of this article.

B. The board shall investigate each complaint filed with the board and shall attempt an adjustment of the complaint by means of conference and conciliation. Sixty (60) days shall be allowed for the purpose of investigation, conference and conciliation. If within sixty (60) days after the complaint is filed it is determined by the board or a member of the board or the staff that there is no reasonable cause to believe that the respondent has engaged in a discriminatory practice, the board shall issue an order dismissing the complaint and shall furnish a copy of the order to the complainant, the respondent, the attorney general and such other public officers and persons as the board deems proper. If the board takes no action within ninety (90) days of the filing of the complaint, it shall be considered as dismissed.

C. If conference or conciliation does not result in compliance with this article, the board 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 respondent to answer the charges of the complaint at a hearing before the board at a time and place to be specified in the notice.

D. At the hearing, provided for in subsection (C) of this section, the complaint shall be heard by the board. At the hearing, the complainant or person aggrieved may appear in person and by counsel and the respondent may file a written answer to the complaint and may appear in person or by legal counsel. The board, when conducting any hearing pursuant to this action, 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 board. If the board finds at the hearing that the respondent has engaged in any discriminatory practice or practices prohibited by this article, 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 section except upon such certification. If the board, upon hearing, finds that 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 board shall establish rules and regulations to govern and expedite and effectuate the foregoing procedure and shall maintain the files provided for in this section. (Prior Code 1991, §5-1006)

***Cross Reference*: Boards, commissions, and committees, §2-86 et seq.**

***State Law Reference*: Similar provisions, 25 O.S. §§1502, 1502.2.**

§ 50-59 NOTICES.

Any and all notices required under the provisions of this article to be served upon any person may be served personally on such person or by mailing a copy thereof by registered or certified mail with return receipt requested to the most current business or residence address of such person.

CHAPTER 54

LAW ENFORCEMENT*

ARTICLE 1

IN GENERAL

§ 54-1 Definitions.
§§ 54-2 – 54-25 Reserved.

ARTICLE 2

POLICE DEPARTMENT

DIVISION 1

GENERALLY

§ 54-26 Chief of police-position created.
§ 54-27 Same-duties.
§ 54-28 Police officers.
§ 54-29 Controlled dangerous substances.
§ 54-30 Emergency duties in other jurisdictions.
§§ 54-31 – 54-55 Reserved.

DIVISION 2

UNCLAIMED PROPERTY

§ 54-56 Record of property taken from an accused, found or stolen.
§ 54-57 Disposition of property; recordation.
§ 54-58 Property in possession of the chief of police for longer than thirty (30) days.
§ 54-59 Property found by anyone other than public official.
§ 54-60 Certain property in possession of police more than ninety (90) days.
§ 54-61 Property of deceased person.
§ 54-62 Retention of records.
§§ 54-63 – 54-85 Reserved.

ARTICLE 3

IMPRISONMENT

§ 54-86 Imprisonment; work by prisoners.
§ 54-87 Medical care of prisoners.

***Cross References*:** **Administration, ch. 2; civil emergencies, ch. 26; courts, ch. 30; offenses and miscellaneous provisions, ch. 70; offenses against public authority, §70-196 et seq.; traffic and vehicles, ch. 106.**

***State Law References*:** **Police departments, 11 O.S. §34-101 et seq.; Oklahoma Police Pension and Retirement System, 11 O.S. §50-101 et seq.; process, 12 O.S. §51 et seq.; falsely assuming to be police officer, 21 O.S. §264; arrest, 22 O.S. §171 et seq.; council on law enforcement education and training, 70 O.S. §3311.**

ARTICLE 1

IN GENERAL

§ 54-1 Definitions.
§§ 54-2 – 54-25 Reserved.

§ 54-1 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:

1. Emergency means a sudden and unforeseeable occurrence or condition either as to its onset or its extent of such severity or magnitude that immediate response or action is necessary to assist law enforcement agencies having jurisdiction at the scene of the emergency to carry out their functions.

***Cross Reference*: Definitions generally, §1-2.**

***State Law Reference*: Similar provisions, 11 O.S. §34-103.**

§§ 54-2 – 54-25 RESERVED.

ARTICLE 2

POLICE DEPARTMENT

DIVISION 1

GENERALLY

§ 54-26 Chief of police-position created.
§ 54-27 Same-duties.
§ 54-28 Police officers.
§ 54-29 Controlled dangerous substances.
§ 54-30 Emergency duties in other jurisdictions.
§§ 54-31 – 54-55 Reserved.

§ 54-26 CHIEF OF POLICE-POSITION CREATED.

There is a police department, the head of which is the chief of police. All police officers are officers of the city. (Prior Code 1991, §13-301)

***Cross Reference*: Officers and employees, §2-56 et seq.**

§ 54-27 SAME-DUTIES.

The police department shall apprehend, arrest, and turn over to proper authorities or otherwise bring to justice, as provided by law, all violators of the ordinances of the city or of federal or state law; shall suppress all riots, affrays, and unlawful assemblies which may come to its knowledge and generally keep the peace; shall serve all warrants, writs executions, and other processes properly directed and delivered to the department; and in all respects shall perform all duties pertaining to the offices of police officers. (Prior Code 1991, §13-302)

§ 54-28 POLICE OFFICERS.

Police officers shall perform such duties as shall be required of them by the chief of police, city ordinances, federal, state and county regulations, and any other actions required in the maintenance of good order and public peace. Unless the city manager delegates any such appointive authority to the chief of police, employees or officers deemed necessary shall be appointed by the city manager after consultation with the chief of police. (Prior Code 1991, §13-303)

***Cross Reference*: Officers and employees, §2-56 et seq.**

§ 54-29 CONTROLLED DANGEROUS SUBSTANCES.

The police department may, upon written request from business establishments, schools, or other public facilities, use its personnel and canine service to search for controlled dangerous substances for a fee as set by the city.

***Editor's Note*: The above section is based on Ordinance No. 88-2067.**

§ 54-30 EMERGENCY DUTIES IN OTHER JURISDICTIONS.

A. Approval is hereby given for service of members of the regular police department of this city as police officers of any other jurisdiction in an emergency situation in the state not more than one hundred (100) miles distant from this city when such service is requested by the mayor or his designee or by the chief of police or his designee of the jurisdiction.

B. Requests for service under this section shall be made in writing or by telephone, or other means of communications, to the city manager and in his absence, the mayor, who, if he determines that the request can be granted consistently with the continuance of the proper police protection to the inhabitants of the city, and after consultation with the chief of police, shall direct the chief of police to furnish the number of officers requested and to arrange their transportation to the requesting jurisdiction. (Prior Code 1991, §13-304)

§§ 54-31 – 54-55 RESERVED.

DIVISION 2

UNCLAIMED PROPERTY

§ 54-56 Record of property taken from an accused, found or stolen.
§ 54-57 Disposition of property; recordation.
§ 54-58 Property in possession of the chief of police for longer than thirty (30) days.
§ 54-59 Property found by anyone other than public official.
§ 54-60 Certain property in possession of police more than ninety (90) days.
§ 54-61 Property of deceased person.
§ 54-62 Retention of records.
§§ 54-63 – 54-85 Reserved.

§ 54-56 RECORD OF PROPERTY TAKEN FROM AN ACCUSED, FOUND OR STOLEN.

All personal property which has been found, stolen, or taken from the possession of any prisoner or person suspected of or charged with a crime which comes into the possession of any police officer and is not known to belong to some person laying claim thereto shall be delivered to the chief of police by the police officer who came into the possession of the personal property. The chief of police shall make a record in a record book to identify the property with the date and the circumstances and the receipt thereof, the name of the person from whom it as taken, and the place where it was found. (Prior Code 1991, §13-501)

§ 54-57 DISPOSITION OF PROPERTY; RECORDATION.

The personal property record provided for in section 54-56 shall disclose the subsequent disposal thereof, giving the date of sale, name and address of the purchaser, and the amount for which it was sold or the date of delivery to a city department, the name of the department and the name of the supervisor of the department; or the date, place, and method of its destruction and the name of three officers witnessing the destruction; or the date of the delivery to the next of kin or legally appointed representative of a deceased person, and the name and address of the next of kin or legal representative. (Prior Code 1991, §13-502)

§ 54-58 PROPERTY IN POSSESSION OF THE CHIEF OF POLICE FOR LONGER THAN THIRTY (30) DAYS.

Any unclaimed personal property, or property whose ownership is not satisfactorily established, other than animals, which has remained in the possession of the chief of police for a period of thirty (30) days, shall be sold and the proceeds of the sale shall be paid to the city treasurer, except such personal property which at the option of the city manager can be more advantageously used by any city department. The city treasurer shall issue his receipt therefore and deposit the proceeds into the credit of the general fund of the city. Ten (10) days before sales of unclaimed property, the chief of police or his designee shall

sign and have posted in at least four (4) public places in the city (one of which shall be the front door of the police station) notices of the time, place, and manner of the sale and examples of types of property. If the city manager delivers any of the personal property to the chief of police for use in any city department, he shall so instruct the chief of police in writing and the chief shall thereupon deliver the personal property designated to that city department and shall keep record of its disposition. (Prior Code 1991, §13-503)

§ 54-59 PROPERTY FOUND BY ANYONE OTHER THAN PUBLIC OFFICIAL.

Any personal property found by a person other than a public official or a public employee of the city which is delivered to any police officer for identification and which is not claimed or identified within thirty (30) days shall, within ten (10) additional days thereafter, if requested by the finder, be returned to the finder and a record of such disposal shall be made. If any such property shall be sold as provided in this section and the owner thereof shall take and recover possession of same from the purchaser, the amount paid therefore shall be returned to the purchaser upon verified claim being submitted, approved, and allowed by the proper officers. (Prior Code 1991, §13-504)

§ 54-60 CERTAIN PROPERTY IN POSSESSION OF POLICE MORE THAN NINETY (90) DAYS.

Any unclaimed personal property, other than animals, which has remained in the possession of the chief of police for a period of ninety (90) days and:

1. Is in the nature of contraband;

2. Is property which would constitute a health hazard if stored for a long period;

3. Is an unsafe or illegal weapon;

4. Is a partially filled container of liquor or beer;

5. Cannot be sold;

6. Cannot be used by any department or the city; or

7. Is of trivial value in the opinion of the chief of police;

shall be destroyed on order of the chief of police. The destruction of any personal property under the provisions of this section shall be witnessed by at least three members of the city police department, and these witnesses must sign a certificate of destruction which shall list all property destroyed, a general description of same, the date, time, place, and manner of the destruction. (Prior Code 1991, §13-505)

§ 54-61 PROPERTY OF DECEASED PERSON.

The personal property of a deceased person shall be delivered only to the next of kin of such person or to the legally appointed representative of his estate. If the personal property is claimed by the legally appointed representative of the estate of the deceased, a certified copy of the order of the district court appointing such person shall be deemed sufficient authority to support the claim. If the personal property is claimed by the next of kin, the claimant shall furnish an affidavit to the effect that he is the person entitled to possession of the property, and the affidavit shall be deemed sufficient authority to support the claim. If personal property of a deceased person remains unclaimed for a period of ninety (90) days, it shall be disposed of in the appropriate manner provided in this article. (Prior Code 1991, §13-506)

§ 54-217 RETENTION OF RECORDS.

Unless otherwise specified, all records of property under this article shall remain on file for a period of five years. (Prior Code 1991, §13-507)

§§ 54-63 – 54-85 RESERVED.

ARTICLE 3

IMPRISONMENT

§ 54-86 Imprisonment; work by prisoners.
§ 54-87 Medical care of prisoners.

§ 54-86 IMPRISONMENT; WORK BY PRISONERS.

A. All sentences of imprisonment shall be executed by the chief of police, and any person convicted of a violation of any ordinance of the city and sentenced to imprisonment shall be confined in the jail, farm, or workhouse of the city, in the discretion of the court, for the time specified in the sentence.

B. 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.

C. 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 one day of imprisonment under his sentence.

D. The chief of police, subject to the direction of the city council, shall direct where the work shall be performed. The head of the department in charge of the place

where the work is to be performed shall himself or by some person designated by him oversee the work. If a guard is necessary, the chief of police shall make provisions therefore. (Prior Code 1991, §6-132)

§ 54-87 MEDICAL CARE OF PRISONERS.

A. When a defendant is incarcerated in the McClain County jail under this or any other ordinance of the city, the city shall not be responsible for preexisting medical conditions and shall only be responsible for those conditions that arise subsequent to arrest which come about due to the actions or omissions of the city police officers or other city employees.

B. As used in this section, the term "preexisting medical conditions" means those illnesses beginning or injuries sustained before a person is in the peaceable custody of the city's officers.

C. An inmate receiving medical care for a preexisting condition or a condition not caused by the acts or omissions of the city shall be liable for payment of the cost of care, including, but not limited to, medication, medical treatment, and transportation costs, for or relating to the condition requiring treatment. (Ord. No. 97-12, §4, 1-5-1998)

***State Law Reference*: Similar provisions, 19 O.S. §746.**

CHAPTER 58

LIBRARY*

§ 58-1 Established.
§ 58-2 Donations.

***Charter Reference*: Library board, Art. III, §4.**

***Cross References*: Administration, ch. 2; streets, sidewalks, and other public places, ch. 90.**

***State Law Reference*: Municipal libraries, 11 O.S. §31-101 et seq.**

LIBRARY*

§ 58-1 Established.
§ 58-2 Donations.

§ 58-1 ESTABLISHED.

A public library is hereby established in the city. (Prior Code 1991, §11-201)

§ 58-2 DONATIONS.

All donations for the library shall be to the city for the use of the city, and the library board members may be special trustees therefore. (Prior Code 1991, §11-202)

CHAPTER 62

MANUFACTURED HOMES AND TRAILERS*

ARTICLE 1

IN GENERAL

§ 62-1 Purpose.
§ 62-2 Definitions.
§ 62-3 Freestanding mobile homes.
§ 62-4 Nonresidential mobile homes and trailers.
§ 62-5 One- and two- family dwelling regulations.
§ 62-6 Notices; hearings; orders.
§ 62-7 Treatment of modular housing.
§§ 62-8 – 62-30 Reserved.

ARTICLE 2

MOBILE HOME, MANUFACTURED HOME, AND TRAVEL TRAILER PARKS

§ 62-31 Inspection of parks.
§ 62-32 Supervision.
§ 62-33 Permits; requirements; procedures; fees.
§ 62-34 Location and design of parks.
§ 62-35 Service buildings for travel trailer parks.
§ 62-36 Sewage disposal for mobile home parks.
§ 62-37 Water supply for parks.
§ 62-38 Refuse disposal for parks.
§ 62-39 Insect and rodent control.
§ 62-40 Electricity; exterior lighting.
§ 62-41 Fuels; power sources.
§ 62-42 Fire protection.
§ 62-43 Alterations and additions.
§ 62-44 Registration of owners and occupants.
§ 62-45 Subdivisions.

***Cross References*: Buildings and building regulations, ch. 14; environment, ch. 34; floods, ch. 42; health and sanitation, ch. 46; planning, ch. 82; streets, sidewalks, and other public places, ch. 90; subdivisions, ch. 94; utilities, ch. 110; vegetation, ch. 114; zoning, ch. 122; mobile home residential, R-5 district, §122-221 et seq.**

***State Law Reference*: Industrial housing, adoption of federal standards, 63 O.S. §1084.**

ARTICLE 1

IN GENERAL

§ 62-1 Purpose.
§ 62-2 Definitions.
§ 62-3 Freestanding mobile homes.
§ 62-4 Nonresidential mobile homes and trailers.
§ 62-5 One- and two- family dwelling regulations.
§ 62-6 Notices; hearings; orders.
§ 62-7 Treatment of modular housing.
§§ 62-8 – 62-30 Reserved.

§ 62-1 PURPOSE.

A. The purpose of this chapter is to provide regulations for areas within the corporate boundaries of the city, wherein the location and development of manufactured homes, mobile homes, mobile home parks, trailer parks, manufactured and mobile home subdivisions, and modular housing units or additions may be safety continued and encouraged.

B. The regulations set forth in this chapter are designed to promote stable neighborhoods, prevent health and safety hazards, and encourage the economical and orderly development and operation of manufactured home and mobile home parks and subdivisions, trailer parks, and modular housing units and additions. (Prior Code 1991, §5-1101)

§ 62-2 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. *Building official* means the building official of the city or his authorized agent.

2. *Manufactured home* means a residential dwelling built in accordance with the National Manufactured Home Construction and Safety Standards Act of 1974, 42 USC, 5401 et seq., and rules promulgated pursuant thereto and the rules promulgated by the Oklahoma Used Motor Vehicle and Parts Commission pursuant to 47 O.S. §582. The three (3) types of manufactured home are defined as meeting all of the requirements listed in subsections (1) through (3) of this definition and are to be considered separate from mobile or modular housing:

a. A type I manufactured home shall:

1) Have more than one thousand (1,000) square feet of occupied space in a typically double section or larger multi section unit, with a minimum width of twenty (20) feet;

2) Be placed on a permanent foundation and be anchored to the ground in accordance with the city's foundation code or other adopted foundation requirements and the manufacturer's specifications;

3) Utilize a permanent perimeter enclosure in accordance with city approved installation standards;

4) Have wheels, axles, and hitch mechanisms removed;

5) Have all utilities connected in accordance with the appropriate city codes and the manufacturer's specifications;

6) Have siding material of a type customarily used on site-built residences in the community and neighborhood;

7) Have roofing material of a type customarily used on site-built residences in the community and neighborhood;

8) Have a one hundred (100) square-foot minimum attached, covered, or enclosed parking garage which is compatible with other housing in the immediate area. All parking and driveway areas shall be hard-surfaced;

9) Have legitimate front and rear doors; and

10) Have a minimum eave width of six (6) inches.

b. A type II manufactured home shall:

1) Have more than seven-hundred twenty (720) square feet of occupied space in a single, double, expando or multi-section unit (including those with add-a-room units);

2) Be placed on a permanent foundation and be anchored to the ground in accordance with the city's foundation code or other adopted foundation standards and the manufacturer's specifications;

3) Utilize a permanent perimeter enclosure in accordance with city approved installation standards;

4) Have wheels, axles, and hitch mechanisms removed;

5) Have utilities connected in accordance with appropriate city codes and the manufacturer's specifications;

6) Have siding material of a type customarily used on site-built residences in the community and neighborhood;

7) Have roofing material of a type customarily used on site-built residences in the community and neighborhood;

8) Have a one hundred (100) square foot minimum attached, covered, or enclosed parking garage which is compatible with other housing in the immediate area. All parking and driveway areas shall be hard-surfaced;

9) Have legitimate front and rear doors; and

10) Have a minimum eave width of six (6) inches.

c. A type III manufactured home shall:

1) Have more than four-hundred (400) square feet of occupied space in a single, double, expando or multi-section unit (including those with add-a-room units);

2) Be placed on a support system in accordance with city approved installation standards;

3) Be enclosed with foundation siding or skirting in accordance with city approved installation standards;

4) Be anchored to the ground in accordance with the manufacturer's specifications and the city's appropriate, adopted code; and

5) Have utilities connected in accordance with appropriate city requirements and the manufacturer's specifications.

3. *Mobile home* means a structure, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three-hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained thereon. The term "mobile home" shall not include any mobile home which is owned by a religious corporation or society and is used exclusively for religious purposes.

4. ***Mobile home*, *dependent*, means any mobile home which does not have a flush toilet and a bath or shower. For purposes of regulation under this chapter, a dependent mobile home shall be considered to be the same as a travel trailer, unless otherwise specified.**

5. ***Mobile home*, *freestanding*, means any mobile home or travel trailer not located in a mobile home park or travel trailer park, respectively, licensed by the city or in an approved mobile home subdivision.**

6. ***Mobile home park* means any plot of ground upon which two or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodations.**

7. ***Mobile home space* means any plot of ground within a mobile home park designed for the accommodation of one mobile home and not located on a mobile home sales lot.**

8. ***Mobile home subdivision* means any subdivision designed and intended for residential use, where residence is in mobile homes or manufactured home exclusively, and lots are sold for occupancy.**

9. ***Modular home* means any factory-fabricated, transportable building unit, not built upon a permanent chassis, designed to be used by itself or to be incorporated with similar units on a permanent foundation. The term "modular home" is intended to apply to major assemblies and does not include prefabricated sub-elements incorporated into a structure at the site nor does it include any type of manufactured home as defined in this section. Any modular home must meet U.S. government modular home certification standards. See also section 62-7 of this chapter.**

10. ***Nonresidential mobile trailer* means any vehicle having the basic characteristics of either a mobile home or travel trailer, but which is used for other than residential purposes and is not being offered for sale as indicated by a clearly displayed sign on or near the trailer.**

11. ***Park* means a mobile home or travel trailer park.**

12. ***Public water or sewer system* means any such system built and owned by or dedicated to and accepted by the city. All other such systems shall be deemed private systems.**

13. ***Service building* means any building housing toilet and bathing facilities for men or women and may also include buildings containing laundry facilities and other facilities.**

14. ***Subdivision* means a manufactured home or mobile home subdivision, unless otherwise indicated.**

15. ***Travel trailer*** **means any vehicular-portable structure, built on a chassis, used as a temporary dwelling for travel, recreational, or vacation use, and, when factory-equipped for the road, having a body width not exceeding eight feet and an overall length not exceeding forty (40) feet, including the hitch or coupling.**

16. ***Travel trailer park*** **means any plot of ground upon which two or more travel trailers, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodations.**

17. ***Travel trailer space*** **means a plot of ground within a travel trailer park designed for accommodation of one travel trailer. (Prior Code 1991, §5-1102)**

Cross Reference**: Definitions generally, §1-2.**

State Law Reference**: Similar provisions, 47 O.S. §1102.**

§ 62-3 FREESTANDING MOBILE HOMES.

A. No freestanding mobile home or travel trailer shall be permitted within the corporate limits of the city unless it is being offered for sale or parked for storage or located within an appropriate zoning district which permits such freestanding location.

B. Except for mobile homes or travel trailers within regular commercial mobile home or travel trailer sales lots, each such freestanding mobile home or travel trailer offered for sale must be clearly marked as such and shall not be occupied for either living or sleeping purposes.

C. Freestanding mobile homes or travel trailers located within regular commercial mobile home or travel trailer sales lots need not be individually marked for sale or removed within one-hundred twenty (120) days if not sold.

D. A property owner shall not store, nor permit to be stored, more than one mobile home or travel trailer on a residential lot. Such mobile home or travel trailer shall not be stored in any required front or side yard or public utility easement nor shall such mobile home or travel trailer project beyond the front of any building. (Prior Code 1991, §5-1103)

§ 62-4 NONRESIDENTIAL MOBILE HOMES AND TRAILERS.

A. ***Permit required for use*****. No nonresidential mobile home or trailer shall be permitted in the city unless a permit for its operation is approved by the city council, except as specified herein below. Such permit shall specify the permitted use of the non-residential mobile home or trailer, the location of such operation and the termination date of the permit.**

B. ***No permit in violation of laws*. No permit shall be issued for a use which would violate any local, state, or federal law, ordinance, code, or regulation.**

C. ***Fee*. A fee set by the city council shall be charged for each six (6) month nonresidential mobile home or trailer permit; provided that no governmental or nonprofit agency shall be charged such a fee.**

D. ***Exception for construction projects and sales lots*. Operation of nonresidential mobile homes or trailers by contractors or construction projects for which building permits have been issued or which are otherwise approved by governmental units is permitted during the term of such construction project without the issuance of a permit. Such exemption from such permit shall also be granted for the use of a mobile home or trailer for an office in a mobile home or trailer sales lot; provided, that such officer structure remains included among those units offered for sale and that all local utility codes and regulations are met.**

E. ***Construction of section*. This section shall not be construed as permitting or authorizing the permanent location of any nonresidential mobile home or trailer within the city. (Prior Code 1991, § 5-1104; Ord. No. 91-2102, §2, 5-6-1991)**

§ 62-5 ONE- AND TWO-FAMILY DWELLING REGULATIONS.

The following one- and two-family dwelling regulations shall apply to manufactured homes located in the city:

1. Every manufactured home or mobile home located in either a mobile home park, a subdivision, or as a freestanding home shall meet the provisions of the one- and two-family dwelling code of the city, except as otherwise provided in this section or as may be otherwise provided in other provisions of this Code of Ordinances.

2. Every manufactured home or mobile home shall contain the following minimum gross floor area of habitable space:

a. One-hundred fifty (150) square feet for one or two occupants;

b. One-hundred (100) additional square feet for the third occupant; and

c. Seventy-five (75) square feet additional for each additional occupant thereafter.

3. Habitable space in a mobile or manufactured home shall have a minimum ceiling height of seven (7) feet over fifty (50) percent of the floor area. The floor area where the ceiling height is less than five (5) feet shall not be considered in computing minimum gross floor area.

4. A mobile or manufactured home shall have a safe and unobstructed primary exit and an emergency exit located remote from the primary exit.

5. Rooms occupied for sleeping purposes must contain at least sixty (60) square feet of floor space, if used by more than one person, and at least forty (40) square feet is used by one person.

6. Dependent mobile homes shall not be required to have a flush toilet, bath, or shower.

7. The one- and two-family dwelling code shall not apply to travel trailers insofar as floor area, flush toilet, bath, or shower ceiling height is concerned. (Prior Code 1991, §5-1105)

§ 62-6 NOTICES; HEARINGS; ORDERS.

A. *Notification*. Whenever the building official or health officer determines that violations of pertinent regulations exist, he shall notify the permittee of the alleged violation. The notice shall:

1. Be in writing;

2. Include a statement of the reasons for its issuance;

3. Contain an outline of remedial action which, if taken, will effect compliance with provisions of this chapter and other pertinent regulations;

4. Allow a reasonable time, not to exceed ninety (90) days, for the performance of any act it requires; and

5. Be served upon the owner or his agent as the case may require. The notice or order shall be deemed as properly served upon owner or agent when a copy thereof has been sent by certified mail to his last known address.

B. *Hearing*. Any person affected by any notice issued under this section or resulting regulation may request and shall be granted a hearing on the matter before the city council, acting as a board of appeals. Such person shall file with the building official a written request for such hearing, setting forth briefly the grounds for such request within ten (10) days after the notice was served. The filing of such request shall stay the notice of suspension of permits, except in cases of orders issued under subsection (C) of this section. The hearing shall be held at the next city council meeting for which the agenda has not been completed or at a later meeting if so requested by the petitioner, should the building official determine that sufficient cause for such delay exists.

C. *Action upon findings*. After the hearing, the building official or health officer shall compile the findings of the city council as to compliance with this chapter and

pertinent regulations and shall issue an order in writing sustaining, modifying, or withdrawing the prior notice which shall be served as provided in this section. Upon failure to comply with such order, the permit of the park shall be revoked.

D. *Relief from finding of council*. Any person aggrieved by the decision of the city council may seek relief in the district court.

E. *Emergencies*. Whenever the building official or health officer finds that an emergency exists which requires immediate action to protect the public health, he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he may deem necessary to meet the emergency, including the suspension of the permit. Notwithstanding any other provisions of this chapter, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but, upon petition to the city council, shall be afforded a hearing at the next regular meeting even if the agenda has been completed. The provisions of subsections (C) and (D) of this section shall be applicable to such hearing and the order issued thereafter. (Prior Code 1991, §5-1108)

§ 62-7 TREATMENT OF MODULAR HOUSING.

A. Manufactured or mobile homes shall be considered as permanent site or modular housing only when it meets the following federal certification criteria and the city criteria:

1. The manufacturer must certify that the structure is designed for erection or installation on a site-built permanent foundation. A site-built permanent foundation is a system of supports, including piers, either partially or entirely below grade, which is:

a. Capable of transferring all loads imposed upon the structure into soil or bedrock without failure;

b. Placed at an adequate depth below grade to prevent frost damage; and

c. Constructed of concrete or grouted concrete blocks.

2. The manufacturer must certify that the structure is designed as a manufactured home and can be installed on a site-built permanent foundation.

3. The manufacturer must certify that the structure is designed and manufactured to comply with the city's adopted building code, plumbing code, mechanical code, and electrical code, or equivalent.

4. Must meet the type I manufactured home specifications listed in section 62-2.

5. Must be zoned R-5 (mobile home residential).

B. Such certification shall be proof of the housing unit's status as a modular unit or manufactured home. Without such certification, any manufactured home unit shall be considered a mobile home and treated as such for purposes of regulation. (Prior Code 1991, §5-1123; Ord. No. 99-27, §1, 9-7-1999; Ord. No. 99-29, §1, 10-4-1999)

§§ 62-8 – 62-30 RESERVED.

ARTICLE 2

MOBILE HOME, MANUFACTURED HOME, AND TRAVEL TRAILER PARKS

§ 62-26 Inspection of parks.
§ 62-27 Supervision.
§ 62-28 Permits; requirements; procedures; fees.
§ 62-29 Location and design of parks.
§ 62-30 Service buildings for travel trailer parks.
§ 62-31 Sewage disposal for mobile home parks.
§ 62-32 Water supply for parks.
§ 62-33 Refuse disposal for parks.
§ 62-34 Insect and rodent control.
§ 62-35 Electricity; exterior lighting.
§ 62-36 Fuels; power sources.
§ 62-37 Fire protection.
§ 62-38 Alterations and additions.
§ 62-39 Registration of owners and occupants.
§ 62-40 Subdivisions.

§ 62-26 INSPECTION OF PARKS.

A. The health officer and the building official are hereby authorized and directed to make inspections to determine the condition of mobile home, manufactured home, and travel trailer parks located within the city in order to perform their duty of safeguarding the health and safety of occupants of such parks and of the general public.

B. The health officer and the building official shall have the power to inspect the outside premises of private or public property for the purposes of inspecting and investigating conditions relating to the enforcement of this chapter or of regulations promulgated there under.

C. The health officer and the building official shall have the power to inspect the register containing a record of all homes and occupants using the park.

D. It is the duty of every occupant of a park to give the owner thereof, or his agent or employee, access to any part of such mobile home, manufactured home, or travel trailer park, or their premises, at reasonable times for the purpose of making, ordering, or inspecting such repairs or alterations as are necessary to effect compliance with this

chapter or with any lawful regulations adopted thereunder or with any lawful order issued pursuant to the provisions of this chapter. (Prior Code 1991, §5-1107)

§ 62-27 SUPERVISION.

The permittee or a duly authorized attendant or caretaker shall be charged at all times with keeping the park, its facilities, and equipment in a clean, orderly, and sanitary condition. The attendant or caretaker shall be answerable, with the permittee, for the violation of any provision of this chapter to which the licensee or permittee is subject. (Prior Code 1991, §5-1109)

§ 62-28 PERMITS; REQUIREMENTS; PROCEDURES; FEES.

A. *Annual permit*. It is unlawful for any person to construct, maintain, or operate any mobile home, manufactured home, or travel trailer park within the limits of the city unless he holds a valid permit issued annually and jointly by the building official and health officer of the city in the name of such person for the specific park, except that the maintenance or operation of an existing park on May 6, 1991, may be continued under a temporary permit for such period of time and under such conditions as are hereinafter described.

B. *Transfer of ownership*. Application shall be made to the building official acting jointly with the health officer in writing within twenty (24) hours after having sold, transferred, given away, or otherwise disposed of interest in or control of any such park. Such notice shall include the name and address of the person succeeding to the ownership or control of such park.

C. *Application for permit*. Application for original permits shall be in writing, signed by the applicant, and accompanied by an affidavit of the applicant as to the truth of the application and shall contain the following:

1. Name and address of the applicant;

2. The interest of the applicant in and the location and legal description of the park;

3. A complete plan of the park showing compliance with all applicable provisions of this chapter and regulations promulgated thereunder.

D. *Application for renewals*. Applications for renewals of permits shall be made in writing by the holder of the license and shall contain the any change in the information submitted since the time the original license was issued or the latest renewal granted.

E. *Submission of plan*. Prior to the issuance of a permit, a complete plan of the park shall be submitted to the building official, and such plan shall show:

1. The area and dimensions of the tract of land;

2. The number, locations, and size of all mobile home, manufactured home, or travel trailer spaces;

3. The location and width of roadways, walkways, buffer strips, and recreational areas;

4. The location of service buildings and other proposed structures;

5. The location and size of utility lines and treatment facilities; and

6. Plans and specifications of all buildings and other improvements constructed or to be constructed within the park.

F. *Notice to correct violation conditions; suspension of permit*. Whenever the health officer or the building official finds conditions existing in violation of this chapter, or of any regulation adopted pursuant thereto, he shall give notice, in writing, to the person to whom the permit was issued that, unless such conditions or practices are corrected within a reasonable period of time specified in the notice, the permit will be suspended. At the end of such period, not to exceed ninety (90) days, the health officer or the building official shall re-inspect such park, and, if such conditions or practices have not been corrected, he shall suspend the permit and give notice, in writing, of such suspension to the person to whom the permit was issued. Upon receipt of notice of suspension, such person shall cease operation of such park except as may be provided hereinafter.

G. Request for hearing. Any person whose permit has been denied or suspended or who has received notice from the health officer or the building official that his permit will be suspended unless certain conditions or practices at the park are corrected may request and shall be granted a hearing on the matter before the city council. When no petition for such hearing shall have been filed within ten (10) days following the day on which notice of suspension was served, such permit shall be deemed to have been automatically revoked at the expiration of such ten (10) day period.

H. *Compliance of existing parks*. Mobile home and travel trailer parks in existence on May 6, 1991, which have concrete pads indicating the location of mobile home, manufactured home, or travel trailer spaces need not comply with those sections of this chapter which would require the moving of concrete pads. They must, however, comply with all other requirements and any park expansion shall be in full compliance with provisions of this chapter.

I. *Initial or temporary permit fee*. The city clerk shall charge and collect for each mobile home, manufactured home, or travel trailer park an initial permit or temporary permit fee per space. The initial permit or temporary permit shall expire one (1) year from the date of issue, unless renewed upon such conditions as the city council may by ordinance direct.

J. ***Posting of temporary permit*. The permit shall be conspicuously posted in the office of, or on the premises of, the park at all times. (Prior Code 1991, §§5-1106, 5-1110)**

§ 62-29 LOCATION AND DESIGN OF PARKS.

The following provisions shall govern the location and design of parks:

1. Parks shall be of three types:

a. Mobile home parks;

b. Travel trailer parks; and

c. Mixed mobile home and travel trailer parks.

No travel trailer shall be located in a mobile home park. No mobile home shall be located in a travel trailer park. In a mixed park, separate areas shall be reserved for mobile homes and for travel trailers. No mobile home shall be permitted in the travel trailer sector. No travel trailer shall be permitted in the mobile home sectors.

2. All parks shall be located on a well drained site, properly graded to ensure rapid drainage and freedom from stagnant pools of water. Drainage shall not endanger any water supply.

3. The minimum area of any park shall be five (5) acres. Parks in existence on May 6, 1991, can continue to operate with less than five (5) acres area. If the park is to be expanded, it must at that time have a minimum area of five (5) acres.

4. Intensity of development shall be limited to no more than ten (10) homes per gross acre for a mobile home park and no more than fifteen (15) travel trailers per gross acre for a travel trailer park. Area used for sewage treatment facilities shall not be included in density computations. Mobile home spaces shall be at least thirty (30) feet wide where pads are closest to driveways. Travel trailer spaces shall be at least twenty-five (25) feet wide where travel trailers are located closest to the driveway.

5. Every space shall be clearly defined. All mobile homes and travel trailers shall be parked in such spaces so that at the nearest point they shall be ten (10) feet from the service road, five (5) feet from the rear lot line, and at least ten (10) feet from any other home or travel trailer.

6. It is unlawful to locate any mobile home or travel trailer less than twenty (25) feet from any public street or highway right-of-way or so that any part of such home or travel trailer will obstruct any roadway or walkway of such park.

7. It is unlawful to permit a mobile home to occupy a travel trailer space, a travel trailer to occupy a mobile home space, and for any mobile home or travel trailer to be located in a park unless in a space designated specifically for that type of mobile home or travel trailer.

8. All mobile home spaces shall abut upon a sealed-surface driveway of not less than twenty (20) feet in width, if on-street parking is prohibited, and twenty-six (26) feet in width, if on street parking is permitted on one side of the street only. Driveways must have unobstructed access to a public street or highway.

9. In all parks existing on May 6, 1991, parking on or adjacent to the street within the park is permissible as long a it does not obstruct free movement of traffic. Whether or not a safety hazard exists is a question to be determined by the planning commission, with final appeal to the city council. If upon final appeal before the city council it is determined that a safety hazard does in fact exist, the park concerned will be required to comply with the following provisions:

a. In new mobile home parks, at least two (2) clearly defined parking spaces will be provided for each space either on or adjacent to the space; and

b. In new travel trailer parks, at least one parking space shall be provided for each space either on, or adjacent to, the space.

10. All roadways within a park which are to be dedicated to the city shall be at least asphalt-oil-rock sealed and surfaced. All roadways not dedicated to the city shall be at least crushed limestone.

11. In developed areas of the city, new parks must abut and have their major means of ingress and egress on at least a secondary thoroughfare. Wherever possible, major access shall be along a primary thoroughfare.

12. All parks shall have and maintain a buffer planting strip not less than three (3) feet in width along all park boundaries not bordering a street. Such strip shall consist of not less than one row of shrubs spaced not more than eight (8) feet apart which will eventually grow to a height of not less than twelve (12) feet. Such strip may also consist of an earthen berm or a fence at least six (6) feet in height or a combination of berm, landscaping, or fence. (Prior Code 1991, §5-1111)

§ 62-30 SERVICE BUILDINGS FOR TRAVEL TRAILER PARKS.

A. Each travel trailer park shall be provided with at least one service building adequately equipped with flush-type toilet fixtures and other sanitary facilities.

B. Service buildings shall:

1. Be located twenty (25) feet or more from any travel trailer space;

2. Be of permanent construction and be adequately lighted;

3. Be of moisture-resistant material to permit frequent washing and cleansing;

4. Have adequate heating facilities to maintain a temperature of seventy (70) degrees Fahrenheit during cold weather and to supply adequate hot water during time of peak demands; and

5. Have all rooms well ventilated, with all openings effectively screened.

C. All service buildings and the grounds of the park shall be maintained in a clean condition and kept free of any condition that will menace the health of any occupant or the public or constitute a menace. (Prior Code 1991, §5-1112)

§ 62-31 SEWAGE DISPOSAL FOR MOBILE HOME PARKS.

The following provisions shall govern the disposal of sewage generated by mobile home parks:

1. Waste from showers, bathtubs, flush toilets, urinals, lavatories, slop sinks, and laundries in service and other buildings within the park shall be discharged into a public sewer and disposal plant, septic tank system, or private sewer and lagoon system of such construction and in such manner as approved by the state department of environmental quality and in accordance with all applicable ordinances of the city.

2. Each mobile home space shall be provided with at least a three (3) inch sewer connection at least four (4) inches above the surface of the ground. The sewer connection shall be protected by a concrete collar of at least four (4) inches thick and have a minimum outside diameter of twenty-four (24) inches. Connection between the mobile home drain and the sewer must be watertight and self-draining. Mobile homes with fixtures from which back siphonage may occur shall not be connected to the park's water system until the defect has been corrected.

3. In the event that a public sewer system is or becomes available within three hundred (300) feet of a mobile home park or travel trailer park, connection must be made to the public system within one hundred eighty (180) days.

4. The design of private sewage treatment facilities shall be based on the maximum capacity of the park. Effluents from sewage treatment facilities shall not be discharged into any watershed of the city lake or any other waters of the state. The disposal facilities shall be located where they will not create a nuisance or health hazard to the mobile home park or to the owner or occupants of any adjacent property. The state department of environmental quality must approve the type of treatment proposed and the design of any disposal facilities and sewer systems prior to construction.

5. Every mobile home occupying a mobile home park space shall tie onto the park sewage system and shall dump any accumulated waste into the system. Every travel trailer shall dump all accumulated waste into a receptacle provided in the travel trailer park upon entering and upon leaving the park. Such receptacles must be approved by the state department of environmental quality. Any other dumping of accumulated waste within the city is prohibited.

6. The monthly sewerage charge shall be based on the maximum mobile home or travel trailer capacity of the park. The park operator shall, by the tenth of each month, notify the city clerk of the maximum number of mobile home spaces in use at any one time during the previous month. The city clerk shall then adjust the sewerage fee to the actual use of the park. Should the park operator fail to notify the city clerk of the prior month's actual usage of travel trailer or mobile home spaces, the sewerage fee shall be levied on the maximum capacity of the park.

7. Sewer connections shall be watertight. Park permittees shall maintain travel trailer and mobile home connections to sewer and water systems in good condition and shall be responsible that there is no sewage or water leakage on the park premises.

8. No sewer connections shall be made to travel trailer spaces. (Prior Code 1991, §5-1113)

§ 62-32 WATER SUPPLY FOR PARKS.

The following provisions shall govern the supply of water to all parks regulated by this chapter:

1. An accessible, adequate, safe, and potable supply of water shall be provided in each park, capable of furnishing a minimum of two-hundred fifty (250) gallons per day per space. Where a public supply of water of such quality is available within three hundred (300) feet or becomes available within three-hundred (300) feet, connection shall be made thereto within one-hundred twenty (120) days and its supply shall be used exclusively. Where private water supplies must be developed, the health officer must approve the location, construction, and development of both the water well and pipe system and connections. No private source other than a water well shall be used.

2. The water system of the mobile home park shall be connected by pipes to all buildings and all spaces. Each mobile home shall be provided with a cold water tap at least four (4) inches above the ground. An adequate supply of hot water shall be provided at all times in the service buildings for all bathing, washing, cleansing, and laundry facilities.

3. All water piping shall be constructed and maintained in accordance with state and local law. The water piping system shall not be connected with non potable or questionable water supplies and shall be protected against the hazards of backflow or back siphonage. All water connections shall be weather-tight.

4. Where drinking fountains are provided for public use, they shall be of a type and in locations approved by the health officer.

5. Individual water service connections which are provided for direct use by mobile homes or travel trailers shall be of such construction that they will not be damaged by the parking of such mobile homes or travel trailers. The park system shall be adequate to provide twenty (20) pounds per square inch of pressure at all mobile home or travel trailer connections.

6. Provisions shall be made within one-hundred fifty (150) feet of such travel trailer space to supply water for travel trailer reservoirs.

7. No well casing, pumps, pumping machinery, or suction pipes shall be located in any pit, room, or space extending below ground level nor in any room or space above ground which is walled in or otherwise enclosed, unless such rooms, whether above or below ground, have free drainage by gravity to the surface. All floors shall be watertight and sloped from the pump pedestal to the drain and floors shall extend at least two feet from the well in all directions. The pedestal shall not be less than twelve (12) inches above the floor. This shall not be construed as prohibiting submersible pumps.

8. All water storage reservoirs shall be watertight and constructed of impervious material. All overflow and vents of such reservoirs shall be effectively screened. Open reservoirs are prohibited. Manholes shall be constructed with overlapping covers so as to prevent the entrance of contaminated material. Overflow pipes from a reservoir shall not connect to any pipe in which sewage or polluted water may back up.

9. Underground stop and wastecocks shall not be installed on any connections.

10. No water well shall draw water from any formation reserved to the city for its use except as may be otherwise permitted by ordinances of the city.

11. No water connections shall be made to travel trailer spaces. (Prior Code 1991, §5-1114)

§ 62-33 REFUSE DISPOSAL FOR PARKS.

The following provisions shall govern the disposal of refuse in parks regulated by this chapter:

1. The storage, collection, and disposal of refuse in the park shall be so managed as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution.

2. All refuse shall be stored in fly-tight, watertight, rodent proof containers which shall be located within one-hundred fifty (150) feet of any mobile home space or

travel trailer space. Containers shall be so provided in sufficient numbers and capacity to properly store all refuse.

3. Racks or holders shall be provided for all refuse containers. Such container racks or holders shall be so designed as to prevent containers from being tipped to minimize spillage and container deterioration and to facilitate cleaning around them. Lids for containers shall be permanently connected to racks or holders with chains or other flexible materials.

4. All refuse shall be collected at least once weekly or as otherwise required by the health officer. Where city refuse collection is not available, the park operator shall either employ a private agency or provide this service. All refuse shall be collected and transported in covered vehicles or covered containers.

5. Where city or other private disposal service is not available, the park operator shall dispose of the refuse by transporting to an approved disposal site, as directed by the health officer. Refuse shall be buried only at locations and by methods approved by the health officer and in accordance with the ordinances of the city.

6. When city refuse disposal service is available, it must be used. (Prior Code 1991, §5-1115)

§ 62-34 INSECT AND RODENT CONTROL.

The following provisions shall apply to the control of insects and rodents in parks governed by this chapter:

1. Insect and rodent control measures to safeguard public health as required by the health officer shall be applied in the park.

2. Effective larvicidal solutions may be required by the health officer or for fly or mosquito breeding areas which cannot be controlled by other, more permanent measures.

3. The health officer may require the park operator to take suitable measures to control other insects and obnoxious weeds.

4. Accumulations of debris which may provide harborage for rodents shall not be permitted in the park.

5. When rats or other objectionable rodents are known to be in the park, the park operator shall take definite action, as directed by the health officer to exterminate them. (Prior Code 1991, §5-1116)

§ 62-35 ELECTRICITY; EXTERIOR LIGHTING.

A. An electrical outlet supplying at least sixty (60) amperes shall be provided for each mobile home space. The installation shall comply with all applicable state and local electrical codes and ordinances. Such electrical outlets and extension lines shall be grounded and weatherproofed. Plug receptacles shall also be grounded and weatherproofed. No power supply line shall be permitted to lie on the ground, and no main power line shall be suspended less than eighteen (18) feet above the ground, unless otherwise approved by the building official;

B. Streets and driveways within mobile home and travel trailer parks shall be lighted with street lights meeting the current standards of the Illuminating Engineering Society of North America or one-half candlepower, whichever is higher. (Prior Code 1991, §5-1117)

§ 62-36 FUELS; POWER SOURCES.

A. All piping from outside fuel storage tanks or cylinders to mobile or manufactured homes shall be of accountable material, as determined by the building official, and shall be permanently installed and securely fastened in place. All fuel storage tanks or cylinders shall be securely fastened in place and shall not be located inside or beneath the home or less than five feet from any home exit. All such installations shall meet the requirements of applicable adopted codes.

B. All power used for residential or nonresidential purposes within the park shall be derived from electricity, natural gas or solar energy sources. (Prior Code 1991, §5-1118)

§ 62-37 FIRE PROTECTION.

A. Park areas shall be kept free of litter, rubbish, and other flammable materials.

B. Where the water supply system does not provide at least six (6) inch water mains, there shall be provided a two (2) inch, frost-protected water riser within three hundred (300) feet of each home or building.

C. Fires shall be made only in stoves and other cooking or heating equipment intended for such purposes. (Prior Code 1991, §5-1119)

***Cross Reference*: Fire prevention and protection, ch. 38.**

§ 62-38 ALTERATIONS AND ADDITIONS.

A. All plumbing and electrical alterations or repairs in the park shall be made in accordance with applicable local regulations.

B. Skirting of mobile homes is permissible but areas enclosed by such skirting shall be maintained so as not to provide a harborage for rodents or create a fire hazard.

C. A building permit issued by the city clerk shall be required before any construction on a mobile home space or any structural addition or alteration to the exterior of a home takes place. No construction, addition, or alteration to the exterior of a home located in a park shall be permitted unless of the same type of construction or materials as the home affected. All construction, additions, or alterations shall be in compliance with applicable local and state laws. No permit shall be required for the addition of steps, canopies, awnings, or antennas. (Prior Code 1991, §5-1120)

§ 62-39 REGISTRATION OF OWNERS AND OCCUPANTS.

A. Each park permittee shall keep a register containing a record of all mobile home and travel trailer owners and occupants located within the park. The register shall contain the following information:

1. The name and address of the owner or occupant of each home and any motor vehicle;

2. The make, model, year, and license of each mobile or manufactured home and motor vehicle;

3. The state, territory, or country issuing such license; and

4. The date of arrival and of departure of each home.

B. The park shall keep the register available for inspection at reasonable times by law enforcement officers, public health officials, and other officials whose duties necessitate acquisition of the information contained in the register. The register record of each occupant registered shall not be destroyed for a period of one year following the date of departure of the registrant from the park. (Prior Code 1991, §5-1121)

§ 62-40 SUBDIVISIONS.

The following provisions shall apply to manufactured or mobile home subdivisions:

1. Manufactured home and mobile home subdivisions shall comply with chs. 94 and 122, except as otherwise provided in this section.

2. The minimum size of such a subdivision shall be five (5) acres.

3. No residences except mobile or manufactured homes shall be permitted in such a subdivision.

4. Minimum effective lot widths in the subdivision shall be fifty (50) feet, measured at the front building line, and minimum lot areas shall be five thousand (5,000) square feet, consistent with the adopted zoning regulations. At least a five (5) foot side yard shall be provided on each lot beyond any home and additions thereto. In areas not serviced by a public sewer, the minimum additional lot area shall be determined by the health officer on the basis of safe and sanitary sewer service. The effective lot width of a mobile or manufactured home lot shall be determined for interior lots by measuring at right angles across the lot from one diagonal side line to the other and for comer lots the measurement shall be made at right angles from diagonal having the greatest divergence from perpendicular to the street, through the midpoint of the rear line of the required front yard, to the opposite lot line, or an extension thereof.

5. Side lines of lots in the subdivisions need not be at right angles to straight street lines or radial to curved street lines.

6. Regardless of the effective lot width, the subdivision lots must abut a public street for at least twenty-five (25) feet.

7. All such subdivisions, except those developed under residential estates zoning district standards, shall have a green belt planting strip of not less than twenty (20) feet in width along all subdivision boundaries. Such greenbelt shall be composed of:

a. One row of deciduous or evergreen trees spaced not more than forty (40) feet apart;

b. Not less than three rows of shrubs spaced not more than forty (40) feet apart; and

c. Not less than three rows of shrubs spaced not more than eight (8) feet apart, which shrubs will eventually grow to a height of not less than twelve (12) feet. (Prior Code 1991, §5-1122)

***Cross Reference*: Subdivisions, ch. 94.**

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CHAPTER 66

NATURAL RESOURCES*

ARTICLE 1

OIL AND GAS

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***Cross References*: Buildings and building regulations, ch.14; environment, ch. 34; floods, ch. 42; health and sanitation, ch. 46; parks and recreation, ch. 74; planning, ch. 82; streets, sidewalks, and other public places, ch. 90; subdivisions, ch. 94; utilities, ch. 110; vegetation, ch. 114; zoning, ch. 122.**

***State Law Reference*: Oil and gas, 52 O.S.**

CHAPTER 1

ARTICLE I

OIL AND GAS

DIVISION 1

PURPOSE

§ 66-101 Purpose.
§§ 66-102 – 66-110 Reserved.

<u>§ 66-101</u> <u>PURPOSE</u>.

The exploration, development, and production of oil & gas in the city are activities which necessitate reasonable regulation to ensure that all property owners, mineral and otherwise, have the right to peaceably enjoy their property and its benefits and revenues. It is hereby declared to be the purpose of this ordinance to establish reasonable and uniform limitations, safeguards and regulations for present and future operations related to the exploring, drilling, developing, producing, transporting and storing of oil & gas and other substances produced in association with oil & gas within the city to protect the health and general welfare of the public; minimize the potential impact to property and mineral rights owners, protect the quality of the environment and encourage the orderly production of available mineral resources. (Ord. No. 10-08, 7/6/2010)

<u>§§ 66-102 – 66-110</u> <u>RESERVED</u>.

DIVISION 2

DEFINITIONS

§ 66-111 Definitions.
§§ 66-112 – 66-120 Reserved.

<u>§ 66-111</u> <u>DEFINITIONS</u>.

All technical industry words or phrases related to the drilling and production of oil & gas wells not specifically defined in this ordinance shall have the meanings customarily attributable thereto by prudent and reasonable oil & gas industry operators. The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

1. '*Abandonment*' means "abandonment" as defined by the Corporation Commission of Oklahoma and includes the plugging of the well and the restoration of any well site as required by this ordinance.

2. '*Ambient noise level*' means the all encompassing noise level associated with a given environment, being a composite of sounds from all sources at the location, constituting the normal or existing level of environmental noise at a given location.

3. '*Blowout preventer*' means a mechanical, hydraulic, pneumatic or other device or combination of such devices secured to the top of a well casing, including valves, fittings and control mechanisms connected therewith, which can be closed around the drill pipe, or other tubular goods which completely close the top of the casing and are designed for preventing blowouts.

4. '*Building*' means any structure used or intended for supporting or sheltering any use or occupancy. The term "building" shall be construed as if followed by the words "or portions thereof."

5. '*Cathodic protection*' means an electrochemical corrosion control technique accomplished by applying a direct current to the structure that causes the structure potential to change from the corrosion potential to a protective potential in the immunity region. The required cathodic protection current is supplied by sacrificial anode materials or by an impressed current system.

6. '*Cessation of drilling activities*' means the time when the blowout protectors (BOPs) are removed or otherwise rendered inoperable and/or there are no further activities to trip drill pipe, casing or insert other tools into or out of the hole.

7. '*City*' means the city of Purcell.

8. '*City code*' means the code of the city of Purcell.

9. '*City attorney*' means the city attorney of the city of Purcell.

10. '*City regulated pipelines*' means those pipelines within the city that under federal and state rules and regulations are not exempt from city regulations and ordinances regarding mapping, inventorying, locating or relocating of pipelines, including, but not limited to, pipelines over, under, along, or across a public street or alley, pipelines from the well to the first point of custody transfer or in private residential areas within the boundaries of the city.

11. '*Closed loop mud system*' means a system utilized while drilling so that reserve pits are not used and instead steel bins are used to collect all drilling waste.

12. '*Commission*' means the Corporation Commission of Oklahoma and all state rules.

13. '*Commencement of drilling activities*' means the reflection of either "spud well" or "nipple up" the blow out protectors (BOP) by the drilling contractors on the

IADC-API daily drilling report form maintained by the operator's tool pusher on the pad site.

14. '*Completion of drilling, re-drilling and re-working*' means the date the work is completed for the drilling, re-drilling or re-working and the crew is released by completing their work or contract or by their employer.

15. '*Daytime*' means the period from 6:00 am to 7:00 pm.

16. '*Decibel (db)*' means a unit for measuring the intensity of a sound/noise and is equal to 10 times the logarithm to the base ten (10) of the ratio of the measured sound pressure squared to a reference pressure which is twenty (20) micropascals.

17. '*Demobilization*' means those activities when the drilling has ceased and the rig equipment and related pad site equipment is being dismantled for the purpose of moving off the drill pad site.

18. '*Derrick*' means any portable framework, tower, mast and/or structure which is required or used in connection with drilling or re-working a well for the production of oil & gas.

19. '*Drilling*' means digging or boring a new well for the purpose of exploring for, developing or producing oil & gas or other hydrocarbons, or for the purpose of injecting oil & gas, water or any other fluid or substance into the earth.

20. '*Drilling equipment*' means the derrick, together with all parts of and appurtenances to such structure, every piece of apparatus, machinery or equipment used or erected or maintained for use in connection with drilling.

21. '*Drilling operations*' means drilling with drill pipe and bit, running casing, circulating mud and fluids, tripping tools and setting production casing/tubing.

22. '*Exploration*' means geologic or geophysical activities, including seismic surveys, related to the search for oil & gas or other subsurface hydrocarbons.

23. '*FEMA*' means Federal Emergency Management Agency.

24. '*FIRM*' means flood insurance rate map.

25. '*Fire department*' means the fire department of the city of Purcell.

26. '*Flowback*' means the process of flowing a completed/fractured well for the purpose of recovering water and residual sand from the oil & gas stream prior to sending oil & gas down a sales line.

27. '*Fracture or Fracturing*' means the process of fracture stimulation of a rock formation.

28. '*Freshwater fracture pit*' means a pit used for the collection and storage of fresh water for the purpose of fracture stimulation of oil & gas wells.

29. '*Fresh water means*' water obtained from any source (natural or reuse) that contains three-thousand (3000) ppm chlorides or less or as defined by the Corporation Commission of Oklahoma.

30. '*Oil & gas*' means any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a oil & gaseous or rarefied state at standard temperature and pressure conditions and/or the oil & gaseous components or vapors occurring in or derived from petroleum or natural oil & gas.

31. '*Oil & gas drilling review committee*' means a committee consisting of applicable city departments assembled for the purpose of reviewing wells drilled within one-thousand (1,000) feet of a protected use without waivers, all pipeline permit applications for oil & gas pipelines through a private residential area, and permit applications involving non-commercial truck routes. A parks advisory board member will be included on the oil & gas drilling review committee when any of the aforementioned reviews affects dedicated public parkland.

32. '*Oil & gas well*' means any well drilled, to be drilled, or used for the intended or actual production of natural oil & gas.

33. '*Habitable structure*' means any structure for which a certificate of occupancy is required. A habitable structure shall not include detached accessory buildings, garages and sheds.

34. '*Hospital building*' means any building used or designed to and intended to be used for medical, surgical, psychiatric, nursing or custodial care on a twenty-four (24) hour basis, including convalescent facilities, social rehabilitation centers, mental hospitals, detoxification facilities, and alcohol and drug centers.

35. '*Inspector*' means the oil & gas inspector(s) or other inspectors as needed and as designated by the city.

36. '*Lift compressor*' means a device that raises the pressure of a compressible fluid (oil & gas) in order to lift oil & gas from the well.

37. '*Line compressor*' means a device that raises the pressure of a compressible fluid (oil & gas) in order for the oil & gas to be transported through a pipeline.

38. '*Mobilization*' means those activities when the drilling rig and related equipment and personnel arrive at the well site and are conducting activities to rig up or

position the rig equipment at the well and prepare for drilling. This includes all activities and services prior to the drill bit being lowered below the rotary table and entering the conductor pipe in an attempt to make hole ("spud in") for the first time at the pad site.

39. '*Multiple well site permit*' means that permit issued for the sole purpose of allowing future wells to be drilled on an existing pad site and within one-thousand (1,000) feet of protected uses without obtaining waivers and/or variances.

40. '*Nighttime*' means the period between 7:00 p.m. and 6:00 a.m.

41. '*Operator*' means, for each well, the person listed on the corporation commission forms (permit to drill or completion report) for a oil & gas well that is, or will be, actually in charge and in control of drilling, maintaining, operating, pumping or controlling any well, including, without limitation, a unit operator. If the operator, as herein defined, is not the lessee under a oil & gas lease of any premises affected by the provisions of this ordinance, then such lessee shall also be deemed to be an operator. In the event that there is no oil & gas lease relating to any premises affected by this ordinance, the owner of the fee mineral estate in the premises shall be deemed an operator.

42. '*Outer boundary surface property line*' means the outer boundary of any property for which a preliminary plat or concept plan has been filed with the city of Purcell.

43. '*Person*' means both the singular and the plural and means a natural person, a corporation, association, guardian, partnership, receiver, trustee, administrator, executor, and fiduciary or representative of any kind.

44. '*Pipeline*' means all parts of those physical facilities through which oil & gas, hazardous liquids, fresh water, salt water, or chemicals move in transportation, including but limited to, pipe, valves and other appurtenance attached to pipe, whether or not laid in public or private easement or public or private right-of-way within the city, including but not limited to gathering lines, production lines and transmission lines. This definition does not include pipelines associated with franchise utilities.

45. '*Pipeline construction*' means the initiation of any excavation or other disturbance of property for the purpose of installation, construction, maintenance, repair, replacement, modification or removal of a pipeline.

46. '*Pipeline or well emergency*' means a pipeline or well incident that is required to be reported to the corporation commission, the Oklahoma Water Resource Board, or any federal, state, or local regulatory agency.

47. '*Pipeline permit*' means a permit for the movement of oil & gas, oil, water or other products.

48. '*Pipeline operator*' means any person owning, operating or responsible for operating a pipeline.

49. '*Private residential area*' means any area within the territorial limits of the city zoned and used as single or multi-family residential.

50. '*Property owner*' means the owner of the surface property.

51. '*Protected use*' means a residence, religious institution, hospital building, school or public park.

52. '*Public building*' means all buildings with occupancies of fifty (50) or more persons and more than seven-hundred (750) square feet used or designed to and intended to be used for motion picture theaters, symphony and concert halls, television and radio studios admitting an audience, theaters, banquet halls, night clubs, restaurants, taverns and bars, amusement arcades, art galleries, bowling alleys, community halls, courtrooms, dance halls, exhibition halls, funeral parlors, gymnasiums without spectator seating, indoor swimming pools and tennis courts without spectator seating, lecture halls, libraries, museums, waiting areas in transportation terminals, pool and billiard parlors, arenas with spectator seating, skating rinks with spectator seating, swimming pools with spectator seating, tennis courts with spectator seating and amusement park structures, bleachers, grandstands and stadiums used for viewing outdoor activities.

53. '*Public park*' means any land area dedicated to the city for traditional park-like recreational purposes.

54. '*Re-drill*' means re-completion of an existing well by deepening or sidetrack operations extending more than one-hundred fifty (150) feet from the existing well bore.

55. '*Reduced emission completion (green completion)*' means techniques or methods that minimize the release of natural oil & gas and vapors to the environment when a well is being flowed during the completion or re-completion phase of a Barnett Shale well.

56. '*Religious institution*' means any building in which persons regularly assemble for religious worship and activities intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.

57. '*Residence*' means a house, duplex, apartment, townhouse, condominium, city-inspected mobile home or other building designed for dwelling purposes, including those for which a building permit has been issued on the date the application for a oil & gas well permit is filed with the oil & gas inspector. Residence shall include assisted living facilities, nursing homes (both intermediate care facilities and skilled nursing facilities), residential board and care facilities, group homes, twenty-four (24) hour shelters, half-way houses, hotels, motels and jails.

58. '*Re-working*' means re-completion or re-entry of existing well within the existing bore hole or by deepening or sidetrack operations which do not extend more than

one- hundred fifty (150) feet from the existing well bore, or replacement of well liners or casings.

59. '*Right-of-way*' means public rights-of-way including streets, easements and other property within the city and which is dedicated to the use and benefit of the public.

60. '*School*' means any public and private, primary and secondary educational facilities providing education or off-site related School sports venues up through and including the twelfth grade level and any licensed day care centers, meaning a facility licensed by the state of Oklahoma or by the city of Purcell that provides care, training, education, custody, treatment or supervision for more than six children under fourteen (14) years of age, and for less than twenty-four (24) hours per day.

61. '*Site*' means the area used for drilling, development and production and all operational activities associated with oil & gas production.

62. '*Site preparation*' means any grading, tree removal, construction of access roads, delivery of fill material, staging of equipment or any other activity that would disturb the surface of the property.

63. '*State or Federal Regulated Pipelines*' means those pipelines within the city that under state and federal rules and regulations are exempt from city regulations and ordinances regarding mapping, inventorying, locating and relocating of pipelines.

64. '*Street*' means any street, highway, sidewalk, alley, avenue, recessed parking area or other public right-of-way, including the entire Right-of-way.

65. '*Tank*' means a container, covered or uncovered, used in conjunction with the drilling or production of oil & gas or other hydrocarbons for holding or storing fluids.

66. '*Technical advisor*' means such person(s) familiar with and educated in the Oil & Gas industry or the law as it relates to oil & gas matters that may be retained from time to time by the city.

67. '*Well*' means a hole or holes, bore or bores, to any horizon, formation, or strata for the purpose of producing oil & gas, liquid hydrocarbon, brine water or sulphur water, or for use as an injection well for secondary recovery, disposal or production of oil & gas, or other hydrocarbons from the earth.

68. '*Workover operation*' means work performed in a well after its completion in an effort to secure production where there has been none, restore production that has ceased or increase production.

§§ 66-112 – 66-120 RESERVED.

DIVISION 3

OIL & GAS INSPECTOR

§ 66-121 Oil and Gas Inspector.
§§ 66-122 – 66-130 Reserved.

§ 66-121 OIL & GAS INSPECTOR.

A. The city manager shall designate, or contract a oil & gas inspector who shall enforce the provisions of this ordinance. The oil & gas inspector shall be qualified with a background in drilling and production or demonstrate a proven background in the drilling, production, and operation of oil & gas wells. The oil & gas inspector shall have the authority to issue any orders or directives required to carry out the intent and purpose of this ordinance and its particular provisions. Failure of any person to comply with any such order or directive shall constitute a violation of this ordinance.

B. The oil & gas inspector shall have the authority to enter and inspect any premises covered by the provisions of this ordinance to determine compliance with the provisions of this ordinance and all applicable laws, rules, regulations, standards or directives of the state and to issue citations for violations of this ordinance. Failure of any person to permit access to the oil & gas inspector shall constitute a violation of this ordinance. The oil & gas inspector shall conduct periodic inspections at least once a year of all permitted wells in the city to determine that the wells are operating in accordance within proper parameters as set out in this ordinance and all regulations of the commission.

C. The oil & gas inspector shall have the authority to request and receive any records, including any records sent to the commission, logs, reports and the like, relating to the status or condition of any permitted well necessary to establish and determine compliance with the applicable oil & gas well and pipeline permits or other permits as required by this ordinance. Failure of any person to provide any such requested material shall be deemed a violation of this ordinance.

D. The oil & gas inspector shall have the authority to allow alternatives to the technical standards of this ordinance such as new technology, if the operator has demonstrated to the oil & gas inspector's satisfaction that the alternatives provide equal or greater protection of the environment or public.

§§ 66-122 – 66-130 RESERVED.

DIVISION 4

AGENT

§ 66-131 Operator's Agent.
§§ 66-132 – 66-140 Reserved.

§ 66-131 OPERATOR'S AGENT.

Every operator of any well shall designate an agent, who is a resident of the state of Oklahoma, upon whom all orders and notices provided in this ordinance may be served in person or by registered or certified mail. Every operator so designating such agent shall within ten (10) days notify the city clerk and oil & gas well division in writing of any change in such agent or such mailing address unless operations within the city are discontinued.

§§ 66-132 – 66-140 RESERVED.

DIVISION 5

OIL & GAS WELL PERMITS

§ 66-141 Oil & Gas Well Permit Required.
§ 66-142 Oil & Gas Well Permit Application and Filing Fees.
§ 66-143 Oil & Gas Permitting Procedure.
§ 66-144 Issuance of Oil & Gas Well Permits.
§ 66-145 Amended Oil & Gas Well Permit Application.
§ 66-146 Suspension or Revocation of Oil & Gas Well Permit; Issuance of a Citation, Effect.
§ 66-147 Periodic Reports.
§§ 66-148 – 66-150 Reserved.

§ 66-141 OIL & GAS WELL PERMIT REQUIRED.

A. A person wanting to engage in and operate in oil & gas production activities shall apply for and obtain a oil & gas well permit under this ordinance and shall indicate what type of oil & gas well permit is requested. It shall be unlawful for any person acting either for himself or acting as agent, employee, independent contractor, or servant for any person to drill any well, assist in any way in the site preparation, re-working, fracturing or operation of any such well or to conduct any activity related to the production of oil & gas without first obtaining a oil & gas well permit issued by the city in accordance with this ordinance. Such activities include, but are not limited to re-working, initial site preparation, drilling, operation, construction of rigs or tank batteries, fracturing and pressurizing. A permit shall not be required for seismic surveys unless the survey is conducted on city owned property or city rights-of-ways unless such requirement is waived by the city.

B. Operator must apply for and obtain a oil & gas well permit for the drilling, re-drilling, deepening, re-entering, activating or converting of each well.

C. A oil & gas well permit shall not constitute authority for the re-entering and drilling of an abandoned well. An operator shall obtain a new oil & gas well permit in accordance with the provisions of this ordinance if the operator is re-entering and drilling an abandoned well.

D. When a oil & gas well permit has been issued to the operator for the drilling, re-drilling, deepening, re-entering, activating or converting of a well, such oil & gas well permit shall constitute sufficient authority for drilling, operation, production gathering or production maintenance, repair, re-working, testing, plugging and abandonment of the well and/or any other activity associated with mineral exploration at the site of such well, provided, however, that a new or supplemental permit shall be obtained before such well may be reworked for purposes of re-drilling, deepening or converting such well to a depth or use other than that set forth in the then current permit for such well.

E. Any person who intends to re-work a permitted well using a drilling rig, to fracture stimulate a permitted well after initial completion or to conduct seismic surveys or other exploration activities shall give written notice to the oil & gas inspector and post a sign as described below no less than ten (10) days before the activities begin. The notice must identify where the activities will be conducted and must describe the activities in detail, including whether explosive charges will be used, the duration of the activities and the time the activities will be conducted. The notice must also provide the address and twenty-four (24) hour phone number of the person conducting the activities. The person conducting the activities will post a sign on the property giving the public notice of the activities, including the name, address and twenty-four (24) hour phone number of the person conducting the activities. If the oil & gas inspector determines that an inspection by the oil & gas inspector is necessary, the operator will pay the city for the inspection.

F. A oil & gas well permit shall automatically terminate if drilling of the well bore has not commenced within three-hundred sixty-five (365) days from the date of the issuance of the oil & gas well permit.

A oil & gas well permit may be extended one time by the oil & gas inspector for an additional three-hundred sixty-five (365) days upon request by the operator if:

1. Operator provides proof that there are no additional protected uses within one-thousand (1,000) feet from the time of the filing of the original permit applications; and

2. The request is submitted prior to the expiration of the original permit. No permit shall be extended beyond the expiration date of the current corporation commission permit.

G. The oil & gas well permits required by this ordinance are in addition to and are not in lieu of any permit which may be required by any other provision of this code or by any other governmental agency.

H. No additional oil & gas well permit or filing fees shall be required for:

1. any wells that are existing, previously permitted or approved by the city, within the corporate limits of the city on the effective date of this oil & gas drilling ordinance; or

2. any wells where drilling has commenced on the effective date of the ordinance; or

3. any wells in existence or on any wells on which drilling has commenced on land annexed into the city after the effective date of the ordinance; or

4. any well that was planned for the land before the 90th day before the effective date of its annexation and one or more licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for such well and the completed application for the initial authorization was filed before the date the annexation proceedings were instituted.

A person shall have forty-five (45) days after annexation into the city to designate a oil & gas operation as a pre-existing operation by filing a site plan drawn to scale that shows the proposed location of the well or pad site with respect to survey lines and the proposed associated production facilities, if any, or designate an existing pad site as a multiple well site with the oil & gas inspector.

An operator or property owner shall have forty-five (45) days after the effective date of this ordinance to notify the city of well sites existing prior to the effective date of this 2010 oil & gas drilling ordinance that have a protected use (permitted or built), as defined in the 2010 oil & gas drilling ordinance, which are located less than one-thousand (1,000) feet from an existing well site. Sites that meet the above notice and distance requirements will be grandfathered to the setback requirements existing prior to the effective date. If the above required notice is not received by the city within forty-five (45) days, the minimum setback distance of one-thousand (1,000) feet, provided by the 2010 oil & gas drilling ordinance, will take effect immediately upon the expiration of forty-five (45) days irrevocably.

I. No oil & gas well permit shall be issued for any well to be drilled within any public park without the prior consent of the city council. The city council shall review the insurance and security requirements on an individual basis prior to issuing the permit.

J. No oil & gas well permit shall be issued for any well to be drilled within any floodplain or floodway identified by FEMA on the most current FIRM without obtaining a floodplain development permit from the city.

K. No oil & gas well permit shall be issued without an approved erosion control and grading plan as required by the city to prevent any off site migration of silt and sediment.

L. No oil & gas well permit shall be issued for any well to be drilled on city owned property without the prior consent of the city council. The city council shall review the insurance and security requirements on an individual basis prior to issuing the permit.

M. Multiple oil & gas well pad site permit. At the time the operator submits an application for the issuance for a single well permit, the operator, at his option, may also request the issuance of a multiple well site permit for drilling future wells. Applications for oil & gas wells drilled on a multiple well site shall comply with the following:

1. For all purposes, the measurement shall be from the boundary line of the pad site.

2. If the pad site is located within one-thousand (1,000) feet of a protected use at the time of the filing of a multiple well site permit application, the applicant must obtain a variance granted by the city council or waivers from all protected uses within a one-thousand (1,000) foot radius before the multiple well site permit may be issued.

3. Notice that a multiple well site permit application has been filed with the city must be included in any notice to property owners and in the published newspaper notice as required by section 15-36 for the initial oil & gas well permit.

4. All multiple well site permits must be filed of record by the operator, at his expense in the applicable county deed records and indicated on all applicable plats filed in the deed records. Each filed multiple well site permit shall contain the address, lot and block, subdivision name and plat volume and page of each lot, tract or parcel located within one- thousand (1,000) feet of the multiple well site permit.

5. Prior to the issuance of a multiple well site permit by the city, the operator must place at least one sign on the property located in a conspicuous place or places upon the property at a point or points visible from the nearest right-of-way, street, roadway, public thoroughfare or protected use adjacent to such property. The oil & gas Inspector may require additional signage if the pad site fronts on more than one right-of-way, street, roadway, or public thoroughfare. The sign shall indicate that a multiple well site permit to drill multiple wells for oil & gas on this site has been applied for, and shall further set forth that additional information can be acquired by telephoning the applicant/operator at the number indicated on the sign. A permanent sign approved by the oil & gas inspector indicating that a multiple well site permit has been issued shall remain posted at the pad site location for the duration of the multiple well site permit.

6. Prior to the commencement of drilling of each additional oil & gas well on a permitted multiple well site permit pad site, the operator must submit an application for the issuance of a oil & gas well permit, for each such future well, in accordance with this ordinance.

7. All subsequent oil & gas wells drilled on a permitted oil & gas well pad site permit shall comply with all regulations, including the notice and landscape provisions, and

all other provisions of this ordinance, except for the distance setback requirements related to drilling a well from a protected use. No variance or waiver for a distance setback from a protected use shall be required for subsequent wells; however no well shall be drilled closer than one-thousand (1,000) feet from any protected use or public building.

8. No multiple well site permit shall be issued for a oil & gas well pad site greater than five (5) acres in surface area or the amount of surface area acreage included in the surface use agreement, whichever is larger.

9. All wells will be set back a minimum of seventy-five (75) feet from the outer pad site boundary.

10. The multiple well site permit shall automatically terminate if drilling of the initial well bore has not commenced within three-hundred sixty-five (365) days from the date of the issuance of the oil & gas well permit unless the initial oil & gas well permit is extended by the oil & gas inspector.

11. The issuance of a multiple well site permit is for the sole purpose of allowing future wells to be drilled on an existing pad site and within one-thousand (1,000) feet of protected uses without obtaining waivers and/or variances as set forth in section 15-36 of this ordinance. All oil & gas wells drilled upon a permitted oil & gas well pad site must otherwise comply with any drilling distance regulations from a protected use or other structure as required by state law and applicable fire code regulations and all other provisions of this ordinance.

N. By acceptance of any oil & gas well permit issued pursuant to this ordinance, the operator expressly stipulates and agrees to be bound by and comply with the provisions of this ordinance. The terms of this ordinance shall be deemed to be incorporated in any oil & gas well permit issued pursuant to this ordinance with the same force and effect as if this ordinance was set forth verbatim in such oil & gas well permit.

O. Oil & gas drilling review committee (GDRC).

1. All applications where a city council waiver is required, all applications that involve non commercial truck routes and all applications for oil & gas pipelines or oil & gas pipeline facilities located in a private residential area shall be reviewed by the oil & gas drilling review committee (GDRC) prior to the application being presented to the city council or administratively issued by the city staff, where applicable.

2. The GDRC shall be the planning commission, and composed of city staff representatives, and oil & gas inspector(s) and any outside experts to include legal, engineering, environmental, etc., that the GDRC deems necessary.

3. Notice of GDRC meeting shall be mailed ten (10) days after receipt of the application to:

a. All neighborhood associations within one-half (½) mile of drill site;

b. All property owners within one-thousand (1,000) feet of the proposed well;

c. All property owners fronting or along the non-commercial truck route; and

d. All property owners along the proposed private residential area pipeline route.

Notices shall follow the same format used for adoption of zoning regulations and district boundary changes and shall include a description of the application, the proposed truck route, distance setbacks, a location map and the GDRC meeting date and time. Notices shall include the email and phone contact information for the operator and the street address for the well location. All notices and applications shall be placed on the city's webpage in an electronic format.

4. The GDRC meeting shall be conducted in the following manner:

a. The operator (or pipeline operator, where applicable) shall present overview of the application.

b. Staff shall present the staff report including applicable ordinance regulations.

c. Following the presentations, a total of fifteen (15) minutes shall be allotted for citizen comments from the notified persons listed in number 3 above.

5. If the application involves a public park issue, the GDRC shall report finding to the city council.

6. No continuance shall be allowed unless requested by the operator/applicant. If a continuance is requested, the operator must submit new revisions within two (2) weeks of the initial GDRC hearing date. Notices to neighborhood associations and property owners as outlined in number 3 above will be resent with revised information.

7. The GDRC shall submit a written report to the city council involving permit request on all applications involving oil & gas wells or multiple well site permit without waivers and pipelines within the city's rights-of-way.

8. The report shall include the staff and citizen concerns and any unresolved issues. The GDRC shall submit a recommendation to the oil & gas well division on all applications that involve non-commercial truck routes and all applications for pipelines or pipeline facilities located in a private residential area.

9. The results and recommendations of the GDRC shall be sent to the operator or pipeline operator and shall be posted on the city's webpage within two (2) weeks following the GDRC meeting.

§ 66-142 OIL & GAS WELL PERMIT APPLICATION AND FILING FEES.

A. Every application for a oil & gas well permit issued pursuant to this ordinance shall be in writing signed by the operator, or some person duly authorized to sign on his behalf, and filed with the oil & gas inspector.

B. Every application shall be accompanied by a permit fee as set forth in the city code of ordinances for oil & gas drilling and production fees.

C. The application shall include the following information:

1. The date of the application and type of oil & gas well permit requested.

2. An accurate legal description of the lease property to be used for the oil & gas operation, the parcel and the production unit and name of the geologic formation as used by the commission. Property recorded by plat should reference subdivision, block and lot numbers.

3. Map showing proposed transportation route and road for equipment, chemicals or waste products used or produced by the oil & gas operation indicating commercial and non-commercial routes.

4. Proposed well name.

5. Surface owner name(s) and address(es) of the pad site property.

6. Operator/applicant name and address and if the operator is a corporation, the state of incorporation, and if the operator is a partnership, the names and addresses of the general partners.

7. Name and address of individual designated to receive notice.

8. Name of representative with regulatory response and supervisory authority over all oil & gas operation site activities and a phone number that is answered on a twenty-four (24) hour basis.

9. Location and description of all improvements and structures within one-thousand (1,000) feet of the well.

10. Owner and address of each parcel of property within one-thousand (1,000) feet of the proposed drill site.

11. A surveyed site plan of the proposed operation site shall display a registered professional land surveyor seal, a legend with scale for measurements and a complete legal description. The site plan shall include specific details to the projected location of the major components of the drilling site, the location of all improvements and equipment, including the location of the proposed well(s) and other facilities, including, but not limited to, tanks, city regulated pipelines, compressors, separators, lights, storage sheds, fencing, driveway approaches and any access roads. Surveyed site plan shall show the location of specific wells, pipelines, tanks and reservoir(s) in relationship to existing and proposed water and sanitary sewer lines and any other utility easements. The site plan shall also indicate floodway, floodplain or city recognized drainage ways and the elevation and slope of the pad site which indicates compliance with the then current fill ordinance, impacted vegetation, tree survey, creeks and other topographic features, compliance with the landscaping requirements as set out in section 66-14 of this ordinance, adjacent buildings and other structures and the measured distance from the well site to these buildings and structures, temporary and permanent fencing and landscaping.

12. The name, address and a phone number that is answered on a twenty-four (24) hour basis of the person to be notified in case of an emergency.

13. The exact and correct acreage and number of wells, if applicable, included in the oil & gas well permit application.

14. Copies of all reports submitted to the commission as required by the oil & gas inspector.

15. An original executed city wide road maintenance agreement signed and approved by the city must be filed with the city clerk that provides that the operator shall repair, at his own expense, any damage to roads, streets, or highways caused by the use of heavy vehicles for any activity associated with the preparation, drilling, production, and operation of oil & gas wells.

16. Copies of erosion control and grading plans.

17. A description of the water source to be used during drilling.

18. A copy of the stormwater pollution prevention plan as required by the Environmental Protection Agency. A copy of the notice of intent shall be submitted to the city of Purcell, department of environmental management, stormwater division, three (3) days prior to the commencement of any onsite activity.

19. A copy of the determination by the Oklahoma Water Resource Board (OWRB) of the depth of useable quality ground water.

20. Evidence of insurance and security requirements under this ordinance.

21. A statement, under oath, signed by the operator, or designated representative, that the information submitted with the application is, to the best knowledge and belief of the operator or designated representative, true and correct.

22. All applicable city departmental reviews and approvals.

23. Fracture pond permit/approval.

24. A surface reclamation plan.

25. The proposed gathering pipeline route from the well to the transmission pipeline, including all existing and proposed city rights-of-way and public or private property crossed by the proposed gathering pipeline.

26. Noise management plan as outlined in section 66-13.B.

27. All required application and oil & gas well permit fees.

28. A copy of the approved commission permit to drill together with attachments and survey plats which are applicable to the drill site. No permit shall be issued until a copy of the approved corporation commission permit to drill together with all submitted attachments and survey plats which are applicable to the drill and operation sites are submitted to the oil & gas inspector.

§ 66-143 OIL & GAS WELL PERMITTING PROCEDURE.

A. *Wells located within one-thousand (1,000) feet of a protected use*.

An oil & gas well permit shall not be issued for any well to be drilled within one-thousand (1,000) feet of a residence, religious institution, hospital building, school or public park without:

1. Waiver granted by the city council, (except for residences); or

2. Written notarized waiver granted by all the protected use property owners within one-thousand (1,000) foot radius around the proposed well pursuant to this section. All waivers must identify the property address, block and lot number, subdivision name (if applicable) and plat volume and page and be filed, at the expense of the operator, in the applicable county records prior to the application of a oil & gas well permit.

This setback distance may be reduced, but never less than six-hundred and sixty (660) feet, from any residence, religious institution, hospital building, school or public park.

The setback distance may never be reduced for a residence except by both an explicit authorization by all effected residence owners, including all undivided interest holders or homesteaded spouses in said residence(s), via written notarized waiver; and also

the required waiver granted by the city council. The city council may not unilaterally grant the waiver without the above stated written consent of all the effected residence owners.

This provision applies to any existing residence, religious institution, hospital building, school or public park or where a building permit has been issued for a protected use on the date the application for a permit is filed with the oil & gas inspector.

The measurement of the one-thousand (1,000) foot distance shall be made from the well bore, in a straight horizontal line, as looking down from an aerial view as upon a map, without regard to vertical deviation(s) or intervening structures or objects, to the closest exterior point of the building or boundary line of a public park or property line of a school.

B. ***Application requirements*.**

In addition to the requirements of section 66-6, an application for a oil & gas well permit to drill a well within one-thousand (1,000) feet of a protected use shall include a letter to the assistant director of planning and development – oil & gas well division requesting a public hearing to obtain a oil & gas well permit from city council or a copy of the written notarized waivers from the protected uses within one-thousand (1,000) feet of the proposed well and evidence of filing of each waiver in the applicable county deed records.

C. ***Permitting procedure for request of a waiver by the city council*.**

1. Within forty-five (45) days of receipt of a complete application, a site plan and a request for a waiver to drill a oil & gas well within one-thousand (1,000) feet of a protected use, the oil & gas inspector shall schedule the matter on a city council night agenda for a public hearing and give notice by mail of the time, place and purpose thereof to the applicant and any other party who has requested in writing to be so notified. The forty-five (45) day period shall not begin to run until the applicant/operator has provided the oil & gas inspector with a complete application package.

2. At least twenty (20) days, and no more than thirty (30) days prior to the date of the public hearing before the city council for a waiver and the issuance of a oil & gas well permit within one-thousand (1,000) feet of a protected use, the city shall notify, at operator's expense, each surface owner of property, as shown by the current city of Purcell fire department address system and the current tax rolls within one-thousand (1000) feet of the proposed well or boundary of a multiple well site not owned by or under lease to the operator of the hearing date and time. The notice shall contain an internet link for information on oil & gas drilling, the number of wells requested by the applicant, that drilling may commence within three-hundred sixty-five (365) days from the date of issuance of the permit, and contact telephone numbers for city staff and the operator/applicant. Such notice shall be deposited properly addressed and postage paid, in the United States mail. Notice shall be sent by the city to all registered neighborhood associations within one-half mile of the proposed drill site.

3. At least fifteen (15) days, and no more than twenty (20) days prior to the date of the public hearing before city council for a oil & gas well permit within one-thousand (1,000) feet of a protected use under this ordinance, operator shall publish a notice at operator's expense, in one issue of the local section of a newspaper of general circulation in the city, for ten (10) consecutive days. An affidavit by the printer or publisher of the newspaper indicating publication of the notice shall be filed with the application and will be prima facie evidence of such publication. All notices shall follow a format required by the city.

4. At least twenty (20) days prior to the date of the public hearing before city council for a oil & gas well permit within one-thousand (1,000) feet of a protected use under this ordinance the operator shall, at operator's expense, erect at least one sign, as approved by the oil & gas inspector, no less than three (3) feet by three (3) feet, upon the premises upon which a oil & gas well permit within one-thousand (1,000) feet of a protected use has been requested. Where possible, the sign or signs shall be located in a conspicuous place or places upon the property at a point or points nearest to any right-of-way, street, roadway or public thoroughfare adjacent to such property. The oil & gas inspector may require additional signage if the premise fronts on more than one right-of-way, street, roadway, or public thoroughfare.

a. The sign(s) shall substantially indicate that a oil & gas well permit to drill for oil & gas within one-thousand (1,000) feet of a protected use has been requested and state the date, time and place of the public hearing, and shall further set forth that additional information can be acquired by telephoning the operator/applicant at the number indicated on the sign.

b. The continued maintenance of any such sign(s) shall not be deemed a condition precedent to the holding of any public hearing or to any other official action concerning this ordinance.

c. The sign shall remain posted at the pad site for the duration of the oil & gas well permit to drill within one-thousand (1,000) feet of a protected use.

5. All notice provisions contained herein shall be deemed sufficient upon substantial compliance with this section.

6. After a permit application and site plan is submitted to drill within one-thousand (1,000) feet of a protected use, the oil & gas inspector shall evaluate the public impact of the proposed activity. The oil & gas inspector shall consider the proposed site and the proposed operations or drilling program and shall draft recommended restrictions or conditions, including minimum separation distance for drilling or other operations, special equipment and procedures, recommended noise reduction levels, screening and any other requirements the oil & gas Inspector deems appropriate. The recommendation shall be submitted to the city council for consideration prior to the public hearing along with evidence that timely actual notice of the hearing was given to all persons as required by this ordinance.

7. At the public hearing and before the city council considers the merits of the application and the recommendations of the oil & gas inspector, the operator/applicant shall provide evidence of a certificate of publication establishing timely publication of the notice of the hearing, and that the operator/applicant has otherwise complied with or satisfied all other requirements of this ordinance, including full and complete compliance with the insurance and security requirements.

8. The burden of proof on all matters, except notice, considered in the hearing shall be upon the applicant/operator.

9. The city council shall review the application and any other related information. The city council shall consider the following in deciding whether to grant a waiver and authorize the issuance of a oil & gas well permit to drill within one-thousand (1,000) feet of a protected use:

a. Whether the operations proposed are reasonable under the circumstances and conditions prevailing in the area considering the particular location and the character of the improvements located thereon;

b. Whether the drilling of such wells would conflict with the orderly growth and development of the city;

c. Whether there are other alternative well site locations that would allow reasonable access to explore, develop and produce the mineral estate without creating mineral waste;

d. Whether the operations proposed are consistent with the health and welfare of the public when and if conducted in accordance with the oil & gas well permit conditions to be imposed;

e. Whether there is approved access for the city fire personnel and fire fighting equipment;

f. Whether there is reasonable access to the oil & gas well site that minimizes the impact to residential properties if the use of non-designated commercial or truck routes are required;

g. Whether the impact upon the adjacent property and the general public by operations conducted in compliance with the oil & gas well permit conditions are reasonable and justified, balancing the following factors:

1) The right of the owners(s) of the mineral estate to explore, develop, and produce the minerals; and

2) The availability of alternative drill sites, both presently and at other times during the lease term; and

h. The recommendations of the oil & gas inspector.

i. Whether all of the potentially effected residential owners have provided the required waivers if the proposed well is to be permitted within the allowed distance for a residence under allowed variances.

10. The city council may require an increase in the operator/applicant's proposed distance that the well is to be set back from any residence, religious institution, public building, hospital building, school or public park or require any change in operation, plan, design, layout or any change in the on-site and technical regulations in sections 66-13 and 66-14 of this ordinance, including fencing, screening, lighting, delivery times, noise levels, tank height, or any other matters reasonably required by public interest.

11. The city council may accept, reject or modify the application in the interest of securing compliance with this ordinance, the city code and/or to protect the health and welfare of the community.

D. *Permitting procedure for a waiver from protected use property owners*.

1. No application for a oil & gas well permit within one-thousand (1,000) feet of a protected use by waiver of protected uses shall be accepted unless the written notarized waivers are obtained from all protected use property owners within one-thousand (1,000) feet of the proposed well site. Written notarized waivers granted by the all the protected use property owners within a one-thousand (1,000) foot radius around the proposed well or boundary of multiple well site must be filed, at the expense of the operator, in the applicable county records. All waivers must identify the property address, block and lot number, subdivision name and plat volume and page number. Copies of filed protected use property owner waivers must be submitted with the filing of a completed application for a oil & gas well permit within one- thousand (1,000) feet of a protected use.

If the operator fails to obtain written waivers from all property owners within a one- thousand (1,000) foot radius around the proposed well, or boundary of multiple well site the operator must submit a request for a waiver to drill a oil & gas well within one-thousand (1,000) feet of a protected use from city council pursuant to the requirements of subsection C of this section (except for residences which mandatorily require waivers from all effected residential owners) or modify the well location to comply with the one-thousand (1,000) foot setback from all protected uses. Waivers from new protected use property owners shall not be required for an approved or existing multiple well site permit.

2. Upon receipt of copies of all protected use waivers filed in the applicable county deed records and a completed application by the operator, the city shall notify, at operator's expense, each surface owner of property as shown by the current city of Purcell Fire Department addresses within one-thousand (1000) feet of the proposed well_or boundary of multiple well site not owned by or under lease to the operator.

The notice shall contain the information as outlined below, an internet link for information on oil & gas drilling, the number of wells requested by the applicant and contact telephone numbers for the city staff and operator/applicant. Notice shall be sent by the city to all registered neighborhood associations within one-half mile of the proposed drill site.

3. At least ten (10) days prior to the date of filing of an application for a oil & gas well permit within one-thousand (1,000) feet of a protected use by protected use waiver under this ordinance with the oil & gas inspector, operator shall publish the notice at the expense of the operator, in one issue of the local section of a newspaper of general circulation in the city for ten (10) consecutive days. An affidavit by the printer or publisher of the newspaper indicating publication of the notice shall be filed with the application and will be prima facie evidence of such publication. All notices shall follow a format required by the city.

4. At least ten (10) days prior to, but not more than thirty (30) days, the date of filing of an application for a oil & gas well permit within one-thousand (1,000) feet of a protected use under this section with the oil & gas inspector, the operator, at operator's expense, shall erect at least one sign, as approved by the oil & gas inspector, no less than three (3) feet by three (3) feet, upon the premises upon which a oil & gas well permit within one-thousand (1,000) feet of a protected use by protected use waiver permit has been requested. Where possible, the sign or signs shall be located in a conspicuous place or places upon the property at a point or points nearest right-of-way, street, roadway or public thoroughfare adjacent to such property. The oil & gas inspector may require additional signage if the premise fronts on more than one right-of-way, street, roadway, or public thoroughfare.

a. The sign(s) shall substantially indicate that a oil & gas well permit within one- thousand (1,000) feet of a protected use by protected use waiver to drill for oil & gas has been requested and shall further set forth that additional information can be acquired by telephoning the operator at the number indicated on the sign.

b. The continued maintenance of any such sign(s) shall not be deemed a condition precedent to the holding of any public hearing or to any other official action concerning this ordinance.

c. Any sign(s) shall be removed subsequent to final action by the oil & gas inspector or the city council.

5. All notice provisions contained herein shall be deemed sufficient upon substantial compliance with this section.

E. ***Permitting procedure for oil and gas wells located greater than one-thousand (1,000) feet from a protected use*****.**

Notice for Oil & Gas Well Permit.

1. At least ten (10) days after the date of filing of an application for a oil & gas well permit with the oil & gas inspector under this ordinance, city shall notify, at the expense of the operator, each surface owner of property, as shown by the current city of Purcell fire department address system and current tax roll within one-thousand (1,000) feet of the proposed well not owned by or under lease to the operator. Such notice, as outlined below, shall be by depositing the same, properly addressed and postage paid, in the United States mail.

The notice shall contain the information as outlined below and shall also include the date and time of the next monthly informational meeting at city hall, an internet link for information on oil & gas drilling, the number of wells requested by the applicant, that drilling may commence within one-hundred eighty (180) days from the issuance of the permit, and contact telephone numbers for city staff and operator/applicant. Notice shall be sent to all registered neighborhood associations within one-half mile of the proposed drill site.

2. At least ten (10) days prior to the date of filing of an application for a oil & gas well permit under this ordinance with the oil & gas inspector, operator shall publish a notice at the expense of the operator, in one issue of the local section of a newspaper of general circulation in the city for ten (10) consecutive days. An affidavit by the printer or publisher of the newspaper indicating publication of the notice shall be filed with the application and will be prima facie evidence of such publication. All notices shall follow a format required by the city.

3. At least ten (10) days prior to, but not more than thirty (30) days, the date of filing of an application for a oil & gas well permit under this ordinance with the oil & gas inspector, the operator, at operator's expense, shall erect at least one sign, as approved by the oil & gas inspector, no less than three (3) feet by three (3) feet, upon the premises upon which a oil & gas well permit has been requested. Where possible, the sign or signs shall be located in a conspicuous place or places upon the property at a point or points nearest right-of-way, street, roadway or public thoroughfare adjacent to such property. The oil & gas inspector may require additional signage if the premise fronts on more than one right-of-way, street, roadway, or public thoroughfare.

a. The sign(s) shall substantially indicate that a oil & gas well permit to drill for oil & gas has been requested and shall further set forth that additional information can be acquired by telephoning the operator at the number indicated on the sign.

b. The continued maintenance of any such sign(s) shall not be deemed a condition precedent to the holding of any public hearing or to any other official action concerning this ordinance.

c. The sign shall remain posted at the pad site for the duration of the oil & gas well permit.

4. All notice provisions contained herein shall be deemed sufficient upon substantial compliance with this section.

§ 66-144 ISSUANCE OF OIL & GAS WELL PERMITS.

A. It is the responsibility of the oil & gas inspector to review and approve or disapprove all applications for oil & gas well drilling permits based on the criteria established by this ordinance. The oil & gas inspector, after the filing of a completed application and remittance of all fees, insurance and security per the requirements of this ordinance for a oil & gas well permit, shall determine whether or not the application complies in all respects with the provisions of this ordinance and determine if the proposed well to be drilled or the facility to be installed is in compliance with the distance requirements for the requested oil & gas well permit on the date the completed application is received by the oil & gas inspector.

B. The provisions of this ordinance shall apply to any dwellings or buildings for which an application for a building permit has been submitted on the date the application for a oil& gas well permit is filed with the oil & gas inspector.

C. If all the requirements of this ordinance are met, the oil & gas inspector shall issue a oil & gas well permit for the drilling of the well or the installation of the facilities applied for.

D. If the oil & gas inspector denies a oil & gas well permit application for reasons other than lack of required distance as set out in this ordinance for the requested oil & gas well permit, he shall notify the operator in writing of such denial stating the reasons for the denial. Within thirty (30) days of the date of the written decision of the oil & gas inspector to deny the oil & gas well permit, the operator may:

1. cure those conditions that caused the denial and resubmit the application to the oil & gas inspector for approval and issuance of the oil & gas well permit; or

2. file an appeal to the city council under the provisions outlined in this ordinance pursuant to section 15-49 "appeals" of this ordinance.

E. If the oil & gas inspector determines that the operator has complied with all of the provisions of this ordinance but that the proposed drill site does not comply with the distance requirements of this ordinance the oil & gas inspector shall notify the operator. The operator may modify the well location or resubmit the application for a oil & gas well permit within one- thousand (1,000) feet of a protected use. Operator must comply with all the application requirements for a oil & gas well permit within one-thousand (1,000) feet of a protected use.

§ 66-145 AMENDED OIL & GAS WELL PERMIT APPLICATION.

An operator may request to amend a oil & gas well permit application without re-noticing, to relocate a drill site or operation site that is shown on (or incorporated by reference as part of) the application, provided that the distance to protected uses is not decreased.

§ 66-146 SUSPENSION OR REVOCATION OF OIL & GAS WELL PERMIT; ISSUANCE OF A CITATION, EFFECT.

A. If an operator (or its officers, employees, agents, contractors, or representatives) fails to comply with any requirement of a oil & gas well permit (including any requirement incorporated by reference as part of the oil & gas well permit), the oil & gas inspector shall give written notice to the operator specifying the nature of the failure and giving the operator a reasonable time to cure, taking into consideration the nature and extent of the failure, the extent of the efforts required to cure, and the potential impact on the health and welfare of the community. In no event, however, shall the cure period be less than ten (10) days unless the failure presents a violation of the noise provisions, a risk of imminent destruction of property or injury to persons or unless the failure involves the operator's failure to provide periodic reports as required by this ordinance.

B. If the operator fails to correct the noncompliance within ten (10) days from the date of the notice, the oil & gas inspector may suspend or revoke the oil & gas well permit or issue a citation pursuant to the provisions of this ordinance. A citation may be immediately issued for failure to comply with the provisions of section 66-13.B "Noise". However, if the operator is in compliance with the approved noise management plan, and a violation still occurs, the operator will be given twenty-four (24) hours from notice of non-compliance to correct the violation from an identified source before a citation is issued. Additional extensions of the twenty-four (24) hour period may be granted in the event that the source of the violation can not be identified after reasonable diligence by the operator.

C. No person shall carry on any operations performed under the terms of the oil & gas well permit issued under this ordinance during any period of any oil & gas well permit suspension or revocation or pending a review of the decision or order of the city in suspending or revoking the oil & gas well permit. Nothing contained herein shall be construed to prevent the necessary, diligent and bona fide efforts to cure and remedy the default or violation for which the suspension or revocation of the oil & gas well permit was ordered for the safety of persons or as required by the commission.

D. If the operator does not cure the noncompliance within the time specified in this ordinance, the oil & gas inspector, upon written notice to the operator, may notify the Commission and request that the commission take any appropriate action.

E. Operator may, within thirty (30) days of the date of the decision of the oil & gas Inspector in writing to suspend or revoke a oil & gas well permit, file an appeal to the

city council under the provisions outlined in this ordinance pursuant to section 66-20, "Appeals" of this ordinance.

F. If an application for a oil & gas well permit is denied by the oil & gas inspector, nothing herein contained shall prevent a new permit application from being submitted to the oil & gas inspector for the same well.

§ 66-147 PERIODIC REPORTS.

A. The operator shall notify the oil & gas inspector of any changes to the following information within one business week after the change occurs:

1. The name, address, and phone number of the operator;

2. The name, address, and phone number of the person designated to receive notices from the city (which person must be a resident of Oklahoma that can be served in person or by registered or certified mail); and

3. The operator's emergency response plan (including "drive-to-maps" from public rights-of-way to each drill site).

B. The operator shall notify the oil & gas inspector of any change to the name, address, and twenty-four (24) hour phone number of the person(s) with supervisory authority over drilling or operations activities within one business day.

C. The operator shall provide a copy of any "incident reports" or written complaints submitted to the commission within thirty (30) days after the operator has notice of the existence of such reports or complaints.

D. Beginning on December 31st after each well is completed, and continuing on each December 31st thereafter until the operator notifies the oil & gas inspector that the well has been abandoned and the site restored, the operator shall submit a written report to the oil & gas inspector identifying any changes to the information that was included in the application for the applicable oil & gas well permit that have not been previously reported to the city.

E. Beginning on December 31st after each well is permitted by the city, the operator shall provide an operational status report for every well permitted to the operator within the city. The report shall include the well name, API number, lease name, city case number, commission permit number, commission lease ID number and current status whether pending, drilling, completing, producing, plugged or abandoned.

§§ 66-148 – 66-150 RESERVED.

DIVISION 6

INSURANCE, BOND AND INDEMNITY

§ 66-151 Bond, Letters of Credit, Indemnity, Insurance.
§§ 66-152 – 66-161 Reserved.

§ 66-151 BOND, LETTERS OF CREDIT, INDEMNITY, INSURANCE.

A. *General requirements*.

The operator shall be required to:

1. Comply with the terms and conditions of this ordinance and the oil & gas well permit issued hereunder.

2. Promptly clear drill and operation sites of all litter, trash, waste and other substances used, allowed, or occurring in the operations, and after abandonment or completion grade, level and restore such property to the same surface conditions as nearly as possible as existed before operations.

3. Indemnify and hold harmless the city, its officers, agents, and employees from and against any and all claims, losses, damages, causes of action, suits and liability of every kind, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any person or for damage to any property arising out of or in connection with the work done by operator under a oil & gas well permit:

a. where such injuries, death or damages are caused by operator's sole negligence or the joint negligence of operator and any other person or entity; and

b. regardless of whether such injuries, death or damages are caused in whole or in part by the negligence of operator.

4. Promptly pay all fines, penalties and other assessments imposed due to breach of any terms of the oil & gas well permit.

5. Promptly restore to its former condition any public property damaged by the oil & gas operation.

B. *Bond, irrevocable letter of credit*.

1. Prior to the issuance of a oil & gas well permit the operator shall provide the oil & gas inspector with a security instrument in the form of a bond or an irrevocable letter of credit in accordance with this subsection B. Evidence of the execution of a letter of credit

shall be submitted to the oil & gas inspector by submitting an original signed letter of credit from the banking institution, with a copy of the same provided to the city clerk.

a. ***During Drilling.*** **An operator drilling between one (1) and five (5) wells in the city at any time shall provide a blanket bond or letter of credit that meets the requirements of this subsection B in the principal minimum amount of one-hundred fifty-thousand dollars ($150,000.00). Such blanket bond or letter of credit shall be increased by fifty-thousand dollars ($50,000.00) for the sixth (6th) and each additional well being drilled in the city.**

b. ***During Production.*** **An operator with wells that are producing and for which all drilling operations have ceased shall provide a blanket bond or letter of credit that meets the requirements of this subsection B in the principal minimum amounts as follows:**

1) Up to seventy-five (75) wells: One-hundred thousand dollars ($100,000.00);

2) Between seventy-six (76) and one-hundred fifty (150) wells: One-hundred fifty-thousand dollars ($150,000.00); and

3) More than one-hundred fifty (150) wells: Two-hundred fifty-thousand dollars ($250,000.00).

2. The city shall be authorized to draw upon such bond or letter of credit to (i) recover any fines or penalties assessed under this ordinance or (ii) to pay the city for the cost of doing any work required to remedy any default by the operator under any provision of this ordinance. If the city determines that a default has occurred in the performance of any requirement or condition imposed by this ordinance, a written notice shall be given to the operator. Such notice shall specify the work to be done, the estimated cost and the period of time deemed to be reasonably necessary for the completion of such work. After receipt of such notice, the operator shall, within the time therein specified, either cause or require the work to be performed, or failing to do so, shall pay over to the city one-hundred twenty-five (125) percent of the estimated cost of doing the work as set forth in the notice. In no event, however, shall the cure period be less than thirty (30) days unless the failure presents a risk of imminent destruction of property or injury to persons or unless the failure involves the operator's failure to provide periodic reports as required by this ordinance.

The city shall be authorized to draw against the bond or letter of credit provided hereunder to recover such amount due from the operator. Upon receipt of such monies, the city shall proceed by such mode as deemed convenient and necessary to cause the required work to be performed and completed, but no liability shall be incurred other than for the expenditure of said sum in hand. In the event that the well has not been properly abandoned under the regulations of the commission, such additional money may be demanded from the operator as is necessary to properly plug and abandon the well and

restore the drill site in conformity with the regulations of this ordinance. In the event the operator does not cause the work to be performed and fails or refuses to pay over to the city the estimated cost of the work to be done as set forth in the notice, or the issuer of the security instrument refuses to honor any draft by the city against the applicable irrevocable letter of credit or bond the city may proceed to obtain compliance and abate the default by way of civil action against the operator, or by criminal action against the operator, or by both such methods.

3. *Requirements for Bonds*. A bond shall be executed by a reliable bonding or insurance institution authorized to do business in Oklahoma, acceptable to the city. The bond shall become effective on or before the date the oil & gas well permit is issued and shall remain in force and effect for at least a period of six (6) months after the expiration of the oil & gas well permit term or until the well is plugged and abandoned and the site is restored, whichever occurs first. The operator shall be listed as principal and the instrument shall run to the city, as obligee, and shall be conditioned that the operator will comply with the terms and regulations of this ordinance and the city. The original bond shall be submitted to the oil & gas inspector with a copy of the same provided to the city clerk.

4. *Requirements for Letters of Credit*. A letter of credit shall be issued by a reliable bank authorized to do business in Oklahoma and shall become effective on or before the date the oil & gas well permit is issued. The letter of credit shall remain in force and effect for at least a period of six (6) months after the expiration of the oil & gas well permit term. If the letter of credit is for a time period less than the life of the well as required by this ordinance, the operator must agree to either renew the letter of credit or replace the letter of credit with a bond in the amount required by this ordinance, on or before sixty (60) days prior to the expiration date of the letter of credit. If the operator fails to deliver to the city either the renewal letter of credit or replacement bond in the appropriate amount on or before sixty (60) days prior to the expiration date of the letter of credit, the city may draw the entire face amount of the attached letter of credit to be held by the city of Purcell as security for operator's performance of its obligations under this ordinance.

5. When the well or wells covered by said irrevocable letters of credit or bond have been properly abandoned in conformity with all regulations of this ordinance, and in conformity with all regulations of the commission and notice to that effect has been received by the city, or upon receipt of a satisfactory substitute, the irrevocable letter of credit or bond issued in compliance with these regulations shall be terminated and cancelled.

C. *Insurance*. In addition to the bond or letter of credit required pursuant to this ordinance, the operator shall carry a policy or policies of insurance issued by an insurance company or companies authorized to do business in Oklahoma. In the event such insurance policy or policies are cancelled, the oil & gas well permit shall be suspended on such date of cancellation and the operator's right to operate under such oil & gas well permit shall immediately cease until the operator files additional insurance as provided herein.

1. ***General requirements applicable to all policies*.**

a. The city, its officials, employees, agents and officers shall be endorsed as an "additional insured" to all policies except employers liability coverage under the operator's workers compensation policy.

b. All policies shall be written on an occurrence basis except for environmental pollution liability (seepage and pollution coverage) and excess or umbrella liability, which may be on a claims-made basis.

c. All policies shall be written by an insurer with an A-VIII or better rating by the most current version of the A. M. Best Key Rating Guide or with such other financially sound insurance carriers acceptable to the city.

d. Deductibles shall be listed on the certificate of insurance and shall be on a "per occurrence" basis unless otherwise stipulated herein.

e. Certificates of Insurance shall be delivered to the city of Purcell, planning and development, 1515 North Green, Purcell, Oklahoma 73080, evidencing all the required coverage, including endorsements, prior to the issuance of a oil & gas well permit.

f. All policies shall be endorsed with a waiver of subrogation providing rights of recovery in favor of the city.

g. Any failure on part of the city to request required insurance documentation shall not constitute a waiver of the insurance requirement specified herein.

h. Each policy shall be endorsed to provide the city a minimum thirty-day notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten days notice shall be acceptable in the event of non-payment of premium.

i. During the term of the oil & gas well permit, the operator shall report, in a timely manner, to the oil & gas inspector any known loss occurrence which could give rise to a liability claim or lawsuit or which could result in a property loss.

j. Upon request, certified copies of all insurance policies shall be furnished to the city.

2. ***Standard commercial general liability policy*. This coverage must include premises, operations, blowout or explosion, products, completed operations, sudden and accidental pollution, blanket contractual liability, underground resources and equipment hazard damage, broad form property damage, independent contractors' protective liability and personal injury. This coverage shall be a minimum combined single limit of one-million dollars ($1,000,000) per occurrence for bodily injury and property damage.**

3. ***Excess or umbrella liability*. Five-million dollars ($5,000,000) excess when necessary.**

4. ***Environmental pollution liability coverage*.**

a. Operator shall purchase and maintain in force for the duration of the oil & gas well permit, insurance for environmental pollution liability applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense or settlement of claims; all in connection with any loss arising from the insured site. Coverage shall be maintained in an amount of at least five-million dollars ($5,000,000) per loss.

b. Coverage shall apply to sudden and accidental, as well as gradual pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or oil & gases, waste material or other irritants, contaminants or pollutants.

c. The operator shall maintain continuous coverage and shall purchase extended coverage period insurance when necessary. The extended coverage period insurance must provide that any retroactive date applicable to coverage under the policy precedes the effective date of the issuance of the permit by the city.

5. ***Control of well*. The policy should cover the cost of controlling a well that is out of control, re-drilling or restoration expenses, seepage and pollution damage as first party recovery for the operator and related expenses, including, but not limited to, loss of equipment, experts and evacuation of residents.**

a. Five-million dollars ($5,000,000) per occurrence/combined single limit.

b. Five-hundred thousand dollars ($500,000) sub-limit endorsement may be added for damage to property for which the operator has care, custody and control.

6. Workers compensation and employers liability insurance.

a. Workers compensation benefits shall be Oklahoma statutory limits.

b. Employers liability shall be a minimum of five-hundred thousand dollars ($500,000) per accident.

c. Such coverage shall include a waiver of subrogation in favor of the city and provide coverage in accordance with applicable state and federal laws.

7. Automobile liability insurance.

a. Combined single limit of one-million dollars ($1,000,000) per occurrence for bodily injury and property damage.

b. Coverage must include all owned, hired and not-owned automobiles.

8. Certificates of insurance.

a. The company must be admitted or approved to do business in the state of Oklahoma, unless the coverage is written by a surplus lines insurer.

b. The insurance set forth by the insurance company must be:

1) Underwritten on forms that have been approved by the Oklahoma State Board of Insurance or ISO, or an equivalent policy form acceptable to the city, with the exception of environmental pollution liability and control of well coverage;

2) Set forth all endorsements and insurance coverage according to requirements and instructions contained herein; and

3) Shall specifically set forth the notice of cancellation, termination, or change in coverage provisions to the city. All policies shall be endorsed to read "THIS POLICY WILL NOT BE CANCELLED OR NON-RENEWED WITHOUT THIRTY (30) DAYS ADVANCED WRITTEN NOTICE TO THE OWNER AND THE CITY EXCEPT WHEN THIS POLICY IS BEING CANCELLED FOR NONPAYMENT OF PREMIUM, IN WHICH CASE TEN (10) DAYS ADVANCE WRITTEN NOTICE IS REQUIRED".

c. Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

D. *Indemnification and express negligence provisions*.

1. Each oil & gas well permit issued by the oil & gas inspector shall include the following language: operator does hereby expressly release and discharge all claims, demands, actions, judgments, and executions which it ever had, or now has or may have, or assigns may have, or claim to have, against the city of Purcell, and/or its departments, agents, officers, servants, successors, assigns, sponsors, volunteers, or employees, created by, or arising out of personal injuries, known or unknown, and injuries to property, real or personal, or in any way incidental to or in connection with the performance of the work performed by the operator under a oil & gas well permit. The operator shall fully defend, protect, indemnify, and hold harmless the city of Purcell, Oklahoma, its departments, agents, officers, servants, employees, successors, assigns, sponsors, or volunteers from and

against each and every claim, demand, or cause of action and any and all liability, damages, obligations, judgments, losses, fines, penalties, costs, fees, and expenses incurred in defense of the city of Purcell, Oklahoma, its departments, agents, officers, servants, or employees, including, without limitation, personal injuries and death in connection therewith which may be made or asserted by operator, its agents, assigns, or any third parties on account of, arising out of, or in any way incidental to or in connection with the performance of the work performed by the operator under a oil & gas well permit. THE OPERATOR AGREES TO INDEMNIFY AND HOLD HARMLESS THE CITY OF PURCELL, OKLAHOMA, ITS DEPARTMENTS, ITS OFFICERS, AGENTS, SERVANTS, EMPLOYEES, SUCCESSORS, ASSIGNS, SPONSORS, OR VOLUNTEERS FROM ANY LIABILITIES OR DAMAGES SUFFERED AS A RESULT OF CLAIMS, DEMANDS, COSTS, OR JUDGMENTS AGAINST THE CITY, ITS DEPARTMENTS, ITS OFFICERS, AGENTS, SERVANTS, OR EMPLOYEES, CREATED BY, OR ARISING OUT OF THE ACTS OR OMISSIONS OF THE CITY OF PURCELL OCCURRING ON THE DRILL SITE OR IN THE COURSE AND SCOPE OF INSPECTING AND PERMITTING THE OIL & GAS WELLS INCLUDING, BUT NOT LIMITED TO, CLAIMS AND DAMAGES ARISING IN WHOLE OR IN PART FROM THE NEGLIGENCE OF THE CITY OF PURCELL OCCURRING ON THE DRILL SITE OR IN THE COURSE AND SCOPE OF INSPECTING AND PERMITTING THE OIL & GAS WELLS. IT IS UNDERSTOOD AND AGREED THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION IS AN INDEMNITY EXTENDED BY THE OPERATOR TO INDEMNIFY AND PROTECT THE CITY OF PURCELL, OKLAHOMA AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES FROM THE CONSEQUENCES OF THE NEGLIGENCE OF THE CITY OF PURCELL, OKLAHOMA AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES, WHETHER THAT NEGLIGENCE IS THE SOLE OR CONTRIBUTING CAUSE OF THE RESULTANT INJURY, DEATH, AND/OR DAMAGE.

E. *Notice*. The individual designated to receive notice shall be a resident of Oklahoma upon whom all orders and notices provided in this ordinance may be served in person or by registered or certified mail. Every operator shall within ten (10) days notify the oil & gas Inspector in writing of any change in such agent or mailing address unless operations in the city are discontinued and abandonment is complete.

F. *Acceptance and indemnity agreement*. The operator who has a net worth of not less than fifty-million dollars ($50,000,000), as shown in such owner's or operator's most recent audited financial statements, may substitute an acceptance and indemnity agreement in lieu of the bond or irrevocable letter of credit and insurance requirements set forth in this ordinance, provided that such acceptance and indemnity agreement shall be in a form acceptable to, and approved by, the city attorney and the city's director of risk management. The oil & gas Inspector may request an annual review of the operator's most recent audited financial statements to assure compliance with this section.

§§ 66-152 – 66-161 RESERVED.

DIVISION 7

ON SITE AND TECHNICAL REGULATIONS

§ 66-162 Technical Regulations.
§ 66-162 Fences and Landscaping.
§ 66-163 Cleanup and Maintenance.
§ 66-164 Plugged and Abandoned Well.
§§ 66-165 – 66-170 Reserved.

§ 66-161 TECHNICAL REGULATIONS.

A. On site requirements.

1. *Abandoned Wells*. All wells shall be abandoned in accordance with the rules of the corporation commission and pursuant to section 66-16 of this ordinance.

2. *Blowout Prevention*. In all cases, blowout prevention equipment shall be used on all wells being drilled, worked-over or in which tubing is being changed. Protection shall be provided to prevent blowout during oil & gas operations as required by and in conformance with the requirements of the commission and the recommendations of the American Petroleum Institute. The operator must equip all drilling wells with adequate blowout preventers, flow lines and valves commensurate with the working pressures involved as required by the commission.

3. *Closed Loop Mud Systems*. A closed loop mud system shall be required for all drilling and reworking operations for all oil & gas wells. Oil & gas wells located on an open space of not less than twenty-five acres with no operations to be conducted within one-thousand (1,000) feet of a protected use may use a lined earthen pit instead of a closed loop mud system.

4. *Compliance*. Operator shall comply with all applicable federal, state and city requirements at all times.

5. *Discharge*. No person shall place, deposit, discharge, or cause or permit to be placed, deposited or discharged, any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substances or any refuse including wastewater or brine from any oil & gas operation or the contents of any container used in connection with any oil & gas operation in or upon any body of water or any private property in the city or in or upon any public right-of-way, alleys, streets, lots, storm drain, ditch or sewer, sanitary drain without permits from the appropriate city departments.

6. *Drilling Notice*. The operator shall provide forty-eight (48) hour notice to the oil & gas inspector before the start of drilling operations, fracture stimulation, work over or servicing operations.

7. ***Drill Stem Testing*****. All open hole formation or drill stem testing shall be done during daytime hours. Drill stem tests may be conducted only if the well effluent during the test is produced through an adequate oil & gas separator to storage tanks and the effluent remaining in the drill pipe prior to the time the tool is closed is flushed to the surface by circulating drilling fluid down the annulus and up the drill pipe.**

8. ***Dust, Vibration, Odors*****. All drilling and production operations shall be conducted in such a manner as to minimize, so far as practicable, dust, vibration, or noxious odors, and shall be in accordance with the best accepted practices incident to drilling for the production of oil & gas and other hydrocarbon substances in urban areas. All equipment used shall be constructed and operated so that vibrations, dust, odor or other harmful or annoying substances or effects are minimized by the operations carried on at any drilling or production site or from anything incident thereto to avoid injury to or annoyance of persons living in the vicinity. The site or structures shall not be permitted to become dilapidated, unsightly or unsafe. Proven technological improvements in industry standards of drilling and production in this area shall be adopted as they become available if capable of reducing factors of dust, vibration and odor.**

9. ***Electric Lines*****. All electric lines to production facilities shall be located in a manner compatible to those already installed in the surrounding area or subdivision.**

10. ***Electric Motors*****. Only electric prime movers or motors shall be permitted for the purpose of pumping wells. No electric power shall be generated on location. All electrical installations and equipment shall conform to the city ordinances and the appropriate national codes.**

11. ***Emergency Response Plan*****. Prior to the commencement of any oil & gas or other hydrocarbons production activities, operator shall submit to the oil & gas inspector an emergency response plan establishing written procedures to minimize any hazard resulting from drilling, completion or producing of oil & gas wells. Said plan shall use existing guidelines established by the Oklahoma Corporation Commission, Oklahoma Water Resource Board, Department of Transportation and/or the Environmental Protection Agency and city's fire code. A copy of the emergency response plan shall be kept on site.**

12. ***Equipment Painted*****. All production equipment on the site shall be painted and maintained at all times, including pumping units, storage tanks, buildings and structures. No company logos or advertisement shall be allowed. The city reserves the right to dictate the color scheme to best match the surrounding environment.**

13. ***Explosives*****. Use of explosive charges within the city limits shall require a permit issued by the bomb & arson section of the city of Purcell fire department.**

14. ***Fire Notice*****. In the event of a fire or discovery of a fire, smoke, or unauthorized release of flammable or hazardous materials on any property, the operator shall immediately report such condition to the fire department in accordance with the city of Purcell Fire Code. The reporting limits for hazardous materials release shall conform to**

the requirements of the corporation commission and not exceed any state or federal permitting limit. A copy of the hazardous materials release records required by Oklahoma Water Resource Board (OWRB) shall be forwarded to the fire marshal on an annual basis.

16. ***Fire Prevention; Sources of Ignition*****. Firefighting apparatus and supplies as approved by the fire department and required by any applicable federal, state, or local law shall be provided by the operator, at the operator's cost, and shall be maintained on the drilling site at all times during drilling and production operations. The operator shall be responsible for the maintenance and upkeep of such equipment. Each well shall be equipped with an automated valve that closes the well in the event of an abnormal change in operating pressure. All well heads shall contain an appropriately labeled emergency shut off valve to the well distribution line.**

17. ***Fracturing Operations*****.**

a. All formation fracture stimulation operations shall be conducted during daytime hours.

b. At least forty-eight (48) hours before operations are commenced, the operator shall notify the oil & gas Inspector and post a sign at the entrance of the well site advising the public of the date the operations will commence.

c. "Flowback" operations to recover fluids used during fracture stimulation shall be exempt from work hour restrictions, subject to noise restrictions of section 66-13.

d. A watchman shall be required at all times during such operations.

e. At no time shall the well be allowed to flow or vent directly to the atmosphere without first directing the flow through separation equipment or into a portable tank.

18. ***Fresh Water Fracture Ponds*****.**

a. Permit required. The construction of a fresh water fracture pit shall require a permit from the city after approval from the following city departments:

1) Fire department in order to address the location of the fresh water fracture pit;

2) Water department for sewer line and water line review;

3) Transportation and public works for master thoroughfare and floodplain review;

4) Planning and development for forestry review; and

5) Any other applicable city department as determined by the city.

b. No construction of the fracture pond shall commence until review and approval from all city departments are received and a permit is issued by the oil & gas inspector.

c. No fresh water fracture pit may be placed in any city recognized drainage way, FEMA floodplain or floodway, existing city rights-of-way or city easements.

d. Construction and maintenance of the fresh water fracture pit must comply with all city, state and federal regulations.

e. All fracture ponds located on a tract of land not adjacent to a oil & gas drilling pad site shall be located in "AG" Agricultural, "I" Light Industrial, "J" Medium Industrial and "K" Heavy Industrial zoning districts unless otherwise authorized by the oil & gas inspector for the purpose of reducing total number of fracture ponds.

f. The permit or authorization issued by the city shall be maintained on the location at all times during construction of the fresh water fracture pit.

g. All pits shall meet the following requirements:

1) Fresh water fracture pits shall not be lined with a synthetic impervious liner unless approved by the oil & gas inspector. Existing liners shall be removed at the time any pit is reworked, enlarged, restored or altered unless otherwise authorized by the oil & gas inspector;

2) The fresh water fracture pit shall be enclosed with open design chain link black or dark green fencing on all four (4) sides;

3) Pits shall be maintained in a manner utilizing best management practices to ensure the integrity of pit walls and liners. For purposes of this subsection, "best management practices" shall mean structural, nonstructural and managerial techniques that are recognized to be the most effective and practical means to control water storage in open pits in an urban or rural setting;

4) No oil and oil & gas waste by-products or salt water shall be allowed in the fresh water fracture pit; and

5) A sign at a conspicuous place or places on the property near any right of way, street, road, or public thoroughfare. The sign shall provide the operator's phone number for additional information.

h. **The operator shall enter into a specific surface use agreement with the surface owner that provides for the maintenance and operation of the fracture pond when the pond is no longer under the control or use of the operator or that the operator will restore the property to its condition prior to the construction of the fracture pond. The agreement shall be provided to the city.**

i. **Periodic tests may be required by the city's oil & gas well inspector. All costs for testing shall be borne by the operator or permittee of the fresh water fracture pit. All samples collected for testing shall be witnessed by the oil & gas inspector or other designated city personnel.**

19. ***Fresh Water Wells*. It shall be unlawful to drill any well the center of which, at the surface of the ground, is located within five-hundred (500) feet of any existing fresh water well unless a waiver is obtained from the property owner. The measurement shall be in a direct line from the closest well bore to the fresh water well bore.**

a. **The operator of a oil & gas well shall provide the oil & gas inspector with a "pre-drilling" and "post-drilling" water analysis and flow rate from any existing fresh water well within five-hundred (500) feet of the oil & gas well.**

b. **An operator may drill a fresh water well in compliance with state law within two-hundred (200) feet of the wellbore to use for drilling and completion operations. A fresh water well that is used for drilling and production operations is excluded from the five-hundred (500) foot setback for future oil & gas wells drilled on the permitted pad site.**

c. **A copy of the Oklahoma Water Resource Board permit shall be provided to the oil & gas inspector along with the geographic coordinates of every water well within five-hundred (500) feet of the well bore.**

d. **A copy of all plugging and abandonment reports filed with the state and/or transfer of ownership notice shall be provided to the oil & gas inspector and the water department.**

e. **The operator of a oil & gas well shall provide the oil & gas inspector with a "pre-drilling" and "post-drilling" water analysis from the fresh water well if the well is transferred to private or public use.**

20. ***Oil & Gas Lift Compressor*. Any on-site compressor used to 'lift oil & gas' shall be designed to comply with the noise requirements of this ordinance.**

21. ***Oil & Gas Processing Onsite*. Except for a conventional oil & gas separator or line heater, no refinery, processing, treating or absorption plant of any kind shall be constructed, established or maintained on the premises without appropriate city permits and a certificate of occupancy.**

22. ***Grass, Weeds, Trash*. All drill sites shall be kept clear of high grass, weeds, and combustible trash within a radius of one-hundred (100) feet around any oil & gas tank or tanks or producing wells.**

23. ***Hazardous Plan*. Hazardous Materials Management Plan (HMMP) and all Material Safety Data Sheets (MSDS) for all hazardous materials that will be located, stored, transported and/or temporarily used on the operations site shall be submitted to the oil & gas Inspector for distribution to the director of the emergency management office.**

24. ***Lights*. No person shall permit any lights located on any site to be directed in such a manner so that they shine directly on public roads, adjacent property or property in the general vicinity of the site. To the extent practicable, and taking into account safety considerations, site lighting shall be directed downward and internally so as to avoid glare on public roads and adjacent dwellings and buildings within three-hundred (300) feet.**

25. ***Mobilization and Demobilization*. Mobilization and demobilization shall be prohibited before 9 am and after 6 pm on Sundays. Other than mobilization and demobilization and advancing the bore hole, no other activities shall be allowed on the site on Sundays.**

26. ***Muffling Exhaust*. Exhaust from any internal combustion engine or compressor, stationary or mounted on wheels, used in connection with the drilling of any well or for use on any production equipment shall not be discharged into the open air unless equipped with an exhaust muffler, or mufflers or an exhaust muffler box constructed of noncombustible materials sufficient to suppress noise and disruptive vibrations and prevent the escape of obnoxious oil & gases, fumes or ignited carbon or soot.**

27. ***Pits*. The following applies for pits used for drilling and completion operations:**

a. Lined earthen mud or circulating pits or a closed loop mud system may be used for oil & gas wells permitted prior to the ordinance's effective date.

b. All pits shall be approved by the applicable city department.

c. All pits and contents shall be de-watered, back-filled and compacted following the schedule established by the statewide rules of the corporation commission.

d. No drill cuttings, rotary mud or wastewater generated during drilling operations may be buried on site unless permitted by the commission and approved by the city after submission of an acceptable pre-burial test.

e. No pit shall be placed in a floodplain without obtaining a floodplain development permit from the city.

f. Every drill pit used for drilling operations shall be fenced on all open sides during drilling operations and enclosed on all four sides with a chain link fence in compliance with section 15-43 after drilling operations have ceased.

g. No flowback water produced by fracture operations shall be placed in any open pit without a copy of a valid state permit submitted to the oil & gas inspector.

28. *Private Roads and Drill Sites*. Prior to the commencement of any drilling operations, all private roads used for access to the drill site and the site itself shall be at least fifteen (15) feet wide, drain appropriately, have an overhead clearance of fourteen (14) feet and shall be surfaced with a crushed rock, gravel or ore and maintained to prevent dust and mud. All temporary driveway approaches must be approved by the city prior to the commencement of any drilling operations. In particular cases these requirements governing surfacing of private roads may be altered at the discretion of the oil & gas inspector and the city director of transportation and Public Works after consideration of all circumstances including, but not limited to, the following: distances from public streets and highways; distances from adjoining and nearby property owners whose surface rights are not leased by the operation; the purpose for which the property of such owners is or may be used; topographical features; nature of the soil; and exposure to wind. Watering, wetting or other methods or materials must be used to control the dust on all roads adjacent to residential property.

A gated permanent approach meeting the city design requirements shall be constructed at the entrance of the access road onto a public street within sixty (60) days after drilling operations have ceased or at the request of the oil & gas inspector.

29. *Reduced Emission Completion*. After fracturing or re-fracturing, operators shall employ appropriate equipment and processes as soon as practicable to minimize natural oil & gas and associated vapor releases to the environment. All salable oil & gas shall be directed to the sales line as soon as practicable or shut in and conserved. All wells that have a sales line shall be required to employ reduced emission completion techniques and methods, but operators may request a variance from the oil & gas inspector if they believe that reduced emission completion techniques or methods are not feasible or would endanger the safety of personnel or the public.

Reduced emission completion techniques and methods shall not be required for well(s) that do not have a sales line and:

a. were permitted prior to the effective date of this ordinance; or

b. is the first permitted well on a pad site.

Flaring may be allowed in some instances as an alternative to venting as allowed by the oil & gas inspector. If burning of oil & gases by open flame is authorized by the oil & gas Inspector then such open flame shall not be located closer than six-hundred (600) feet

from any building not used in operations on the drilling site and such open flame shall be screened in such a way as to minimize detrimental effects to adjacent property owners.

30. *Salt Water Wells*. No commercial salt water disposal wells shall be located within the city.

A city permit for a non-commercial saltwater disposal wells for lease use may be issued for wells as identified on the corporation commission form W-14 if:

a. Well is located in an "I" Restricted Light Industrial, "I2" Light Industrial, "I3" Heavy Industrial;

b. All permit and notification requirements to obtain a state permit are reviewed by the oil & gas inspector prior to obtaining the state permit;

c. A state permit is obtained from the commission to dispose of nonhazardous oil and oil & gas waste by injection into a porous formation not productive of oil and oil & gas;

d. The saltwater disposal well is cased and cemented to the surface;

e. The disposal well permit must be approved by the city council if the well is located within one-thousand (1,000) feet of a protected use;

f. The disposal well is in compliance with all conditions of the state permit; and

g. The disposal well is in compliance with any restrictions placed on the city permit.

The city shall have the right to terminate the saltwater disposal permit and required the well to be plugged and abandoned within thirty (30) days after notice of noncompliance.

31. *Signs*.

a. A sign shall be immediately and prominently displayed at the gate on the temporary and permanent site fencing erected pursuant to section 66-14 of this ordinance. Such sign shall made from be durable material, maintained in good condition and, unless otherwise required by the commission, shall have a surface area of not less than two (2) square feet nor more than four (4) square feet and shall be lettered with the following:

1) Well name and number;

2) Name of operator;

3) The emergency 911 number; and

4) Telephone numbers of two (2) persons responsible for the well who may be contacted in case of emergency.

b. Permanent weatherproof signs reading "DANGER NO SMOKING OR OPEN FLAME ALLOWED IN THIS AREA" "PELIGRO NO FUMAR O INICIAR LLAMA EN ESTA AREA" shall be posted immediately upon completion of the well site fencing at the entrance of each well site and tank battery or in any other location approved or designated by the fire chief of the city. Sign lettering shall be four (4) inches in height and shall be red on a white background or white on a red background. Each sign shall include the emergency notification numbers of the fire department and the operator, well and lease designations required by the commission.

c. National Fire Prevention Association (NFPA) 704 diamond hazard identification signs are required on each tank and at the entrance to the site adjacent to the operator's sign. A label must be located on each tank indicating exact chemicals that may be contained in the tank. Text shall be a minimum of six (6) inches in height, contrasting with the background color.

32. *Storage of Equipment*. On-site storage is prohibited. No equipment shall be stored on the drilling or production operation site, unless it is necessary to the everyday operation of the well. Lumber, pipes, tubing and casing shall not be left on the operation site except when drilling or well servicing operations are being conducted on the site.

No vehicle or item of machinery shall be parked or stored on any street, right-of-way or in any driveway, alley or upon any site which constitutes a fire hazard or an obstruction to or interference with fighting or controlling fires except that equipment which is necessary for drilling or production operations on the site. The fire department shall be the entity that determines whether any equipment on the site shall constitute a fire hazard.

33. *Storage Tanks*. All tanks and permanent structures shall conform to the American Petroleum Institute (A.P.I.) specifications unless other specifications are approved by the fire chief. The top of the tanks shall be no higher than ten (10) feet above the terrain surrounding the tanks. All storage tanks shall be equipped with a secondary containment system including lining with an impervious synthetic material. The secondary containment system shall be a minimum of three (3) feet in height and one and one-half (1½) times the contents of the largest tank in accordance with the fire code, and buried at least one (1) foot deep. Drip pots shall be provided at the pump out connections to contain the liquids from the storage tanks.

a. Secondary containment shall be required for all equipment. Secondary containment shall be capable of containing a release of one-hundred fifty

(150%) percent of the largest storage container within the containment and have adequate freeboard to contain an average annual rain event.

b. Temporary flowback tanks shall be removed within ninety (90) days after completion of the oil & gas well(s) at the pad site unless permission is obtained from the oil & gas inspector to extend the time period for no more than thirty (30) days.

c. Each storage tank shall be equipped with a level control device that will automatically activate a valve to close the well in the event of excess liquid accumulation in the tank.

d. No meters, storage tanks, separation facilities, or other aboveground facilities, other than the well head and flow lines, shall be placed in a floodway identified by FEMA on the most current FIRM or the one-hundred (100) year floodplain without a floodplain development permit obtained from the department of transportation and public works.

e. All tanks shall be set back at least seventy-five (75) feet from any public street, road, highway or future street, or right-of-way or the nearest rail of an operating railway.

f. Tank batteries, separators and equipment shall be set back at least one-thousand (1,000) feet from the protected use, public building or habitable structure or one hundred (100) feet from the property line, whichever is greater. The setback shall apply for any protected use, public building or habitable structure for which a building permit has been issued on the date of the application for a drilling permit. The distance shall be calculated from the closest tank batteries, well facilities and/or equipment, in a straight line, without regard to intervening structures or objects, to the closest exterior point of the building.

34. *Tank Battery Facilities*. Tank battery facilities shall be equipped with a lightning arrestor system.

35. *Surface Casing*. Surface casing shall be run and set in full compliance with the applicable rules and regulations of the commission.

36. *Valves*. Each well must have a shutoff valve to terminate the well's production. The fire department shall have access to the well site and the shut-off valve in an emergency. Each well shall be equipped with an automated valve that closes the well in the event of any abnormal increase in operating pressure.

37. *Vapor Recovery for Storage Tanks*. Vapor recovery equipment shall be required for tank batteries that have an estimated rolling annual aggregate emissions rate of twenty-five (25) tons or greater of total volatile organic hydrocarbons per year per well

head. Vapor recovery equipment must be operated and maintained in such a way to ensure a ninety-five (95%) percent recovery efficiency between the internal and external atmospheres of the tank(s).

38. *Vehicle Truck Routes*. Vehicles associated with drilling and/or production in excess of three tons shall be restricted to such streets designated as either truck routes or commercial delivery routes designated by the city code wherever capable of being used. The vehicles shall be operated on a truck route wherever capable of being used; they shall be operated on a commercial delivery route only when it is not possible to use a truck route to fulfill the purpose for which such vehicle is then being operated. Commercial delivery route means any street or highway so designated by the city council for the use by any commercial motor vehicle, truck-tractor, trailer, semi-trailer, or any combination thereof. All vehicle truck routes must be approved by the oil & gas inspector before the oil & gas well permit is issued. The oil & gas inspector shall have the authority to require an alternate route to minimize the impact to surrounding uses.

39. *Waste Disposal*. Unless otherwise directed by the commission, all tanks used for storage shall conform to the following:

a. Operator must use portable closed steel storage tanks for storing liquid hydrocarbons. Tanks must meet the American Petroleum Institute standards. All tanks must have a vent line, flame arrester and pressure relief valve. All tanks must be enclosed by a fence applicable to the issued permit classification.

b. Except as provided in subsection 3. above, drilling mud, cuttings, liquid hydrocarbons and all other field waste derived or resulting from or connected with the drilling, Re-working or deepening of any well shall be discharged into a closed loop mud system. All disposals must be in accordance with the rules of the commission and any other appropriate local, state or federal agency.

c. Unless otherwise directed by the commission, waste materials shall be removed from the site and transported to an off-site disposal facility not less often than every thirty (30) days. Water stored in on-site tanks shall be removed as necessary.

d. All waste shall be disposed of in such a manner as to comply with the air and water pollution control regulations of the state, this ordinance and any other applicable ordinance of the city.

40. *Watchman*. The operator must keep a watchman or security personnel on site during the drilling or Re-working of a well when other workmen are not on the premises.

41. *Wellhead Status*. Wellbores, mouse holes, rat holes, cellars and conduit casings shall be:

a. Covered at all times when not in use by one-half (½) inch steel plating, adequately covering the entire bore hole annulus to prevent accidental entrapment of persons or animals;

b. Completed through the production casing flange with a metal plate or blind flange bolted across the head; and

c. Surrounded with a six (6) feet tall chain link fence having a gate and lock.

The cellar shall be filled or closed. The braden head shall be piped to the surface and open to the atmosphere or have an observable and adequate pressure gauge with operable test valve.

42. *Work Hours*. No construction activities involving excavation of, alteration to, or repair work on any access road or pad site shall occur during nighttime hours or at any time on Sunday. Truck deliveries of equipment and materials associated with drilling and/or production, well servicing, Site preparation and other related work conducted on the well site shall be limited to daytime hours except in cases of fires, blowouts, explosions and any other emergencies or where the delivery of equipment is necessary to prevent the cessation of drilling or production. Other than mobilization and demobilization and advancing the bore hole, no other activities shall be allowed on the wells site on Sundays.

B. Noise – Oil & Gas Wells.

1. Prior to the issuance of a oil & gas well permit and the commencement of operations, the operator shall submit a noise management plan, approved by the oil & gas inspector, detailing how the equipment used in the drilling, completion, transportation, or production of a well complies with the maximum permissible noise levels of this section. The noise management plan must:

a. Identify operation noise impacts;

b. Provide documentation establishing the ambient noise level prior to construction of any wellhead, compressor or compression facility; and

c. Detail how the impacts will be mitigated. In determining noise mitigation, specific site characteristics shall be considered, including but not limited to the following:

1) Nature and proximity of adjacent development, location, and type;

2) Seasonal and prevailing weather patterns, including wind directions;

3) Vegetative cover on or adjacent to the site; and

4) Topography.

The operator shall be responsible for verifying compliance with this section and the noise management plan after the installation of the noise generation equipment

2. No well shall be drilled, re-drilled or any equipment operated at any location within the city in such a manner so as to create any noise which causes the exterior noise level when measured at the protected use receiver's/receptor's property line or from the closest exterior point of the protected use structure or inside the protected use structure if access to the property is granted by the receiver/receptor, that:

a. Exceeds the ambient noise level by more than five (5) decibels during daytime hours and more than three (3) decibels during nighttime hours;

b. Exceeds the ambient noise level by more than ten (10) decibels over the daytime average ambient noise level during fracturing operations during daytime hours. No fracturing shall be allowed during nighttime hours except for flowback operations related to fracturing as provided in c. below;

c. Exceeds the ambient noise level by more than three (3) decibels during flowback operations during nighttime hours;

d. Creates pure tones where one-third octave band sound-pressure level in the band with the tone exceeds the arithmetic average of the sound-pressure levels of two contiguous one-third (⅓) octave bands by five (5) dB for center frequencies of five-hundred (500) Hertz and above, and by eight (8) dB for center frequencies between one-hundred sixty (160) and four-hundred (400) Hertz, and by fifteen (15) dB for center frequencies less than or equal to one-hundred twenty (125) Hertz; or

e. Creates low-frequency outdoor noise levels that exceed the following dB levels:

1) Sixteen (16) Hz octave band: Sixty-five (65) dB

2) Thirty-two (32) Hz octave band: Sixty-five (65) dB

3) Sixty-four (64) Hz octave band: Sixty-five (65) dB

3. The operator shall be responsible for establishing and reporting to the city a continuous seventy-two (72) hour pre-drilling ambient noise level prior to the issuance of a oil & gas well permit. The seventy-two hour time span shall include at least one twenty-four (24) hour reading during either a Saturday or Sunday. The operator shall use the prior established ambient noise level for the installation of any new noise generation equipment

unless the operator can demonstrate that the increase in the ambient noise level is not associated with drilling and production activities located either on or off-site.

4. Adjustments to the noise standards as set forth above in subsection 1. a, b and c of this section may be permitted intermittently in accordance with the following:

Permitted Increase Duration of Increase (dBA) (minutes)*

10……5
15……1
20……..…less than 1

***Cumulative minutes during any one hour**

5. All workover operations shall be restricted to daytime hours.

6. The exterior noise level generated by the drilling, redrilling or other operations of all oil & gas wells located within one-thousand (1,000) feet of a protected use shall be continuously monitored, to ensure compliance. The cost of such monitoring shall be borne by the operator. If a complaint is received by either the operator or the oil & gas inspector from any protected use the operator shall, within twenty-four (24) hours of notice of the complaint, continuously monitor for a seventy-two (72) hour period the exterior noise level generated by the drilling, redrilling or other operations to ensure compliance. At the request of the oil & gas inspector, the operator shall monitor the exterior noise level at the source of the complaint.

7. Acoustical blankets, sound walls, mufflers or other alternative methods as approved by the oil & gas inspector may be used to ensure compliance. All soundproofing shall comply with accepted industry standards and be subject to approval by the city's fire department.

8. The sound level meter used in conducting noise evaluations shall meet the American National Standard Institute's standard for sound meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.

9. A citation may be immediately issued for failure to comply with the provisions of this section. However, if the operator is in compliance with the approved noise management plan, and a violation still occurs, the operator will be given twenty-four (24) hours from notice of non-compliance to correct the violation from an identified source before a citation is issued. Additional extensions of the twenty-four (24) hour period may be granted in the event that the source of the violation can not be identified after reasonable diligence by the operator.

10. The city reserves the absolute right to require the utilization of electrical equipment or downhole pumps or any other equipment it deems necessary to facilitate the quiet operation of the permitted well in order to ensure the health and welfare and peaceful tranquility of the citizens of the municipality.

C. Setbacks.

1. It shall be unlawful to drill any well, the center of which, at the surface of the ground, is located:

a. Within twenty-five (25) feet from any storage tank, or source of ignition;

b. Within seventy-five (75) feet of any public street, road, highway, future street, right-of-way, property line or the nearest rail of an operating railway;

c. Within one-thousand (1,000) feet from any protected use;

d. Within six-hundred and sixty (660) feet from any public building;

e. Within one-thousand (1,000) feet from any habitable structure;

f. Within one-hundred (100) feet of any building accessory to, but not necessary to the operation of the well;

g. Within five-hundred (500) feet to any fresh water well not drilled by the operator as a specific source of water used for drilling or completion operations without the express written permission of the owner of the water well; or

h. Within three-hundred (300) feet from an outer boundary surface property line or a distance minus the required zoning setback of the adjacent property at the time of permitting the first oil & gas well unless one of the following conditions exist:

1) the oil, oil & gas and mineral lease precedes the formation of an outer boundary surface property line; or

2) the adjacent property is owned or under lease by the operator.

The distance shall be calculated from the well bore, in a straight line, without regard to intervening structures or objects, to the closest exterior point of any object listed in a. through f. and h. above, except that the measurement from a well bore to a school not located within another protected use shall be from the property line of the school to the well bore, in a straight line, without regard to intervening structures or objects.

The measurement for g. above shall be in a direct line from the closest well bore to the fresh water well bore. The distance requirement for fresh water

wells is subject to the corporation commission regulations and any other state or federal requirements.

2. Distance reduction for protected uses: The distance set out in subsection c. of this section may be reduced to six-hundred and sixty (660) feet from any protected use or habitable structure, with a:

a. Waiver granted by the city council (except for residential properties); and/or

b. Written notarized waivers granted by all the protected use property owners within a one-thousand (1,000) foot radius around the proposed well pursuant to section 15-36 of this ordinance.

D. Compressor stations - natural oil & gas facilities.

1. Compressor noise regulations.

For purposes of this subsection, "operator" shall refer to either the pipeline operator or the oil & gas well operator, as applicable.

a. Maximum permitted sound levels for all permanent lift or line compressors shall be limited by the following zoning classifications:

Industrial: 75 dBA day / 65 dBA night
Commercial: 65 dBA day / 55 dBA night
Residential: 55 dBA day / 50 dBA night

If the measurement location is on a boundary between two (2) different land use classifications, the lower noise level standard applicable to the noise zone shall apply.

b. Operators shall be allowed to demonstrate that the current actual ambient is greater than allowed which will become the new ambient for that location (measured at the property line of the noise creator), except if located in residential zoning, a special exception granted by the board of adjustment shall be required.

c. Noise measurement will be taken at the property line of the compressor station to determine ambient. To determine compliance with the noise requirements all measurements will be taken at the property line of the receiver/receptor.

d. Compressors shall meet the low and high frequency requirements/standards as required for oil & gas wells cited above.

2. Lift compressors.

a. **Lift compressors shall be allowed in all zoning districts, but shall be restricted to the oil & gas drilling pad site.**

b. **Except as outlined below, lift compressors shall be required to meet all the noise standards of subsection A, "on-site requirements."**

1) **Temporary lift compressor for each well shall be classified as temporary for six (6) months for noise regulations purposes and shall be allowed five (5) dBA over ambient during the day and three (3) dBA over ambient at night.**

2) **No compressor shall be considered temporary if installed within six (6) months of removal of the initial compressor for that well.**

3) **Permanent lift compressors shall be required to meet the zoning noise requirements for their zoning location as outlined in subsection 1. above.**

4) **Sound blankets shall be permitted for noise abatement on temporary lift compressors.**

5) **No sound blankets shall be permitted for permanent lift compressors. All acoustical structures for permanent compressors must be constructed of permanent material constructed of metal, masonry or other structurally sound material as approved by the director of planning and development that significantly screens the equipment, is painted in a non-contrasting soft earth tone color to match the nearby surroundings as nearly as possible and meets all applicable building and fire codes.**

c. **All lift compressors shall be set back a minimum of one-thousand (1,000) feet from any protected use, public building or habitable structure property line not necessary to the operation of the compressor. Equipment and buildings not part of the operation of the compressor shall be set back a minimum of one-thousand (1,000) feet from the protected use, public building or habitable structure or one- hundred (100) feet from the property line, whichever is greater.**

d. **All compressor and associated equipment and buildings shall be enclosed by a six (6) foot security fence constructed per section 66-14 "Fences and Landscaping" of this ordinance.**

e. **One three (3) inch caliper tree shall be planted every forty (40) linear feet along the property line abutting a public right-of-way. No heavy equipment, including but not limited to trucks, tractors, trailers, bulldozers, bobcat tractors, trenchers, compressors and hoists shall be allow inside the critical**

root zone of any protected tree on any compressor site without the specific approval of the city forester. This requirement shall supersede other landscaping requirements, except for the tree reservation and/or planting percentage requirements in section 66-14.

f. All equipment or buildings associated with the operation of the compressor located in or within one-thousand (1,000) feet of residentially used property or from the public right-of-way shall be screened from public view by appropriate landscaping, berming, structure or wall constructed of metal, masonry or other structurally sound material as approved by the director of planning and development or his/her designee that significantly screens the equipment and is painted in a non-contrasting soft earth tone color to match the nearby surroundings as nearly as possible.

g. Secondary containment shall be required around all compressor stations. All secondary containment must meet the requirements of subsection 32 of section 66-13, "Technical Regulations."

h. Exhaust from any internal combustion engine or compressor, stationary or mounted on wheels, used in connection with the drilling of any well or for use on any production equipment shall not be discharged into the open air unless it is equipped with an exhaust muffler or mufflers or an exhaust muffler box constructed of non-combustible materials sufficient to suppress noise and disruptive vibrations and prevent the escape of noxious oil & gases, fumes or ignited carbon or soot.

i. All facilities shall be inspected by the fire marshal for compliance with relative fire codes and the oil & gas inspector prior to operation of the compressor.

3. Line compressors.

a. Line compressors shall be permitted only in "AG" Agricultural District, "I" Restricted Light Industrial, "I2" Light Industrial, "I3" Heavy Industrial districts.

b. All line compressors shall be set back a minimum of one-thousand (1,000) feet from any protected use and six-hundred and sixty (660) feet from all public buildings not necessary to the operation of the compressor. The setback from protected uses may be reduced to six-hundred & sixty (660) feet provided the line compressor is fully enclosed. Equipment and buildings not part of the operation of the compressor shall be set back a minimum of six-hundred and sixty (660) feet from the protected use, public building or habitable structure or one-hundred (100) feet from the property line, whichever is greater.

c. **Line compressors located in "AG" Agricultural, "I " Restricted Light Industrial, "I2" Light Industrial, "I3" Heavy Industrial districts shall be required to meet the following standards:**

1) **Line compressor stations located in "AG" Agricultural, "I " Restricted Light Industrial, "I2" Light Industrial, "I3" Heavy Industrial zoning districts shall meet the applicable noise standards for that zoning classification as set out in subsection 1.a. above. Landscaping, buffering or acoustical structures shall be required as required by this section and as required by the zoning regulations for the applicable zoning district.**

2) **No sound blankets shall be allowed.**

3) **All acoustical structures must be constructed of permanent material constructed of metal, masonry or other structurally sound material as approved by the director of planning and development that significantly screens the equipment is a non-contrasting soft earth tone color to match the nearby surroundings as nearly as possible and meets all applicable building and fire codes.**

4) **All facilities shall be inspected by the fire marshal for compliance with relative fire codes, and the oil & gas inspector prior to operation of the compressor.**

5) **Exhaust from any internal combustion engine or compressor, stationary or mounted on wheels shall not be discharged into the open air unless it is equipped with an exhaust muffler, or mufflers or an exhaust muffler box constructed of noncombustible materials sufficient to suppress noise and disruptive vibrations and prevent the escape of noxious oil & gases, fumes or ignited carbon or soot.**

d. **Line compressors shall be permitted in all other zoning districts only by a special exception granted by the city council, which has been reviewed by the planning commission. In order to grant a special exception, the line compressor must meet the minimum standards of "I1" Restricted Light Industrial District and a site plat must be submitted and approved by the board. The zoning board of adjustment shall grant the application only when the board determines that the location of the compressor is clearly defined on the site plan by the applicant; and the exception will be compatible with the existing uses and the development of adjacent properties either as filed, or subject to such requirements as the board finds necessary to protect and maintain the stability of adjacent properties.**

e. **All compressor and associated equipment and buildings shall be enclosed by a six (6) foot security fence constructed per section 66-14 "Fences and Landscaping" of this ordinance.**

f. **One three (3) inch caliper tree shall be planted every forty (40) linear feet along the property line abutting a public right-of-way. No heavy equipment, including but not limited to trucks, tractors, trailers, bulldozers, bobcat tractors, trenchers, compressors and hoists shall be allow inside the critical root zone of any protected tree on any compressor site without the specific approval of the city. This requirement shall supersede other landscaping requirements, except for the tree preservation and/or planting percentage requirements in section 66-14.**

g. **All equipment, that is located in or within one-thousand (1,000) feet of residentially used property or from the public right-of-way shall be screened from public view by appropriate landscaping, berming, structure or wall constructed of metal, masonry or other structurally sound material as approved by the director of planning and development that significantly screens the equipment and is painted in a non-contrasting soft earth tone color to match the nearby surroundings as nearly as possible.**

h. **Secondary containment shall be required around all compressor stations. All secondary containment must meet the requirements of subsection 32 of section 66-13, Technical Regulations."**

i. **In addition to the regulations set out above, line compressors located in "I" Light Industrial zoning district adjacent to residential zoning shall be required to meet the following standards:**

1) **The six (6) foot security fence constructed per section 15-43 "Fences and Landscaping" shall be set back a minimum of ten (10) feet from the residential property line and a minimum of twenty (20) feet from the public right of way.**

2) **A ten (10) foot landscaped buffer yard along the entire length of the boundary line between any compressor station site and the residential zoning shall be required and maintained. The buffer yard shall consist of an open space of grass and other landscaping that screens or blocks vision, noise pollutants and other negative by products. The buffer yard shall be required even when an alley is located between the compressor site and the residential district.**

3) **A minimum twenty (20) foot landscaped buffer yard shall be required along all street frontages across the street from residential zoning to screen the view of the property from the public rights of way.**

4) A minimum of one three-inch caliper large canopy tree, as defined in Chapter 6 of the Zoning Ordinance, with a mature height of twenty-five (25) feet shall be required every forty (40) feet and screening shall be provided using hedges, berms or mass planting to a height of not less than twenty-four (24) inches with live groundcover.

5) The buffer yard is intended to serve as a buffer between the compressor station and the residential zoned property. Structures and equipment or any type of storage shall not be permitted in the buffer yard.

§ 66-162 FENCES AND LANDSCAPING.

A. *Fences*. All pad sites and off-site fracture ponds shall be secured with a permanent fence with a secured gate and knox box as follows:

1. The fence shall be at least six (6) feet in height;

2. Support posts shall be set in concrete and shall be imbedded into the ground to a depth sufficient to maintain the stability of the fence; provided, however, so long as stability of the fence is maintained, temporary fence posts shall not be required to be set in concrete;

3. The site shall be completely enclosed by a permanent dark green or black steel chain link or wrought iron fence on at least two sides of the pad site, one of which will face the city's right-of-way, if applicable. A solid masonry fence may be constructed on the remaining two sides of the pad site;

4. The chain link fence shall have a minimum thickness of eleven (11) gauge;

5. Posts and rails shall be standard black or dark green welded pipe;

6. Tension rods shall be three-eighths (⅜) inch round steel bolt stock. Adjustable tighteners shall be turnbuckle or equivalent having a six-inch minimum take-up. Tension bars shall have a minimum thickness of one-fourth (¼) by three-fourths (¼) inch; and

7. Fences shall not be required on drill sites during initial drilling, completion or re-working operations as long as twenty-four (24) hour on-site supervision is provided. A secured entrance gate on the access road containing a knox box shall be required and all gates are to be kept locked when the operator or his employees are not on the premises.

B. Gate specifications. All chain link fences shall be equipped with at least one (1) gate. The gate shall meet the following specifications:

1. Each gate shall be not less than twelve (12) feet wide and be composed of two (2) gates, each of which is not less than six (6) feet wide, or one sliding gate not less than twelve (12) feet wide. If two (2) gates are used, gates shall latch and lock in the center of the span;

2. The gates shall be of black or dark green chain link construction that meets the applicable specifications, or of other approved material that are at least as secure as a chain link fence and shall be included in the chain link or wrought iron portion of the fence;

3. The gates shall be provided with a combination catch and locking attachment device for a padlock, and shall be kept locked except when being used for access to the site;

4. Gates shall be designed so that they do not interfere or obstruct the public rights-of-way; and

5. Operator must provide the fire chief with a "knox padlock" or "knox box with a key" to access the well site to be used only in case of an emergency.

C. Landscaping.

1. All oil & gas well, compressor and fracture pond permits will require tree preservation and/or planting measures. A tree canopy requirement through preservation and/or planting will apply as follows:

a. A forty (40%) percent requirement in one- and two-family residential zoned areas;

b. A thirty (30%) percent tree canopy requirement in multi-family, institutional and commercial zoned areas; and

c. A twenty (20%) percent tree canopy requirement in industrial zoned areas.

d. Payment to the tree fund of two-hundred dollars ($200.00) per diameter inch will be required for twenty-five (25%) percent of the removed trees greater than six (6) inches on pad sites located in Agricultural (AG) zoned areas. The operator may chose to plant a twenty (20%) percent tree canopy in lieu of payment into the tree fund.

2. The following requirements shall apply to all wells, including wells located along city rights-of-way. Wells located in Agricultural (AG) zoned areas are exempted from the requirements:

a. **A minimum retention of twenty-five (25%) percent of the existing trees will be required as with other land uses unless removal necessary for location of equipment as determined by the oil & gas inspector.**

b. **No more than twenty-five (25%) percent of the same species may be planted at one site.**

c. **A minimum of twenty-five (25%) percent of the planted trees must be an evergreen species.**

d. **A minimum of seventy-five (75%) percent of the planted trees must be located between the oil & gas well site and protected uses or public right-of-way. An administrative waiver of the seventy-five (75%) percent placement can be approved by the city with proof that the proposed planting will screen the views into the well site from the protected uses.**

e. **The percent coverage is established by the actual canopy coverage area retained and tree plantings. For planted trees, two-thousand (2000) square feet will be credited for large canopy trees, seven-hundred (700) square feet will be credited for medium canopy trees and one-hundred (100) square feet will be credited for small canopy trees at normal grow out.**

f. **The minimum size of tree planted will be three (3) inches in diameter measured one foot above ground level. If the tree is multi trunk, the main stem will be given full credit for its diameter and all other stems will receive one-half (½) credit. The total of all must be three (3) inches or greater. All planted trees will be credited its canopy coverage at normal grow out.**

g. **All trees that die within two (2) years of the date of project completion will be replaced by another replacement tree. The replacement tree carries the same two (2) year replacement requirement. A replacement of any tree that dies within two (2) years of planting will be replaced by the operator or agent and a new two (2) year guarantee will begin at the time of replacement.**

h. **All other interpretations of the tree canopy coverage and regulations will be made by the city and/or the designated city board or commission.**

i. **Landscaping shall be installed no later than one-hundred eighty (180) days after completion of the first well.**

3. **Except as allowed in subsection 3 below, fracture ponds established for the intent of storing and supplying water for fracturing operations are required to comply with the city's direction and supervision. The document shall identify the delineated scope of work area of any surface disruption related to the "fracture pond" installation, operations and shall exhibit any existing tree canopy coverage based on the applicable zoning classification.**

4. Upon approval of the assistant director of planning and development - oil & gas well division, payment may be made into the city's tree fund at an amount of six-hundred dollars ($600.00) per required tree in lieu of planting requirements for oil & gas well sites and fracture ponds.

5. The following list of trees is considered desirable and adapted trees for the Purcell area. Planting of trees from this list is acceptable. Other trees will be considered by the city forester and granted on a case-by-case basis. The approval of additional species will be judged on adaptability, long-term health and growing characteristic of the tree type.

Common Name	Scientific Name	Canopy Size
Redbud	*Cercis Canadensis*	Small
Mexican Plum	*Prunus Mexicana*	Small
Cherry Laurel	*Prunus caroliniana*	Medium
Eve's Necklace	*Sophora affinis*	Medium
Crab Apple	*Malus angustifolia*	Medium
Bradford Pear	*Pyrus calleryana var. Bradford*	Medium
Golden Raintree	*Koelrueteria paniculata*	Medium
Cado Maple	*Acer saccharum*	Large
Red Maple	*Acer rubrum*	Large
Bigtooth Maple	*Acer grandidentatum*	Large
Bur Oak	*Quercus macrocarpa*	Large
Chinquapin Oak	*Quercus muhlenbergii*	Large
Live Oak	*Quercus virginiana*	Large
Shumard Red Oak	*Quercus shumardii*	Large
Oklahoma Red Oak	*Quercus texana*	Large
Post oak	*Quercus stallata*	Large
Blackjack Oak	*Quercus marilandica*	Large
Pecan	*Carya Illinoensis*	Large
Lacebark Elm	*Ulmas parvifolia*	Large
Cedar Elm	*Ulmas crassifolia*	Large
American Elm	*Ulmas Americana*	Large
Bald Cypress	*Taxodium distichum*	Large
Black Walnut	*Carya nigra*	Large
Green Ash	*Fraxinus pennsylvanica*	Large
Oklahoma Ash	*Fraxinus*	Large
Southern Magnolia	*Magnolia grandiflora*	Large

§ 66-163 CLEANUP AND MAINTENANCE.

A. *Cleanup after well servicing*. After the well has been completed or plugged and abandoned, the operator shall clean the site, complete restoration activities and repair all damage to public property caused by such operations within sixty (60) days.

B. *Clean-up after spills, leaks and malfunctions*. After any spill, leak or malfunction, the operator shall remove or cause to be removed to the satisfaction of the fire

chief and the oil & gas inspector all waste materials from any public or private property affected by such spill, leak or malfunction. Clean-up operations must begin immediately. If the owner fails to begin site clean-up immediately the oil & gas Inspector may then employ any cleanup expert or experts or other contractors or suppliers of special services, or may incur any other expenses for labor and material which the oil & gas inspector deems necessary to clean-up such spill, leak or malfunction.

C. *Free from debris*. The public street entrance and property on which a well site is located shall at all times be kept free of mud, debris, pools of water or other liquids, contaminated soil, weeds, brush, trash or other waste material within a radius of one-hundred (100) feet around any separators, tanks and producing wells.

D. *Painting*. All production equipment shall be painted and maintained at all times, including wellheads, pumping units, tanks, secondary containment and buildings or structures. When requiring painting of such facilities, the oil & gas inspector shall consider the deterioration of the quality of the material of which such facility or structure is constructed, the degree of rust, and its appearance. Paint shall be of a neutral color, compatible with surrounding uses. Neutral colors shall include sand and unobtrusive shades of black or dark green. No company logos or advertisement shall be allowed.

E. *Blowouts*. In the event of the loss of control of any well, operator shall immediately take all reasonable steps to regain control regardless of any other provision of this ordinance and shall notify the oil & gas inspector as soon as practicable. The oil & gas Inspector shall certify in writing, briefly describing the same, to the city manager. If the oil & gas Inspector, in his opinion, believes that danger to persons and property exists because of such loss of well control and that the operator is not taking or is unable to take all reasonable and necessary steps to regain control of such well, the oil & gas inspector may then employ any well control expert or experts or other contractors or suppliers of special services, or may incur any other expenses for labor and material which the oil & gas inspector deems necessary to regain control of such well. The city shall then have a valid lien against the interest in the well of all working interest owners to secure payment of any expenditure made by the city pursuant to such action of the oil & gas inspector in gaining control of said well.

§ 66-164 PLUGGED AND ABANDONED WELLS.

A. *Surface requirements for plugged and abandoned well*. Whenever abandonment occurs pursuant to the requirements of the commission, the operator abandoning shall be responsible for the restoration of the well site to its original condition as nearly as practicable, in conformity with the regulations of this ordinance.

B. Abandonment shall be approved by the oil & gas inspector after restoration of the drill site has been accomplished in conformity with the following requirements at the discretion of the oil & gas inspector:

1. The derrick and all appurtenant equipment thereto shall be removed from drill site;

2. All tanks, towers, and other surface installations shall be removed from the drill site;

3. All concrete foundations, piping, wood, guy anchors and other foreign materials regardless of depth, except surface casing, shall be removed from the site, unless otherwise directed by the commission;

4. All holes and depressions shall be filled with clean, compactible soil;

5. All waste, refuse or waste material shall be removed from the drill site; and

6. During abandonment, operator shall comply with all applicable sections in this ordinance.

7. A five (5) foot no-build easement around the center of the plugged and abandoned well bore shall be required and recorded in the applicable county deed records.

C. *Abandoned Well Requirement*. The operator shall furnish the following to the oil & gas inspector:

1. A copy of the "Form 1001 Notice of Intention to Plug & Abandon" and "Form 1003 Plugging Record" forms on the same date these forms are submitted to the commission; and

2. A forty-eight (48) hour notice of intention to abandon under the provisions of this Section and stating the date such work will be commenced. Abandonment may then be commenced on or subsequent to the date so stated.

All wells shall be abandoned in accordance with the rules of the commission; however, all well casings and cellars shall be cut and removed to a depth of at least three (3) feet below the surface. A permanent abandonment marker pipe, with the well identity and location permanently inscribed, shall be welded to the casing and shall be at least four (4) inches in diameter with a length of four (4) feet visible above the ground level.

D. *Surface Reclamation Plan Requirements*. Each operator must submit as part of the oil & gas well permit application a surface reclamation plan that must include information outlined in this Subsection, in the degree of detail necessary to demonstrate that full site reclamation can be accomplished.

The reclamation plan must include:

1. Measures to be taken to restore property to allow use under the city comprehensive plan;

2. The control of surface water drainage and of water accumulation and measures to be taken during the reclamation process to provide for the protection of the quantity and quality of surface and groundwater systems;

3. Cleaning up polluted surface and ground water;

4. Backfilling, soil stabilization, compacting, grading, and appropriate re-vegetation;

5. Soil reconstructions, replacement, and stabilization;

6. Configuration of the reshaped topography;

7. Waste disposal;

8. A plan for re-vegetation of affected lands;

9. Road reclamation; and

10. Other practices necessary to ensure all disturbed areas will be reclaimed.

E. Abandonment requirements prior to new construction. All abandoned or deserted wells or drill sites shall meet the most current Abandonment requirements of the commission and this ordinance prior to the issuance of any building permit for development of the property. No structure shall be built over an abandoned well.

§§ 66-165 – 66-170 RESERVED.

DIVISION 8

PIPELINES

§ 66-171 Oil & Gas Well Pipelines Technical and Permitting Regulations.
§ 66-172 Salt Water Pipelines.
§§ 66-173 – 66-180 Reserved.

§ 66-171 OIL AND OIL & GAS PIPELINES TECHNICAL AND PERMITTING REGULATIONS.

A. *General Regulations*.

1. As determined in the sole, but reasonable, discretion of the city, pipelines may not interfere with or damage existing utilities, including but not limited to: water, sewer or oil & gas lines, storm drains, electric lines or the facilities of any public utilities located in public rights-of-way, utility easements or other city-owned property or in private residential areas.

2. The pipeline operator shall be required to comply with all regulations regarding noise in section 66-13.B of this ordinance.

3. The pipeline operator shall be responsible to grade, level and restore the property affected by pipeline construction to the same surface condition, as nearly practicable, as existed before operations were first commenced within thirty (30) days after completion of the pipeline.

4. The pipeline operator shall construct, repair and/or maintain all pipelines so as to meet or exceed the applicable minimum criteria established by the statutory or regulatory requirements of the state and federal governments for such pipeline.

5. At least ten (10) days prior to the commencement of any pipeline construction, the pipeline operator shall give written mailed notice to all residents, tenants and property owners that are located adjacent to the proposed pipeline. The mailing shall include the operator's publication on pipeline safety.

6. At the time the required pipeline records are submitted to the corporation commission, the pipeline operator shall provide the city the following information, including GPS information sufficient to locate the pipelines in the future, including the beginning and end points of the pipeline and sufficient points in between the pipeline route and the depth of cover information. This information shall be submitted to the city in a format compatible with the city's own GIS system.

a. As-built or record drawings of the pipelines. Accuracy of the record drawings shall meet a survey level of one foot to fifty-thousand feet (50,000'). The scale of the record drawings shall be a minimum of one inch to forty feet (40'). The drawings shall also be supplied in a DFF digital file format with the location tied to at least one nearby GPS (global positioning system) city monument. If the new pipeline length exceeds one-thousand feet (1,000') within the city, the pipeline shall be tied to at least two (2) GPS city monuments;

b. The origin point and the destination of the pipeline;

c. The substance to be transported;

d. A copy of the substance material safety data sheet (MSDS);

e. Engineering plans, drawings and/or maps with summarized specifications showing the horizontal location, covering depths, and location of shutoff valves of the subject pipeline. Drawings shall show the location of other pipelines and utilities that are crossed or paralleled within fifteen (15') feet of the pipeline right-of-way;

f. Detailed cross-section drawings for all public rights-of-ways and easement

crossings on city property as permitted by the city; and

g. A list of the names and mailing addresses of all the property owners, residents and tenants adjacent to the pipeline construction.

7. A pipeline operator that transports oil & gas, oil, liquids or hydrocarbons through a pipeline located in the city shall be a member in good standing with the One Call system or other approved excavation monitoring system as required by state law. The pipeline operator that transports oil & gas, oil, liquids or hydrocarbons through a pipeline shall contract for service with the selected underground utility coordinating system for a minimum of five (5) years unless there is an agreement to change to an alternate system between the city and the pipeline operator. Said pipeline operator shall maintain such services without interruption for the life of the pipeline permit and as required under this section.

8. At the time of permitting and each year thereafter that the pipeline remains active, each pipeline operator shall provide to the oil & gas inspector, the fire marshal and the chief of police the names, mailing addresses and telephone numbers of at least two (2) primary persons, officers or contacts available on a twenty-four (24) hour basis and at least two (2) alternative persons, officers or contacts to be reached in the event that the primary contacts are unavailable who:

a. Can initiate appropriate actions to respond to an emergency;

b. Have access to information on the location of the closest shutoff valve to any specific point in the city; and

c. Can furnish the common name of the material then being carried by the pipeline.

Any change in the above information must be provided to the city by contacting the oil & gas inspector prior to such change.

9. Each pipeline operator shall file a copy of all initial or follow-up reports provided to the U.S. Department of Transportation or the Corporation Commission of Oklahoma on unsafe pipeline conditions, pipeline emergencies or pipeline incidents within the city concurrently with the city. In addition, such pipeline operator shall file any initial or follow-up reports filed with state and federal environmental regulatory agencies pertaining to pipeline releases within the city concurrently with the city.

10. Every pipeline operator shall be required to file with the city an annual verified report in letter form on or before June 30 of each year to cover a reporting period of the previous June 1 through May 31. Said written report shall contain a statement that the pipeline has no outstanding safety violations within the city of Purcell as determined in an inspection or audit by either the Corporation Commission of Oklahoma and/or the U.S. Department of Transportation with regard to any pipeline operating within the city.

Alternatively, if there are any safety violations as determined by the corporation commission and/or the U.S. Department of Transportation that have not been corrected, these shall be described to the city with an action plan to correct the safety violations. Said action plan shall include a timeline for corrective action and the individual or firm responsible for each action.

B. *City Regulated Pipelines – Permit Required*.

1. City regulated pipelines shall adhere to all standards outlined in section A. Federal and state statutory or regulatory requirements shall apply to pipelines between the well and the point of custody transfer. Prior to the transport of oil & gas, oil, liquids or hydrocarbons, the operator shall provide to the city certification from a professional engineer registered with the state of Oklahoma that the design and installation of the pipelines meet all state and federal requirements.

2. Prior to pipeline construction and the issuance of notice required in section A.5, a pipeline operator shall obtain a pipeline permit from the city for all city regulated pipelines. Exceptions to this permitting requirement are those pipelines from the well to the first point of custody transfer and for construction necessary to respond to a pipeline emergency.

3. At the same time the operator submits a oil & gas well drilling permit application, the operator shall require the pipeline operator to submit a proposed pipeline route from the well bore to the transmission line, for all city regulated pipelines.

4. The pipeline operator shall be required to submit an application for a pipeline permit to the city prior to making any offer or initiating any negotiation or action to acquire any easement or other property right to construct, install, maintain, repair, replace, modify, remove or operate a pipeline in private residential areas.

5. The pipeline operator shall backfill all trenches and compact such trenches to ninety-five percent (95%) standard density proctor in eight inch (8") lifts and construct the Pipeline so as to maintain a minimum depth of ten feet (10') below the finished grade except in public rights-of-way, where minimum cover to the top of the pipe shall be at the discretion of the city based on existing or planned utilities. During the backfill of any pipeline excavations in open cut sections, the pipeline operator shall bury "buried pipeline" warning tape one foot above any such pipeline to warn future excavators of the presence of a buried pipeline. The oil & gas inspector may also require that a proposed or existing pipeline be relocated should it conflict with the proposed alignment and depth of a gravity dependent utility.

6. The pipeline operator shall equip all city regulated pipelines with an automated pressure monitoring system that detects leaks and shuts off any line or any section of line that develops a leak. In lieu of such system, the pipeline operator may have twenty-four (24) hour pressure monitoring of the pipeline system which provides monitoring of the pipeline within the city limits.

7. Review by the oil & gas drilling review committee for all proposed pipelines through private residential areas shall be required prior to the issuance of a permit for the commencement of pipeline construction.

8. A pipeline permit application shall be required as follows:

a. Applications for a city regulated pipeline or other activities regulated by this subsection shall be submitted to the city in a form prescribed by the city.

b. Plans submitted with each application for a pipeline permit shall be in a format approved by the city showing the dimensions and locations of the pipeline and related items or facilities, as well as all proposed lift stations, pumps or other service structures related to such pipeline and the location, type and size of all existing utilities, drainage, right-of-way and roadway improvements. The plans must additionally show the elevation and location of all known public utilities within fifteen (15) feet of the centerline of the proposed pipeline. Any application that fails to meet these requirements will be returned unfiled to the applicant.

c. The following information shall be provided in the application:

1) The name, business addresses and telephone numbers of the pipeline operator;

2) The names, titles and telephone numbers of the following:

a) The person signing the application on behalf of the pipeline operator;

b) The person designated as the principal contact for the submittal; and

c) The person designated as the twenty-four (24) hour emergency contact;

3) The origin point and the destination of the proposed subject pipeline;

4) A text description of the general location of the proposed subject pipeline

5) A description of the substance to be transported through the proposed subject pipeline;

6) A copy of the substance material safety data sheet (MSDS);

7) Engineering plans, drawings and/or maps with summarized specifications showing the horizontal location, covering depths and

location of shutoff valves of the proposed subject pipeline. To the extent that information can be obtained, drawings shall show the location of other pipelines and utilities that will be crossed or paralleled within fifteen (15) feet of the proposed subject pipeline right-of-way;

8) A description of the consideration given to matters of public safety and the avoidance, as far as practicable, of existing habitable structures and private residential areas;

9) Detailed cross section drawings for all public street right-of-way and easement crossings;

10) The proposed method or methods to be used for the installation of the pipeline;

11) Methods to be used to prevent both internal and external corrosion;

12) A binder or certificates of all bonds and insurance; and

13) A proposed alignment strip map showing name and address of all affected property owners.

C. *Oil & Gas Drilling Review Committee*.

1. After the filing of an administratively complete application, the oil & gas drilling review committee shall review all applications for pipelines located in a private residential area. For other pipeline locations, an administrative conference may be conducted to seek resolution of any substantive, non-resolvable technical issues. If deemed necessary by the city, a third-party technical advisor may be employed as set out in section 66-19. The costs associated with the technical advisor shall be borne by the pipeline operator. Any recommendation by the oil & gas drilling review committee to the planning and development department - oil & gas well division is final.

2. If the oil & gas drilling review committee determines that the city should obtain an independent study or analysis of an application to construct a new pipeline, upon approval by the city council, the city shall engage duly qualified independent consultant(s) or contractor(s) to conduct such special studies or analyses as required to fully evaluate and act upon an application for a new pipeline as set forth in section 66-19. The actual cost for said consultant or contractor, including the cost of any inspections deemed necessary by the oil & gas drilling review committee or otherwise required, shall be paid by the pipeline operator.

D. *Pipeline Information Reporting Requirements*. If the pipeline operator has no reporting responsibility to the Corporation Commission of Oklahoma or the U.S. Department of Transportation and is otherwise exempt from the safety regulations of

either of such agencies, the following documents pertaining to the preceding reporting period of June 1 through May 31 shall be furnished to the city:

1. Copies of internal reports of responses to pipeline emergencies;

2. Current operations and maintenance logs; and

3. Current emergency response plan.

E. Abandoned pipelines.

1. All pipelines shall be maintained in an active condition unless abandoned according to applicable state and federal regulations. The pipeline operator shall notify the city within thirty days of abandonment of any pipeline.

2. Reactivation of abandoned pipelines shall require notification to the city pursuant to the standards and requirements specified in section 66-17. Reactivation shall require pressure testing for integrity and compliance with corporation commission and/or United States Department of Transportation regulations.

F. *Emergency Response Plans and Emergency Incident Reporting*.

1. Each pipeline operator shall maintain written procedures to minimize the hazards resulting from an emergency. These procedures shall at a minimum provide for the following:

a. Prompt and effective response to emergencies, including but not limited to the following:

1) Leaks or releases that can impact public health safety or welfare;

2) Fire or explosions at or in the vicinity of a pipeline or pipeline easement; and

3) Natural disaster;

4) Effective means to notify and communicate required and pertinent information to local fire, police and public officials during an emergency;

5) The availability of personnel, equipment, tools and materials as necessary at the scene of an emergency;

6) Measures to be taken to reduce public exposure to injury and probability of accidental death or dismemberment;

7) Emergency shut down and pressure reduction of a pipeline;

8) The safe restoration of service following an emergency or incident; and

9) A follow-up incident investigation to determine the cause of the incident and require the implementation of corrective measures.

2. Upon discovery of a pipeline emergency or incident, any affected pipeline operator shall as soon as practical communicate to the city's 911 system the following information:

a. A general description of the emergency or incident;

b. The location of the emergency or incident;

c. The name and telephone number of the person reporting the emergency or incident;

d. The name of the pipeline operator;

e. Whether or not any hazardous material is involved and identification of the hazardous material so involved; and

f. Any other information as requested by the emergency dispatcher or other such official at the time of reporting the emergency or incident.

G. *Pipeline Repairs and Maintenance*.

1. All repairs and maintenance of pipelines are to be performed in accordance with U.S. Department of Transportation and corporation commission mechanical integrity requirements.

2. If non-emergency repairs necessitate excavation of a pipeline, the pipeline operator shall send notification to occupants of business establishments and residential dwellings located adjacent to the pipeline to be excavated at least five (5) days prior to commencing such repairs.

3. If above-ground non-emergency repairs that are not routine maintenance are required, the pipeline operator shall send notification to occupants of businesses and residential dwellings located within five-hundred (500) feet from the centerline of the pipeline section to be repaired at least five (5) days prior to commencing such repairs.

4. The notice required in subsections (2) and (3) of this Section shall be sent by U.S. regular mail, postage prepaid mailed at lease five (5) days prior to commencing any non-emergency repair; provided, however, that the pipeline operator may use hand

delivery notice as an alternative, at the pipeline operator's discretion.

5. Inspection of the interior of all regulated pipelines shall comply with United States Department of Transportation and corporation commission rules.

H. *Protection and Painting of Structures*. A pipeline operator shall keep protected and painted all pipeline risers and all appurtenances related to pipeline construction and operations which are composed of materials which are generally protected or painted. Such operator shall repaint all such items at sufficiently frequent intervals to maintain same in good condition. It shall be a violation of this ordinance for any pipeline operator to permit any pipeline riser and/or appurtenances related to pipeline construction and operations to be in a state of disrepair or to have chipped, peeling or unpainted portions.

I. *No Implied Grant of Use of Public Rights-of-Way, Utility Easements or other City-owned Property*. Nothing in this subsection grants permission for the use of any street, public rights-of-way, utility easements, or city-owned property. In the event a pipeline operator wishes to undertake any pipeline construction on, over, under, along, or across any public rights-of-way, utility easements or other city-owned property, the pipeline operator shall apply for and execute a written agreement with the city governing the terms and conditions for such use; obtain all required permits and comply with any other applicable provisions of the city code.

J. *Expiration of Pipeline Permit*. If construction of a pipeline has not commenced within one year of the date of issuance of the pipeline permit, or if the pipeline has not been completed and the surface restored within two (2) years, the pipeline permit shall expire; provided, however, that the director of planning and development services may grant an extension of time not to exceed an additional one year if the director of planning and development services determines that weather or other unexpected physical conditions justify such an extension.

K. *No Assumption of Responsibility by City*. Nothing in this subsection shall be construed as an assumption by the city of any responsibility of a pipeline operator of a pipeline not owned by the city.

L. It is the joint and several responsibility of the owner and the pipeline operator of any and all Pipeline to maintain the markers in accordance with this ordinance. The location of all new or replacement pipe and pipelines shall be marked by the owner(s) thereof or by the person installing or operating such pipelines as follows:

1. Marker signs shall be placed at all locations where pipe or pipelines cross property boundary lines and at each side of a public street or road right-of-way which the pipe or pipeline crosses;

2. The top of all marker signs shall be a minimum of four (4) feet above ground level, and the support post must be sufficient to support the marker sign and shall be

painted yellow or such other color as may be approved by the director of transportation and public works or his designee;

3. All marker signs shall be a minimum of twelve (12) inches square and shall be marked as "oil & gas pipe line;"

4. All marker signs shall contain the name of the owner and operator of the Pipeline and a twenty-four (24) hour local contact number;

5. Pipelines shall be marked along there entire length with a buried metal wire and metallic flag tape;

6. All signs shall also contain an OKIE LOCATE designation "Call Before You Dig" statement; and

7. The pipeline operator shall annually replace signage that has been lost, damaged or removed.

M. Annually, all pipeline operators will provide affected landowners, public official and emergency providers with appropriate public awareness information as outlined in API 1162.

§ 66-172 SALT WATER PIPELINES.

A. All references in this subsection to "pipe" or "pipelines" shall mean "salt water pipelines."

B. No pipeline for the transportation of saltwater shall be constructed, installed, maintained, repaired, replaced, modified, removed or operated within the city without first obtaining a pipeline permit from the city.

C. Salt water pipe shall be installed beneath all city utilities, no seams shall be allowed within city right-of-way and minimum cover to the top of the pipe shall be at the discretion of the city based on existing or planned utilities. The pipeline crossings must pass through a casing of a design and constructed in accordance with the United States Department of Transportation standards set forth in 49 CFR 192.323 (Casing) as same exists on the date of the adoption of this ordinance.

D. All infrastructure included under this section shall be designed and sealed by a registered professional engineer in the state of Oklahoma.

E. All new or replacement pipe or pipelines shall be installed in such a manner that the pipelines clear the lowest city utility by a minimum of five (5) feet. In areas where no city utilities are present, pipelines shall be covered and must be not less than thirty six (36) inches below the existing ground level as verified and approved by the inspector. Prior to installation, the owner of the pipeline shall submit to the director of planning and

development and the oil & gas inspector the pipeline design criteria, including but not limited to, operating pressures, Pipeline gradient and elevation to sea level, location, pipe ASTM grade, pipe manufacturer, pipe wall thickness, pipeline capacity and volume. Prior to and subsequent to installation of each segment of new or replacement pipeline, the pipe and pipeline must receive and pass an on-site inspection of the compliance with design criteria and the process of installation. The design submittal must be signed and sealed by a professional engineer registered in the state of Oklahoma.

The depth requirements in this subsection shall not apply to piping constructed or installed within the secondary containment perimeter of the tank battery, which piping may be placed at ground level.

F. Pipe location information shall be provided to the city in an electronic format acceptable to the director of planning and development.

G. It is the joint and several responsibility of the owner and the operator of any and all pipeline to maintain the markers in accordance with this ordinance. The location of all new or replacement pipe and pipelines shall be marked by the owner(s) thereof or by the person installing or operating such pipelines as follows:

1. Marker signs shall be placed at all locations where pipe or pipelines cross property boundary lines and at each side of a public street or road right-of-way which the pipe or pipeline crosses;

2. The top of all marker signs shall be a minimum of four (4) feet above ground level, and the support post must be sufficient to support the marker sign and shall be painted yellow or such other color as may be approved by the director of transportation and public works or his designee;

3. All marker signs shall be a minimum of twelve (12) inches square and shall be marked as "S.W. Pipe Line";

4. All marker signs shall contain the name of the owner and operator of the pipeline and a twenty-four (24) hour local contact number;

5. Pipelines shall be marked along their entire length with a buried metal wire and metallic flag tape; and

6. The pipeline operator shall annually replace signage that has been lost, damaged or removed.

H. *General Pipeline Design Requirements*. All infrastructure included under this memorandum shall be designed and sealed by a registered professional engineer in the state of Oklahoma and all pipelines shall:

1. Have a maximum inside diameter of twelve (12) inches;

2. Consist of material approved by the city; and

3. Be monitored by a SCADA system that allows shutdown via automatic valves spaced at each well head, major pipeline junctions, at the influent and effluent of the recycling unit(s), and prior to ultimate disposal.

§§ 66-173 – 66-180 RESERVED.

DIVISION 9

TECHNICAL ADVISOR

§ 66-181 Technical Advisor.
§§ 66-182 – 66-190 Reserved.

§ 66-181 TECHNICAL ADVISOR.

The city may from time to time employ a technical advisor or advisors who are experienced and educated in the oil & gas industry or the law as it pertains to oil & gas matters. The function of such advisor(s) shall be to advise, counsel or represent the city on such matters relating to oil & gas operations within the city as the city may want or require and the effect thereof, both present and future, on the health, welfare, comfort of the citizens of the city. In the event such technical advisor(s) is employed for the purpose of advising, counseling or representing the city relative to an operator's unique and particular set of circumstances, case or request relating to this ordinance, then the cost for such services of such technical advisor(s) shall be assessed against and paid for by such operator in addition to any fees or charges assessed pursuant to this ordinance. Prior to the employment of a technical advisor, the city shall inform the operator of the intended scope of work and the estimated costs and expenses. The employment of a technical advisor shall be approved by the city council.

§§ 66-182 – 66-190 RESERVED.

DIVISION 10

APPEALS

§ 66-191 Appeals.
§§ 66-192 – 66-198 Reserved.

§ 66-191 APPEALS.

A. The city council shall have and exercise the power to hear and determine appeals where it is alleged there is error or abuse of discretion regarding the issuance of a oil & gas well permit or the revocation or suspension of any oil & gas well permit issued hereunder as provided by this ordinance. Any person or entity whose application is denied

by the oil & gas inspector (other than for distance requirements set out in this ordinance) or whose oil & gas well permit is suspended or revoked or whose well or equipment is deemed by the oil & gas inspector to be abandoned may, within thirty (30) days of the date of the written decision of the oil & gas Inspector file an appeal to the city council in accordance with the following procedure:

1. An appeal shall be in writing and shall be filed in triplicate with the city clerk. The grounds for appeal must be set forth specifically, and the error described, by the appellant.

2. Within forty-five (45) days of receipt of the records, the city clerk shall transmit all papers involved in the proceeding, place the matter on the city council agenda for hearing and give notice by mail of the time, place and purpose thereof to appellant and any other party who has requested in writing to be so notified. No other notice need be given.

B. Appeal fees shall be required for every appeal in the amount of three-hundred ($300) dollars.

§§ 66-192 – 66-198 RESERVED.

DIVISION 11

PENALTY

§ 66- 199 Penalty.

§ 66-199 PENALTY.

A. It shall be unlawful and an offense for any person to do the following:

1. Engage in any activity not permitted by the terms of a oil & gas well permit issued under this ordinance.

2. Fail to comply with any condition set forth in a oil & gas well permit issued under this ordinance; or

3. Violate any provision or requirement set forth under this ordinance.

B. Any violation of this ordinance shall be punished by a fine of not more than two-thousand ($2,000.00) dollars per day, subject to applicable state law. Each day that a violation exists shall constitute a separate offense.

C. In addition to penalties provided by this ordinance, any person violating the provisions of this ordinance shall be punished pursuant to the terms of section 1-12 of the Purcell Municipal Code.

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CHAPTER 70

OFFENSES AND MISCELLANEOUS PROVISIONS

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§ 70-197 Resisting public officials.
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§ 70-202 False representation to officer, employee.
§ 70-203 Removal of barricades.
§ 70-204 Eluding police officer.

***Cross reference*: Courts, ch. 30; law enforcement, ch. 54; traffic and vehicles, ch. 106.**

***State law reference*: General municipal powers, 11 O.S. §22-101 et seq.: crimes and punishments 21 O.S.; prevention of public offenses, 22 O.S. §31 et seq.**

ARTICLE 1

IN GENERAL

§ 70-1 General penalties.
§ 70-2 Attempts to commit an offense.
§ 70-3 Aiding in an offense.
§ 70-4 Assault, battery.
§ 70-5 Misdemeanor provisions of the penal code of the state of Oklahoma adopted.
§§ 70-6 – 70-30 Reserved.

§ 70-1 GENERAL PENALTIES.

Except as otherwise provided in this chapter, any violation of the provisions of this chapter is punishable as provided in section 1-12 of this Code. (Prior Code 1991, §10-701)

§ 70-2 ATTEMPTS TO COMMIT AN OFFENSE.

A. Every person who attempts to commit an offense against the ordinances 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.

B. If the offense so attempted is punishable by a fine, the offender convicted of such attempt is punishable by a fine not exceeding one-half the largest fine which may be imposed upon a conviction of the offense so attempted.

C. If the offense so attempted is punishable by imprisonment and by a fine, the offender convicted of such attempt may be punished by both imprisonment and fine not exceeding one-half (½) the longest term of imprisonment and the fine not exceeding one--half (½) the largest fine which may be imposed upon a conviction for the offense so attempted. (Prior Code 1991, §10-101)

§ 70-3 AIDING IN AN 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 act is guilty of an offense and punishable in the same manner as the principal offender. (Prior Code 1991, §10-102)

***State law reference*: Similar provisions, 21 O.S. §42**

§ 70-4 ASSAULT, BATTERY.

A. It is unlawful to commit an assault or an assault and battery within the city.

B. For the purposes of this section, an assault is any willful and unlawful

attempt or offer with force or violence to do a corporal hurt to another. A battery is any willful and unlawful use of force or violence upon the person of another.

C. Assault or assault and battery shall be punishable by a fine of not more than two-hundred ($200.00) dollars. (Prior Code 1991, §10-501)

§ 70-5 MISDEMEANOR PROVISIONS OF THE PENAL CODE OF THE STATE OF OKLAHOMA ADOPTED.

This misdemeanor provisions of the Penal Code of the state of Oklahoma in Title 21 O.S. Section 1, et seq. are hereby adopted and incorporated in this section by reference and are enforceable by the city within the city limits as fully as if set out at length in this section.

§§ 70-6 – 70-30 RESERVED.

ARTICLE 2

OFFENSES AGAINST PROPERTY

§ 70-31 Petit larceny prohibited.
§ 70-32 Injuring automobiles and other vehicles.
§ 70-33 Destroying or injuring buildings and other property.
§ 70-34 Placing signs on property of another.
§ 70-35 Throwing or shooting at persons or property.
§ 70-36 Tampering with or damaging public utilities.
§ 70-37 Throwing advertising on street.
§ 70-38 Throwing injurious substances.
§ 70-39 Injury to plants and trees.
§ 70-40 Public streets and trees.
§ 70-41 Trespass.
§ 70-42 Parking on property of another.
§ 70-43 Interference with fire hydrants.
§ 70-44 Leaving or depositing waste on property.
§§ 70-45 – 70-70 Reserved.

§ 70-31 PETIT LARCENY PROHIBITED.

A. Petit larceny is the taking of personal property of value not exceeding five-hundred ($500.00) dollars accomplished by fraud or stealth and with intent to deprive another thereof, but it does not include the taking of such property from the person of another.

B. Petit larceny is unlawful, and any person who commits larceny shall be guilty of a misdemeanor. (Prior Code 1991, §10-201)

***State law reference*: Petit larceny, 21 O.S. §§1704, 1706.**

§ 70-32 INJURING AUTOMOBILES AND OTHER VEHICLES.

It is unlawful for any person to start, otherwise meddle with, molest, enter, occupy, or loiter in any automobile or other vehicle belonging to another without the consent of the owner or person in charge thereof. (Prior Code 1991, §10-202)

§ 70-33 DESTROYING OR INJURING BUILDINGS AND OTHER PROPERTY.

It is 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 entitled 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, provided that this section shall apply only when the damage, defacement, or destruction is valued at less than twenty-five hundred ($2,500.00) dollars. (Prior Code 1991, §10-203)

***State law reference*: Similar provisions, 21 O.S. §1760.**

§ 70-34 PLACING SIGNS ON PROPERTY OF ANOTHER.

It is 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, fence, sidewalk, bridge, viaduct, post, automobile, other vehicle, or other property of another without the consent of the owner or person in charge thereof. (Prior Code 1991, §10-204)

***Cross reference*: Signs, ch. 86.**

§ 70-35 THROWING OR SHOOTING AT PERSONS OR PROPERTY.

It is unlawful for any person to throw or shoot any stone 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 or other object at any person, vehicle, structure, electric light, or other property of another, whether public or private, except in cases where such act is done in defense of oneself, of another person, or of property. (Prior Code 1991, §10-205)

§ 70-36 TAMPERING WITH OR DAMAGING PUBLIC UTILITIES.

A. It is 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, electricity, telephone, or cable television 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, electricity, telephone, or cable signals without it passing through the meter or any other way so as to evade payment therefor. It is also unlawful for any person to damage, molest, tamper with, or destroy any pipe, line, wire, meter, or other part of any public utility,

including any telegraph or telephone system.

B. If any evidence of tampering or damaging of a public utility or private premises is proven, the owner or occupant of such premises shall be presumed responsible for the damage and fine. (Prior Code 1991, §10-206)

***Cross reference*: Utilities, ch. 110.**

***State law reference*: Larceny of cable television services, 21 O.S. §1131.**

§ 70-37 THROWING ADVERTISING ON STREET.

It is 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. (Prior Code 1991, §10-207)

***Cross reference*: Streets, sidewalks, and other public places, ch. 90.**

§ 70-38 THROWING INJURIOUS SUBSTANCES.

It is unlawful for any person to purposely or premeditatedly put or throw upon the person or property of another, or upon any animal, any acid, corrosive or other irritating or harmful substance, or human or animal waste or urine with intent to injure or harass the person, property, or animal. (Prior Code 1991, §10-208)

§ 70-39 INJURY TO PLANTS AND TREES.

It is unlawful for any person to willfully and without authority cut, pull, pluck, or otherwise injure any flowers, flowering plants, shrubs, or trees growing in or around any park or public street within the city or willfully or without authority to tear down, remove, cut, or otherwise injure or destroy any gate or fence enclosing any such park or ground or willfully injure or destroy any stand, bench, seat, or other property situated upon such park or ground. (Prior Code 1991, §10-209)

***Cross reference*: Vegetation, ch. 114.**

§ 70-40 PUBLIC STREETS AND TREES.

It is unlawful for any person to:

1. Willfully or wantonly cut, deface, or in any way injure any tree or sapling standing or growing in any of the streets, alleys, or public places within the city;

2. Attach any guy wires, telephone, telegraph or electric wire, or any wire to any live tree:

3. Dig any hole, ditch, or trench in any public street, road, avenue alley, or any other public premises or ground within, belonging to, or under the supervision or control of the city;

4. Take or remove any dirt, earth, or any substance from any street, road, alley, or other public place in the city, or to cut, break, or otherwise injure any pavement, curb, or gutter in the city; or

5. Connect any driveway to any street or other public place without first securing permission from the city inspector so to do.

Any such digging, removing, or driveway connection shall be done under the supervision of the street superintendent or city engineer. (Prior Code 1991, §10-210)

***Cross references*: Streets, sidewalks, and other public places, ch. 90; vegetation, ch. 114**

§ 70-41 TRESPASS.

A. For the purpose of this section, the following terms shall be defined as follows:

1. *Private property* means any property other than public property.

2. *Public property* means that property which is dedicated to public use and over which the federal, state, or city government or any subdivision thereof exercises control.

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 the 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 operation on the next business day after having been directed to vacate such premises under the terms of this subsection.

B. It is illegal for any person to trespass 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 line of duty or with the expressed or implied consent of the owner or person in charge or otherwise by authority of law or ordinance. (Prior Code1991, §10-211)

§ 70-42 PARKING ON PROPERTY OF ANOTHER.

It is unlawful for any person to park an automobile or other vehicle or to place any structure or object on the driveway, yard, or property of another without the expressed or implied consent of the owner or person in charge thereof or when necessary in the performance of a duty or otherwise by authority of law or ordinance. (Prior Code1991, §10-212)

§ 70-43 INTERFERENCE WITH FIRE HYDRANTS.

A. It is unlawful for any person, except one duly authorized by the city utility superintendent or a member of the fire department, to open, turn on or off, interfere with, attach any pipe or hose to, or connect anything with any fire hydrant or stop cock belonging to the city.

B. It is unlawful for any person to obstruct access to any fire hydrant by placing around or thereon brick, lumber, dirt or other thing, or in any other manner obstructing access to a fire hydrant. (Prior Code1991, §10-213)

***Cross reference*: Fire prevention and protection, ch.38.**

§ 70-44 LEAVING OR DEPOSITING WASTE ON PROPERTY.

A. It is unlawful for any person to dump, deposit, throw, or in any manner leave or abandon any solid waste, including, but not limited to, garbage, tin cans, bottles, rubbish, vegetation, refuse, or trash on property owned by another person without the written permission of the owner or occupant of such property or on any public highway, street or road, drainage area, creek or river, public parks or recreation areas, or any other public property except that designated for such use.

B. The solid waste disposed of unlawfully as provided in subsection (a) of this section which contains three or more items bearing a common address in the form which tends to identify the owner of the items shall be a rebuttable presumption that all competent persons residing at such address committed the unlawful act of disposal. (Prior Code 1991, §10-214)

§§ 70-45 – 70-70 RESERVED.

ARTICLE 3

OFFENSES AGAINST THE PUBLIC

§ 70-71 Disturbing the peace.
§ 70-72 Insulting signs, literature, or language.
§ 70-73 Fireworks.
§ 70-74 Storing or keeping explosives.
§ 70-75 Carrying weapons; discharging firearms.
§ 70-76 Noise; music; amplified sound.
§ 70-77 Assemblies.
§ 70-78 Specific acts prohibited.
§§ 70-79 – 70-105 Reserved.

§ 70-71 DISTURBING THE PEACE.

A. It is unlawful for any person to disturb the peace.

B. Disturbing the peace is the doing of any of the following in such a manner as would foreseeably alarm or disturb the peace of another or others:

1. Using obscene, offensive, abusive, profane, vulgar, threatening, violent, or insulting language or conduct; or

2. Challenging to fight or fighting; or

3. Committing any other act in such a manner as to unreasonably disturb or alarm the public. (Prior Code 1991, §§10-301, 10-308(A))

§ 70-72 INSULTING SIGNS, LITERATURE, OR LANGUAGE.

A. It is unlawful for any person, firm, or corporation within the city to display any sign, emblem, badge, flag, or device which in its common acceptance is insulting, profane, abusive or violent to the citizens of the city and which is calculated, or of which the natural consequence is, to cause a breach of the peace or an assault.

B. It is unlawful for any person to willfully use, utter, publish, circulate, or distribute any profane, violent, abusive, or insulting language or literature where:

1. A natural consequence of the language or literature is to cause a breach of the peace or an assault; or

2. The language or literature, in its common acceptance, is calculated to cause a breach of the peace or an assault. (Prior Code 1991, §10-302)

§ 70-73 FIREWORKS.

A. The term "fireworks" as used in this section, shall be defined as provided in Title 68 O.S. §1622.

B. It is unlawful for any person to manufacture fireworks within the city.

C. It is unlawful to discharge, fire, explode, or ignite fireworks at any time in the city.

D. Fireworks may be authorized by the city in accordance with the city's fire prevention code. (Prior Code 1991, §10-303)

E. Retail sales of fireworks is permitted within the city limits in commercial or agricultural zoned areas, along or either side of U.S. or State highways, subject to the laws and provisions in Title 68 O.S. §1621 et-seq. All distributors and sellers of fireworks within the city must register with the code enforcement office prior to June 15th of each year and demonstrate compliance with Title 68 O.S. §1621 et. seq., permitting and provide a copy of the Oklahoma sales tax permit. All fireworks stands shall maintain one (1) Class A foam and one (1) Class A water fire extinguisher, which must be readily available and unobstructed at all times. Fire department personnel shall have the authority to close such firework stands that are found not in compliance with state and local laws.

***State law reference*: Fireworks, Title 68 O.S. §1621 et seq.**

§ 70-74 STORING OR KEEPING EXPLOSIVES.

It shall be unlawful for any person to store or keep within the city any explosive, as defined in 63 O.S. §121.1, except that gunpowder may be kept as provided by federal, state, and city laws, ordinances, rules, and regulations in the amounts specified therein. (Prior Code 1991, §10-304)

***Cross references*: Environment, ch, 34; fire prevention and protection, ch.38.**

§ 70-75 CARRYING WEAPONS; DISCHARGING FIREARMS.

A. It shall be unlawful for any person to carry upon or about his person, or in a purse or other container belonging to the person, any 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, whether such weapon be concealed or unconcealed, except when doing so as permitted by state law.

B. It is unlawful for any person to discharge a firearm in the city except when doing so in line of duty, when lawfully doing so in defense of oneself or another person or of

property, or when otherwise authorized by state law or ordinance. (Prior Code 1991, §10-305)

***State law references*: Similar provisions, 21 O.S. §1272; municipal regulation of weapons, 11 O.S. §22-110; Oklahoma Firearms Act of 1971, 21 O.S. §1289.1 et seq.**

§ 70-76 NOISE; MUSIC; AMPLIFIED SOUND.

It is unlawful for any person to disturb the peace and quietude of any part of the city by operating, or causing, or permitting to be operated any contrivance, whether electric or not, with or without a loud speaker, in such a manner as to emit loud music, noise, or words. However, this section shall not prohibit religious bodies from playing chimes, bells, carillons, or other religious music, and will not prohibit drag boat racing conducted pursuant to a permit issued by the city manager. (Prior Code 1991, §10-307; Ord. No. 07-03, §2, 1-8-2007)

***Cross reference*: Noise, §34-26 et seq.**

§ 70-77 ASSEMBLIES.

It is unlawful and constitutes an unlawful assembly for a person to assemble or act in concert with one or more persons for the purpose of doing any unlawful act against the peace or to the terror of others.

A. It is unlawful for any person to willfully disturb, interrupt, disquiet, or break up any assemblage of people:

1. Meeting for religious worship, as provided in 21 O.S. §916; or

2. Meeting for any other lawful purpose;

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. (Prior Code 1991, §10-308(B)(H)(D))

§ 70-78 SPECIFIC ACTS PROHIBITED.

A. It is unlawful to remain in or be about a public or private place for any of the following purposes:

1. For the purpose of gambling with cards, dice, or other gambling paraphernalia;

2. For the purpose of engaging in prostitution or soliciting prostitution or soliciting for an act of lewdness;

3. For the purpose of engaging in theft or breaking and entering any building, property, or automobile of another;

4. For the purpose of injuring, destroying, molesting, or defacing any property of another;

5. For the purpose of assaulting any person;

6. For the purpose of begging or soliciting alms, provided that this section shall not apply to persons soliciting alms for bona fide religious, charitable, or eleemosynary organizations with the authorization of such organizations; or

7. For the purpose of selling, purchasing, trading, or otherwise exchanging, procuring, or making available illegal drugs or contraband.

B. Any unlawful possession of property that is used in connection with any offense referred to in subsection (a) of this section may be deemed to be possession for the purpose of such use. (Prior Code 1991, §10-309)

***State law reference*: Power to regulate vagrancy, 11 O.S. §22-123.**

§§ 70-79 – 70-105 RESERVED.

ARTICLE 4

OFFENSES AGAINST PUBLIC HEALTH, WELFARE, AND MORALS

DIVISION 1

GENERALLY

§ 70-106 Consuming or inhaling intoxicants public places.
§ 70-107 Intoxicating liquors.
§ 70-108 Marijuana.
§ 70-109 Disorderly house.
§ 70-110 Maintaining or leasing a disorderly house.
§ 70-111 Residents of and visitors to disorderly house.
§ 70-112 Curfew for minors.
§ 70-113 Sleeping on streets and other property without consent.
§ 70-114 Begging and soliciting alms.
§ 70-115 Betting on or playing prohibited game.
§ 70-116 Being about place where gambling is going on.
§ 70-117 Obtaining or attempting to obtain property by trick or deception; false statements or pretenses; confidence game.
§§ 70-118 – 70-140 Reserved.

§ 70-106 CONSUMING OR INHALING INTOXICANTS PUBLIC PLACES.

A. Any person who shall, in any public place, or in or upon any passenger coach, streetcar, or in or upon any other vehicle commonly used for the transportation of passengers, or in or about any depot, platform, waiting station or room, drink or otherwise consume any intoxicating liquor unless authorized by the Oklahoma Alcoholic Beverage Control Act (37 O.S. §502 et seq.), intoxicating substance, or intoxicating compound of any kind, or inhale glue, paint, or other intoxicating substance, or if any person shall be drunk or intoxicated in any public or private road, or in any passenger coach, streetcar, or any public place or building, or at any public gathering, from drinking or consuming such intoxicating liquor, intoxicating substance, or intoxicating compound or from inhalation of glue, paint, or other intoxicating substance, or if any person shall be drunk or intoxicated from any cause and shall disturb the peace of any person, he to shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten ($10.00) dollars nor more than one-hundred ($100.00) dollars.

B. "*Public place*" means any street, alley, highway, sidewalk, park, playground, or place to which the general public has access and a right to resort for business, entertainment, or other lawful purpose. A public place shall include, but not be limited to, any store, shop, restaurant, tavern, bowling alley, cafe, theater, drug store, pool room, shopping center, and any other place devoted to amusement or entertainment of the general public. It shall also include the front or immediate area of the above. (Prior Code 1991, §10-401)

***Cross reference*: Alcoholic beverages, ch. 6.**

***State law reference*: Similar provisions, 37 O.S. §8.**

§ 70-107 INTOXICATING LIQUORS.

It is unlawful:

1. For any person to barter, sell, give away, or otherwise furnish to another any intoxicating beverage or low-point beer of any kind except as permitted by law;

2. To have in possession or under control any intoxicating beverage or low-point beer except as permitted by law, or to transport or in any manner convey from place to place in the city any intoxicating beverage or low-point beer except as permitted by law;

3. To be in a place where intoxicating beverage or low-point beer is sold, bartered, given away, or otherwise furnished contrary to law; or

4. To keep, maintain, aid, or abet in keeping or maintaining a place where any intoxicating beverage or low-point beer is sold, bartered, given away, or otherwise furnished in violation of law. (Prior Code 1991, §10-402)

***Cross reference*: Alcoholic beverages, ch. 6.**

§ 70-108 MARIJUANA.

A. It is unlawful for any person:

1. To appear or be upon or in any street, alley, place of business, or other public place while under the influence of marijuana;

2. To use, have, or possess marijuana upon or in any street, alley, place of business, or other public place within the city; or

3. To use marijuana in any place within the city except as legally prescribed by a physician licensed to practice in the state.

B. For the purpose of this section, "marijuana" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof and the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber produced from such stalks, oil, or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination. (Prior Code 1991, §10-403)

***State law reference*: Uniformed Controlled Dangerous Substances Act, 63 O.S. §2-101 et seq.**

§ 70-109 DISORDERLY HOUSE.

A disorderly house means any structure or vehicle by which the peace, comfort, health, welfare, or decency of the public is disturbed by reason of the people therein committing or resorting to any of the following acts:

1. The sale, distribution, possession, or use of any controlled dangerous substance, the sale, distribution, possession, or use of which is declared unlawful by state statute;

2. The violation of any of the ordinances of this city or statutes of this state regulating the sale, distribution, possession, or use of alcoholic beverages including beer containing more than one-half of one percent alcohol by volume;

3. The performance of any sexual act declared unlawful by state statute or city ordinance including, but not limited to, soliciting for purposes of prostitution; or

4. The violation of any state statute or city ordinance prohibiting gambling. (Prior Code 1991, §10-405)

***State law reference*: Municipal power to regulate disorderly houses and public indecencies, 11 O.S. §22-109.**

§ 70-110 MAINTAINING OR LEASING A DISORDERLY HOUSE.

A. No person shall keep, maintain, or aid, abet, or assist in keeping and maintaining a disorderly house.

B. No owner, lessee, lessor, or other person, partnership, or corporation having control over any house, building, structure, tent, vehicle, mobile home, or recreational vehicle shall knowingly use, lease, sublease, or otherwise permit the use of the same for the purpose of keeping therein any disorderly house, and knowing or ascertaining that such house, building, structure, tent, vehicle, mobile home, or recreational vehicle is so occupied as a disorderly house, no persons, partnership, or corporation shall continue to grant permission to so use such premises as a disorderly house. (Prior Code 1991, §10-406)

§ 70-111 RESIDENTS OF AND VISITORS TO DISORDERLY HOUSE.

No person shall knowingly reside in, enter into, or remain in a disorderly house. In any prosecution for violation of this section, the city shall have the burden to prove such knowledge by direct evidence only and not by circumstantial evidence. This section shall not apply to physicians or law enforcement officers in the discharge of their professional or official duties. (Prior Code 1991, §10-407)

§ 70-112 CURFEW FOR MINORS.

A. *Definition of terms applicable to this section.* For the purpose of this section, the following terms shall have the meanings respectively ascribed to them in this section:

1. *Minor* means any person under the age of eighteen (18).

2. *Parent* means the natural or adoptive parent of a minor.

3. *Guardian* means any person other than a parent who has legal guardianship of a minor.

4. *Custodian* means any person over the age of twenty-one (21) years who is in loco parentis to a minor.

5. *Public place* means any street, alley, highway, sidewalk, park, playground, or place to which the general public has access and a right to resort for business, entertainment, or other lawful purpose. A public place shall include, but not be limited to, any store, shop, restaurant, tavern, bowling alley, cafe, theater, drug store, pool room, shopping center, and any other place devoted to amusement or entertainment of the general public. It shall also include the front or immediate area of the above.

B. ***Curfew.*** **It is unlawful for any minor to remain, wander, stroll, or play in any public place on foot or to cruise about without a set destination in any vehicle in, about, or upon any public place in the city between the hours of 12:00 midnight and 5:00 a.m. on any day unless:**

1. The minor is accompanied by a parent, guardian, custodian, or other adult person having custody or control of such minor;

2. The minor is on an emergency errand or specific business or activity directed or permitted by his parent, guardian, or other adult person having the care and custody of the minor; or

3. Where the presence of such minor is connected with or required by some legitimate employment, trade, profession, or occupation.

C. ***Knowingly permitting minor to violate curfew prohibited.*** **It is unlawful for any person, firm, or corporation operating or having charge of any public place to knowingly permit or suffer the presence of minors between the hours of curfew designated in subsection (b) of this section.**

D. ***Parental responsibility.*** **It is unlawful for any parent, guardian, custodian, or other adult person having custody or control of any minor to suffer or permit or by inefficient control to allow such person to be on any public place within the city between the hours of curfew designated in subsection (b) of this section. The provisions of this subsection do not apply if:**

1. The minor is accompanied by a parent, guardian, custodian, or other adult person having the care, custody, or control of the minor;

2. The minor is on an emergency errand or specific business or activity directed by his parent, guardian. Custodian, or other adult having the care and custody of the minor; or

3. The parent, guardian, or other adult person herein has made a missing person notification to the city police department.

E. ***City council allowance for special events.*** **The city council may permit by resolution or motion procedures for advance notice or registration with the city of special events or functions sponsored by churches, schools, clubs, or other organizations which require minors to be out at a later time. The city council may also prescribe the procedures for taking into custody minors found in violation of this section.**

F. ***Application to chief of police by parents for exemption from enforcement of these provisions.*** **A parent, guardian, or custodian of such minor may file a written application directed to the chief of police of the city who may grant a special exemption of enforcement of the curfew provided by this section being required as to such minor, which**

exemption shall not exceed five (5) consecutive days or, in the alternative, two (2) days of any week for a period not to exceed thirty (30) days. All requests shall be filed with the city clerk of the city.

G. ***Authority of chief of police; request for hearing by aggrieved party.*** **The chief of police shall have the authority to grant or reject any request for an exemption to enforcement of the curfew provided by this section or may reduce the time limit of such exemption. However, any applicant for such exemption, feeling aggrieved by the action of the chief of police, may file a request for hearing before the municipal judge of the city who shall summarily hear the same and his judgment shall be final.**

H. ***Taking minors into custody by law enforcement officers.*** **Any law enforcement officer who shall witness a violation of this section may take such offender into his custody to be prosecuted for such violation, require the posting of a sufficient bond for such minor's appearance in court, or may place the minor in the custody of his parents or some responsible person.**

I. ***Application of state statutes.*** **The provisions of this section shall be subject to the requirements of 10 O.S. §7303-1.2(E). (Prior Code 1991, §10-411)**

§ 70-113 SLEEPING ON STREETS AND OTHER PROPERTY WITHOUT CONSENT.

It is unlawful for any person, between the hours of 12:00 midnight and sunrise to sleep on any street, in any other public place, or on any property of another without the express or implied consent of the owner or person in charge of such place. (Prior Code 1991, §10-412)

Cross reference**: Streets, sidewalks, and other public places, ch. 90.**

§ 70-114 BEGGING AND SOLICITING ALMS.

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

1. ***Accosting*** **means approaching or speaking to someone in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon his person or upon property in his immediate possession.**

2. ***Ask, beg, or solicit*** **means and includes, without limitation, the spoken, written, or printed word or such other acts as are conducted in furtherance of the purpose of obtaining alms.**

3. ***Forcing oneself upon the company of another*** **means continuing to request, beg, or solicit alms from a person after that person has made a negative response and**

blocking the passage of the individual addressed or otherwise engaging in conduct which could reasonably be construed as intended to compel or force a person to accede to demands.

B. It shall be unlawful for any person to solicit money or other things of value:

1. On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property;

2. Within fifteen (15) feet of the entrance to or exist from any public toilet facility;

3. Within fifteen (15) feet of any automated teller machine, provided that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility;

4. Within fifteen (15) feet of any pay telephone, provided that when a pay telephone is located within a telephone booth or other facility, such distance shall be measured from the entrance or exit of the telephone booth or facility;

5. In any public transportation vehicle or in any bus or railroad station, or within fifteen (15) feet of any bus stop or taxicab stand;

6. From any operator of a motor vehicle that is in traffic on a public street; provided, however, that this subsection (b)(6) shall not apply to services rendered in connection with emergency repairs requested by the owner or passengers of such vehicle;

7. From any person who is waiting in line for entry to any building, public or private, including, but not limited to, any residence, business, or athletic facility; or

8. Within fifteen (15) feet of the entrance or exit from any building, public or private, including, but not limited to, any residence, business, or athletic facility.

C. It shall be unlawful for any person to solicit money or other things of value:

1. By accosting another; or

2. By forcing oneself upon the company of another. (Prior Code 1991, §10-413)

§ 70-115 BETTING ON OR PLAYING PROHIBITED GAME.

A. Except as provided in the Oklahoma Charity Games Act (3 O.S. §401 et seq.), it shall be unlawful for any person to open, or cause to be opened, or to conduct, whether for hire or not, or carry on poker, roulette, craps, or any banking or percentage,

or any gambling game played with dice, cards, or any device for money, checks, credits, or any representatives of value, or either as owner or employee, whether for hire or not, to deal for those engaged in any such game.

B. Any person who bets or plays at any of such prohibited games, or who shall bet or play at any games whatsoever, for money, property, checks, credits, or other representatives of value with cards, dice, or any other device which may be adapted to or used in playing any game of chance or in which chance is a material element shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five ($25.00) dollars nor more than one-hundred ($100.00) dollars. (Prior Code 1991, §10-414)

***State law references*: Similar provisions, 21 O.S. §§941, 942; municipal power to prohibit gambling, 11 O.S. §22-108.**

§ 70-116 BEING ABOUT PLACE WHERE GAMBLING IS GOING ON.

It is unlawful for any person to be in the immediate vicinity where a person or persons are gambling, whether by playing games, operating a slot machine or other device, or otherwise. (Prior Code 1991, §10-415)

§ 70-117 OBTAINING OR ATTEMPTING TO OBTAIN PROPERTY BY TRICK OR DECEPTION; FALSE STATEMENTS OR PRETENSES; CONFIDENCE GAME.

A. Every person who, with intent to cheat and defraud, shall obtain or attempt to obtain from any person, firm, or corporation any money, property, or valuable thing of a value less than five-hundred ($500.00) dollars by means or by use of any trick or deception, or false or fraudulent representation or statement or pretense, or by any other means or instruments or device commonly called the "confidence game", or by means or use of any false or bogus checks, or by any other written or printed or engraved instrument or spurious coin shall be guilty of a misdemeanor.

B. The term "false or bogus check or checks" shall include checks or orders which are not honored on account of insufficient funds of the maker to pay the same or because the check or order was drawn on a closed account or on a nonexistent account when such checks or orders are given in exchange for money or property or in exchange for any benefit or thing of value as against the maker or drawer thereof. The making, drawing, uttering, or delivering of a check, draft, or order payment of which is refused by the drawee shall be prima facie evidence of intent to defraud and the knowledge of insufficient funds in or credit with such bank or other depository; provided, such maker or drawer shall not have paid the drawee thereof the amount due thereon, together with the protest fees, within five days from the date the same is presented for payment; and provided, further, that such check or order is presented for payment within thirty (30) days after same is delivered and accepted. (Prior Code 1991, §§10-416, 10-417)

***State law reference*: Similar provisions, 21 O.S. §§1541.1, 1541.4.**

§§ 70-118 – 70-140 RESERVED.

DIVISION 2

PROSTITUTION

§ 70-141 Definitions.
§ 70-142 Setting up or operating place of prostitution.
§ 70-143 Engaging in prostitution, etc.; soliciting or procuring; residing or being in place for prohibited purpose; aiding, abetting or participating; child prostitution.
§§ 70-144 – 70-165 Reserved.

§ 70-141 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:

A. *Anal intercourse* means contact between human beings of the genital organs of one and the anus of another.

B. *Cunnilingus* means any act of oral stimulation of the vulva or clitoris.

C. *Fellatio* means any act of oral stimulation of the penis.

D. *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 spouse; or

a. Any act in furtherance of such conduct or any appointment or engagement for prostitution.

E. *Masturbation* means stimulation of the genital organs by manual or other bodily contact exclusive of sexual intercourse.

F. *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 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, or lewdness with any person not his spouse in exchange for money or any other thing of value. (Prior Code 1991, §10-404(B))

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

***State law reference*: Similar provisions, 21 O.S. §1030.**

§ 70-142 SETTING UP OR OPERATING PLACE OF PROSTITUTION.

It shall be unlawful in this city 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 person engaged in prostitution. (Prior Code 1991, §10-404(A))

***State law reference*: Similar provisions, 21 O.S. §1028.**

§ 70-143 ENGAGING IN PROSTITUTION, ETC.; SOLICITING OR PROCURING; RESIDING OR BEING IN PLACE FOR PROHIBITED PURPOSE; AIDING, ABETTING OR PARTICIPATING; CHILD PROSTITUTION.

A. It shall be unlawful:

1. To engage in prostitution, lewdness, or assignation;

2. To solicit, induce, entice, or procure another to commit an act of lewdness, assignation, or prostitution with himself or herself;

3. To 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; or

4. To aid, abet, or participate in the doing of any of the acts prohibited in subsection (a)(1), (2) or (3) of this section.

***State law reference*: Similar provisions, 21 O.S. §1029.**

§§ 70-144 – 70-165 RESERVED.

DIVISION 3

MATERIALS OR PERFORMANCES HARMFUL TO MINORS

§ 70-166 Definitions.
§ 70-167 Prohibited acts.
§ 70-168 Violations; penalties.
§§ 70-169 – 70-195 Reserved.

§ 70-166 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:

A. *A reasonable bona fide attempt* means an attempt to ascertain the true age of the minor by requiring production of a driver's license, marriage license, birth certificate, or other governmental or educational identification card or paper and not relying solely on the oral allegations or apparent age of the minor.

B. *CD-ROM* means a compact disk with read only memory which has the capacity to store audio, video, and written materials and may be used by a computer to play or display materials harmful to minors.

C. ***Harmful to minors*** **means that quality of any description, exhibition, presentation, or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when the material or performance, taken as a whole, has the following characteristics:**

1. The average person eighteen (18) years of age or older applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a prurient interest in sex to minors;

2. The average person eighteen (18) years of age or older applying contemporary community standards would find that the material or performance depicts or describes nudity, sexual conduct, sexual excitement, or sadomasochistic abuse in a manner that is patently offensive to prevailing standards in the adult community with respect to what is suitable for minors; and

3. The material or performance lacks serious literary, scientific, medical, artistic, or political value for minors.

D. ***Knowingly*** **means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:**

1. The character and content of any material or performance which is reasonably susceptible of examination by the defendant; and

2. The age of the minor. However, an honest mistake shall constitute an excuse from liability pursuant to this division if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.

E. ***Magnetic disk memory*** **means a memory system that stores and retrieves binary data on record-like metal or plastic disks coated with a magnetic material, including, but not limited to, floppy diskettes.**

F. ***Magnetic tape memory*** **means a memory system that stores and retrieves binary data on magnetic recording tape.**

G. ***Material*** **means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, record, recording tape, CD-ROM disk, magnetic disk memory, magnetic tape memory, or video tape.**

H. ***Minor*** **means any unmarried person under the age of 18 years.**

I. ***Nudity*** **means the:**

1. Showing of the human male or female genitals, pubic area, or buttocks with less than a full opaque covering;

2. Showing of the female breast with less than a full opaque covering or any portion of the female breast below the top of the nipple; or

3. Depiction of covered male genitals in a discernibly turgid state.

J. *Performance* means any motion picture, film, video tape, played record, phonograph or tape, preview, trailer, play, show, skit, dance, or other exhibition performed or presented to or before an audience of one or more, with or without consideration.

K. *Person* means any individual, partnership, association, corporation, or other legal entity of any kind.

L. *Sadomasochistic abuse* means flagellation or torture by or upon a person clothed or naked or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed or naked.

M. *Sexual conduct* means acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person be a female, breast.

N. *Sexual excitement* means the condition of human male or female genitals when in a state of sexual stimulation or arousal. (Prior Code 1991, §10-409)

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

***State law reference*: Similar provisions, 21 O.S. §1040.75.**

§ 70-167 PROHIBITED ACTS.

No person, including, but not limited to, any persons having custody, control, or supervision of any commercial establishment, shall knowingly:

1. Display material which is harmful to minors in such a way that minors, as a part of the invited general public, will be exposed to view such material; provided, however, a person shall be deemed not to have "displayed" material harmful to minors if the material is kept behind devices commonly known as "blinder racks" so that the lower two-thirds of the material is not exposed to view;

2. Sell, furnish, present, distribute, allow to view, or otherwise disseminate to a minor, with or without consideration, any material which is harmful to minors; or

3. Present to a minor or participate in presenting to a minor, with or without consideration, any performance which is harmful to a minor. (Prior Code 1991, §10-410)

***State law reference*: Similar provisions, 21 O.S. §1040.76.**

§ 70-168 VIOLATIONS; PENALTIES.

Any person convicted of violating any provision of section 70-167 shall be guilty of a misdemeanor and shall be fined a sum not exceeding one-hundred ($100.00) dollars. Each day that any violation of section 70-167 occurs or continues shall constitute a separate offense and shall be punishable as a separate violation. Every act or transaction prohibited by section 70-167 shall constitute a separate offense as to each item, issue, or title involved and shall be punishable as such. For the purpose of this section, multiple copies of the same identical title monthly issue, volume and number issue, or other such identical material as prohibited by section 70-167 shall constitute a single offense. (Prior Code 1991, §10-410)

***State law reference*: Similar provisions, 21 O.S. §1040.77.**

§§ 70-169 – 70-195 RESERVED.

ARTICLE 5

OFFENSES AGAINST PUBLIC AUTHORITY*

§ 70-196 Assisting an officer.
§ 70-197 Resisting public officials.
§ 70-198 Rescuing prisoners.
§ 70-199 Escape of prisoners.
§ 70-200 Impersonating officer or employee.
§ 70-201 False reporting of crime or fire
§ 70-202 False representation to officer, employee.
§ 70-203 Removal of barricades.
§ 70-204 Eluding police officer.

§ 70-196 ASSISTING AN OFFICER.

A. An officer of the city making or about to make an arrest, or retaking or about to retake a person, who has escaped from legal custody, 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 person or persons to assist him in. making such arrest, retaking such person, executing such process, or suppressing such riot, affray, or unlawful assembly.

B. It is unlawful for any person lawfully called upon thus to assist an officer of the city to neglect refuse, or fail to do so. (Prior Code 1991, §10-602)

§ 70-197 RESISTING PUBLIC OFFICIALS.

A. It is unlawful for any person, without justifiable or excusable cause, knowingly or willfully to:

1. Resist, oppose, obstruct, or in any way interfere with the chief of police, any other police officer or other officer of the law, or any person duly authorized to act as such, the municipal judge, or any other officer or employee of the city while such person is discharging or attempting to discharge his official duties;

2. Threaten or otherwise intimidate or attempt to intimidate any such officer or employee from the discharge of his official duties;

3. Commit any assault upon the person of 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;

4. Warn or signal another so as to assist such other person to flee, escape, or evade an officer seeking to make an arrest or for any person to bar or lock any door or barrier in the face of or in front of an approaching officer.

B. Resisting an officer is the intentional opposition or resistance to or obstruction of an individual acting in his official capacity and authorized by law to make a lawful arrest or seizure of property or to serve any lawful process or court order when the offender knows or has reason to know that the person arresting, seizing property, or serving process is acting in his official capacity.

C. The words "obstruction of' shall, in addition to their common meaning, include:

1. Flight by one sought to be arrested before the arresting officer can restrain him and after notice is given that he is under arrest;

2. Any violence toward or any resistance or opposition to the arresting officer after the arrested party is actually placed under arrest or before he is under arrest; or

3. Refusal by the arrested party to give his name and make his identity known to the arresting officer. (Prior Code 1991, §§10-601, 10-603, 10-610)

******Cross reference*****: Law enforcement, ch. 54.**

§ 70-198 RESCUING PRISONERS.

It is unlawful for any person, by force or fraud or in any other illegal manner, to set at liberty, rescue, or attempt to set at liberty any prisoner or prisoners from any officer or employee of the city having legal custody of the same or from the city jailer other place of confinement by the city or to assist such prisoner in any manner to escape from such prison or custody either before or after conviction, including escape from a vehicle of confinement. Provided, however, that this section shall not apply in any case where the prisoner in question is in custody upon a charge or conviction of a felony. (Prior Code 1991, §10-604)

§ 70-199 ESCAPE OF PRISONERS.

It is 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. Provided, however, that this section shall not apply in any case where the prisoner in question is in custody upon a charge or conviction of a felony. (Prior Code 1991, §10-605)

§ 70-200 IMPERSONATING OFFICER OR EMPLOYEE.

A. It is 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. Provided, however, that when such person impersonated, represents himself to be, or acts as a police officer as described in this section, the fine that may be imposed upon such person shall not exceed one-hundred ($100.00) dollars.

B. This section shall not be so construed as to prevent private persons from making arrests for offenses committed in their presence. (Prior Code 1991, §10-606)

§ 70-201 FALSE REPORTING OF CRIME OR FIRE.

A. It shall be unlawful to willfully, knowingly, and without probable cause make a false report to any person of any crime or circumstances indicating the possibility of crime having been committed, including the unlawful taking of personal property, which report causes or encourages the exercise of police action or investigation, and any person violating the provisions hereof shall be guilty of a misdemeanor.

B. It shall be unlawful for any person to report, or cause to be reported, directly or indirectly, the existence of a fire to the fire department, fire station, or other agency charged with the responsibility of extinguishing fires, unless such person knows or reasonably believes that such fire is in existence. (Prior Code 1991, §10-607)

***State law reference*: Similar provisions, 21 O.S. §§589, 1851.**

§ 70-202 FALSE REPRESENTATION TO OFFICER, EMPLOYEE.

It is unlawful for any person, firm, or corporation, or any agent or employee thereof, 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 or agency. (Prior Code 1991, §10-608)

§ 70-203 REMOVAL OF BARRICADES.

It is unlawful for any person except by proper authority to remove any barricade or obstruction placed by authority of the city to keep traffic off any pavement, street, curb, sidewalk, or other area. (Prior Code 1991, §10-609)

§ 70-204 ELUDING POLICE OFFICER.

It is unlawful for any operator of a motor vehicle who has received a visual and audible signal, a red light and a siren, from a police officer driving a motor vehicle showing the same to be an official police vehicle, directing the operator to bring his vehicle to a stop, to willfully increase his speed or extinguish his lights in an attempt to elude such police officer or willfully attempt in any other manner to elude the police officer or who does elude such police officer. (Prior Code 1991, §10-611)

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CHAPTER 74

PARKS AND RECREATION*

§ 74-1 Rules for use of recreational facilities.
§ 74-2 Fees to be determined.
§ 74-3 City lake; fishing, boating, swimming, camping, picnics.
§ 74-4 Penalty.

***Cross references*: Environment, ch. 34; natural resources, ch. 66; streets, sidewalks, and other public places, ch. 90; parks, open spaces, and natural features, §94-179; vegetation, ch. 114.**

***State law references*: Municipal acquisition of park property, 11 O.S. §§22-104 and 36-401 et seq.; municipal parks and recreation, 11 O.S. §§33-101 et seq.; reservoirs, 11 O.S. §37-102; improvement districts, 11 O.S. §§39-101 et seq.; City-County Park and Recreation Act of Oklahoma, 19 O.S. §§1001 et seq.; public bathing places, 63 O.S. §§ 1-1013 et seq.**

CHAPTER 74

PARKS AND RECREATION*

§ 74-1 Rules for use of recreational facilities.
§ 74-2 Fees to be determined.
§ 74-3 City lake; fishing, boating, swimming, camping, picnics.
§ 74-4 Penalty.

§ 74-1 RULES FOR USE OF RECREATIONAL FACILITIES.

The city council shall adopt and enforce such rules, regulations, and other requirements as it deems necessary or expedient in connection with the use of all recreational and park facilities, hunting, swimming, fishing or boating privileges, owned or operated by the city. (Prior Code 1991, §11-101)

§ 74-2 FEES TO BE DETERMINED.

The city shall provide by rules, from time to time, the fees charged for any such park or recreational privileges on any property or facility for recreational purposes owned or operated by the city. (Prior Code 1991, §11-102)

§ 74-3 CITY LAKE; FISHING, BOATING, SWIMMING, CAMPING, PICNICS.

A. *Definitions.* **For the purposes of this section, the term "*city lake*" means and includes the reservoir presently known as the city lake, the canal, and all city owned land immediately surrounding land adjacent thereto.**

B. *Means and methods of catching fish restricted.* **It is unlawful for any person to use, set, or otherwise employ any hoop, net, trotline, trammel net, or any seine or to use dynamite or other explosives in any stream or waters within this city for the purpose of catching fish. This does not prohibit the use of minnow nets for catching minnows.**

C. *Operation of motor boats.* **It is permissible to operate motor boats on the city lake, provided that all boats must be operated at a no-wake speed of six miles per hour or less. All boats must comply with applicable federal and state statutes with regard to operation, safety, and required boating equipment.**

D. *Use of picnic or camping grounds.* **All persons holding picnics or camping on the city lake watershed must properly clean up and destroy or remove all trash and refuse prior to leaving the grounds. All fires must be properly extinguished before leaving the grounds or campsite.**

E. *Determination of fees.* **Fees for municipal travel trailer hookups shall be as determined by motion of the city council and for the public works authority.**

F. ***Dumping of garbage, sewage, etc., prohibited.*** **No offal, garbage, or other trash shall be dumped or placed in the city lake or on the land belonging to the city or the watershed of the lake. No sewage or drainage of any fluid, other than rainwater, may be drained or put into the city lake.**

G. ***Wading prohibited.*** **No wading in the city lake shall be permitted unless the waders are wearing hip boots or commercial waist waders.**

H. ***Swimming prohibited.*** **No swimming shall be permitted in the city lake at any time.**

I. ***Use of roads required.*** **All vehicles, including four-wheel-drive vehicles and motorcycles, shall remain on and use only those maintained roadways within the city lake area.**

J. ***Overnight camping.*** **Overnight camping on city land in the city lake area, or any other city-owned land is prohibited, unless permitted in areas specifically designated by the city manager:**

1. The term "camping" is defined as the erection of a shelter for the purpose of sleeping or housing individuals for any period of time from one-half (½) hour before sunset to one-half (½) hour after sunrise.

2. Further, no person may remain on city property from one-half (½) hour before sunset to one-half (½) hour after sunrise for the purpose of camping, residing, occupying, and/or sleeping in a shelter such as a tent, RV trailer, motorized vehicle, etc., without a permit.

3. A permit shall be obtained from the office of the city clerk for all permitted camping, for a fee and deposit before a permit can be issued. The deposit shall be refunded, fully or partially, only when an inspection of the campsite indicates that the site is free of trash, garbage or other litter.

4. A camping permit shall be valid only for a period of thirty-six (36) consecutive hours. Permits are limited to two per person/event per calendar year.

5. A permit may only be issued to local nonprofit organizations generally recognized as being a sponsor of camping related programs, with acceptable adult supervision.

6. Permits are to be secured thirty (30) days in advance of the planned camping event. No camping shall be permitted within thirty (30) feet of the water's edge.

7. City-issued camping permits are to be displayed in such a manner as to be visible from established roadways. (Prior Code 1991, §11-103)

§ 74-4 PENALTY.

It is unlawful for any person to violate any provision of this chapter or to use any of the park or recreational facilities without having complied with the rules and regulations adopted by the city council in connection therewith. Anyone violating any provision of this chapter or any of the rules and regulations, or failing to comply with such, shall be guilty of an offense and on conviction thereof shall be punished as provided in section 1-12 of this Code. (Prior Code 1991, §11-105)

CHAPTER 78

PEDDLERS AND SOLICITORS*

ARTICLE 1

IN GENERAL

§§ 78-1 – 78-25 Reserved.

ARTICLE 2

PEDDLING, SOLICITING, AND OUTDOOR SELLING

DIVISION 1

GENERALLY

§ 78-26 Definitions.
§ 78-27 Invitation required to enter posted premises.
§ 78-28 Enforcement.
§§ 78-29 – 78-55 Reserved.

DIVISION 2

PERMIT

§ 78-56 Required.
§ 78-57 Application procedure.
§ 78-58 Review of city clerk's decision.
§ 78-59 Permit issuance.
§ 78-60 Renewal of permits.
§ 78-61 Revocation of permits.
§ 78-62 Fees.
§ 78-63 Exemptions.

***Cross references*: Businesses, ch. 18; streets, sidewalks, and other public places, ch. 90.**

***State law references*: License tax on hawkers, peddlers, etc., 11 O.S. §22-106; itinerant merchants, 47 O.S. §421 et seq.; food, 63 O.S. §1-110l et seq.**

ARTICLE 1

IN GENERAL

§§ 78-1 – 78-25 Reserved.

<u>§§ 78-1 – 78-25</u> <u>RESERVED</u>.

ARTICLE 2

PEDDLING, SOLICITING, AND OUTDOOR SELLING

DIVISION 1

GENERALLY

§ 78-26 Definitions.
§ 78-27 Invitation required to enter posted premises.
§ 78-28 Enforcement.
§§ 78-29 – 78-55 Reserved.

<u>§ 78-26</u> <u>DEFINITIONS</u>.

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. *Host owner* means the owner who owns the property the permit applicant desires to sell upon.

2. *Outdoor selling* means and includes any selling done from a temporary or mobile location by a seller who is not selling from a permanent business location. Such activities as street vending and seasonal sales of Christmas trees to the general public on private property will be included. If rent has been paid by one other than the established business occupying the property for the temporary use of the space and if such selling is merely temporary or seasonal and not done by the established business occupying the property, such selling will fall within this definition. The term "outdoor selling" applies to both nonprofit and for profit organizations.

3. *Peddlers* means any person who goes from house to house, place to place, or street to street conveying or transporting goods, wares, or merchandise or offering or exposing the same for sale or making sales and delivering articles to the purchasers.

4. *Person* includes the singular and plural and shall also mean and indicate any natural person, firm or corporation, association, club, copartnership, or society or any

other organization.

5. *Solicitor* means any person who goes from house to house, place to place, or street to street soliciting sales or taking orders for the sale of goods, wares, or merchandise, including magazines, books, periodicals, realty, tangible or intangible personal property of any nature, including insurance, and such orders are for future delivery or for services to be performed in the future, irrespective of such person having carrying or exposing for sale a sample of the subject of such order, and irrespective of such person collecting or not collecting advance payment on such orders. (Ord. No. 01-04, §9-201, 5-7-2001)

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

§ 78-27 INVITATION REQUIRED TO ENTER POSTED PREMISES.

No peddler or solicitor shall enter any premises or attempt to peddle or solicit where the owner or occupant of such premises has indicated his desire not to be contacted for sales or solicitations by the placing of a "No Solicitors" sign on those premises and such entrance or attempt to peddle or solicit shall constitute a trespass upon private property. (Ord. No. 01-04, §9-202, 5-7-2001)

§ 78-28 ENFORCEMENT.

Any person violating any provision of this article shall, upon conviction thereof, be punished by a fine not to exceed one-hundred dollars ($100.00) plus court costs and/or termination of such person's right to sell. (Ord. No. 01-04, §9-211, 5-7-2001)

§§ 78-29 – 78-55 RESERVED.

DIVISION 2

PERMIT

§ 78-56 Required.
§ 78-57 Application procedure.
§ 78-58 Review of city clerk's decision.
§ 78-59 Permit issuance.
§ 78-60 Renewal of permits.
§ 78-61 Revocation of permits.
§ 78-62 Fees.
§ 78-63 Exemptions.

§ 78-56 REQUIRED.

It shall be unlawful for any person to engage in outdoor selling on private property in the nature of peddling, street vending, or soliciting within the corporate limits of the city without first obtaining a permit as provided in this division. (Ord. No. 01-04, § 9-203, 5-7-

2001)

§ 78-57 APPLICATION PROCEDURE.

A. ***Contents of application.*** **Applicants for a permit under this article must file with the city clerk a verified sworn application in writing on a form to be furnished by the city clerk, which shall give the following information:**

1. Name and description of applicant.

2. Address.

3. Brief description of business, goods to be sold, location desired.

4. Time period for which applicant wishes to do business.

5. License number and description of vehicle to be used, if applicable.

6. Verification that applicant is bonded as a group three vendor by the state tax commission or other proof that sales tax has been or is being paid on the merchandise sold or to be sold, if applicable.

7. If applicable, proof that a county health permit has been obtained.

8. If applicable, proof that a certificate of inspection has been obtained from the state board of agriculture under the provisions of 2 O.S. §3-22.

9. Photo of the person or persons to be seIling.

10. Content of signs to be used.

11. Site plan depicting the location of any structure, vehicle, sign, or display to be used while conducting the business.

12. Fee is required at the time of filing, as provided in section 78-62 and shall be paid to the city clerk.

B. ***Review of application.*** **The city clerk shall review the application to ensure:**

1. That applicant is aware of his responsibility to collect and pay sales tax and that the applicant is properly registered with the state tax commission. If the applicant is not properly registered with the tax commission, the permit will not be issued.

2. That the chosen location is commercially zoned and does not extend onto the public right-of-way and or public property.

3. That the applicant's business operation will not obstruct a safe line of sight from any street or private drive used to exit the subject property or cause other sight distance-related problems.

4. That the applicant's business operations will not reduce the required off-street parking of the host business.

5. That a valid county health permit is obtained, if required.

6. That a valid certificate of inspection has been obtained from the state board of agriculture under the provisions of 2 O.S. §3-22, if required.

C. *Approval of application.* Within seven days after receipt of the application, the city clerk shall either approve or disapprove of the application.

1. If the application is approved, the clerk shall issue the permit within three working days after the approval.

2. If the application is not approved, the city clerk must state with specificity the reason or reasons for non-approval and the city clerk shall notify the applicant within three working days after non-approval. Proper mailing to the address shown on the application shall be adequate notification to the applicant. (Ord. No. 01-04, §9-204, 5-7-2001)

§ 78-58 REVIEW OF CITY CLERK'S DECISION.

A. An applicant who has been denied a permit may make written application setting forth the reasons for relief from portions of this article or defects in the original permit application to the city manager. Relief may be granted by the city manager upon adequate showing that an undue hardship would be suffered if not granted.

B. After having been denied relief by the city manager as provided in subsection (a) of this section, the applicant shall have the right of appeal to the city council. Such appeal shall be taken by filing with the city council within seven days after denial of relief by the city manager of a written statement setting forth fully the grounds for appeal. The city council shall set the time and place for the hearing and shall notify the applicant at least seven days prior to such hearing. Proper mailing to the address shown on the application shall be adequate notification. The decision and order of the city council on such appeal shall be final and conclusive. (Ord. No. 01-04, §9-205, 5-7-2001)

§ 78-59 PERMIT ISSUANCE.

The following provisions shall apply to permits issued pursuant to this article:

1. Permits shall be issued by the city clerk or his designee.

2. A permit must be issued not less than 48 hours prior to any actual selling activity by the applicant.

3. Each permit shall be issued for a three (3) day period for each location. If a change of location is desired during the three (3) day permit period, the permit will first have to be updated and renewed.

4. No permit shall be issued or renewed for more than one three (3) day period every thirty (30) days.

5. Permits may be renewed at the end of the three-day period pursuant to section 78-60.

6. The permit shall be prominently displayed at the applicant's selling location.

7. A current copy of the applicant's state tax commission permit is to be prominently displayed with the city's permit.

8. Notwithstanding subsections (3) and (4) of this section, the city manager may order such permits to be issued for a longer period as deemed appropriate, provided that such a period shall not exceed forty-five (45) days. (Ord. No. 01-04, §9-206, 5-7-2001)

§ 78-60 RENEWAL OF PERMITS.

Upon application to the city clerk on a form to be provided by the city clerk on which the applicant verifies that selling conditions and locations remain unchanged from the date of approval of the original issuance of the permit, and if there have been no complaints filed concerning the conduct of applicant's selling operations, the clerk shall issue a renewal or renewals of such permit for a period as designated in section 78-59 (3) or for such longer periods as approved by the city manager, upon payment of the applicable fee pursuant to section 78-62. (Ord. No. 01-04, §9-207, 5-7-2001)

§ 78-61 REVOCATION OF PERMITS.

Permits issued pursuant to this article may be revoked by the city manager after notice and hearing for any, but not limited to, the following reasons:

1. Any fraud, misrepresentation, or false statement contained in the application for the permit.

2. Any fraud, misrepresentation, or false statement made in connection with the selling of goods, wares, or merchandise.

3. Any violation of this article.

4. Conducting the business for which a permit has been issued under this

article in an unlawful manner, or in such a manner as to constitute a breach of the peace or a menace to the health, safety, or general welfare of the public.

Appeal from revocation of such permit shall follow the procedure as provided in section 78-58 (b). (Ord. No. 01-04, §9-208, 5-7-2001)

§ 78-62 FEES.

Appropriate fees will be established by city council resolution. The city council or its designee may waive the permit fee for the local nonprofit organizations complying to section 78-63. (Ord. No. 01-04, §9-209, 5-7-2001)

§ 78-63 EXEMPTIONS.

A. Those organizations currently recognized and certified by the state and/or the federal government as nonprofit may be exempt from sections 78-57, 78-59, and 78-60, providing the nonprofit organization has a physical place of business within the corporate limits, or within a twelve (12) mile radius of city hall, or is sponsored/sanctioned by a local nonprofit organization that meets on a regularly scheduled basis within the corporate limits of the city, or within a twelve (12) mile radius of city hall.

B. A local nonprofit organization may apply for an individual event permit or an annual permit, coinciding with the city's fiscal year of July 1 through June 30, with the city clerk setting forth the dates the organization will be conducting fund-raising activities by providing the following information:

1. Name of adult sponsor/representative, name of organization, and location of scheduled meetings.

2. Address and a contact telephone number.

3. Brief description of business and goods to be sold.

4. If applicable, proof that a county health permit has been obtained.

5. If applicable, proof that a certificate of inspection has been secured from the state board of agriculture under the provisions of 2 O.S. §3-22.

C. No permit will be required for any local nonprofit organization as defined in this section if the scheduled fund-raising activity does not exceed twelve (12) consecutive hours. (Ord. No. 01-04, §9-210, 5-7-2001)

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CHAPTER 82

PLANNING*

ARTICLE 1

IN GENERAL

§§ 82-1 – 82-25 Reserved.

ARTICLE 2

PLANNING COMMISSIONS

DIVISION 1

GENERALLY

§ 82-26 Regional planning commission.
§ 82-27 Subdivision review committee.
§§ 82-28 – 82-50 Reserved.

DIVISION 2

CITY PLANNING COMMISSION

§ 82-51 Created; membership.
§ 82-52 Chairman; secretary.
§ 82-53 Rules and regulations; special meetings.
§ 82-54 Powers and duties.
§ 82-55 Purposes of plan.
§ 82-56 Subdivision of land.
§ 82-57 Zoning commission.
§ 82-58 Uniformity of regulations.
§ 82-59 Purpose of regulations; comprehensive plan.
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ARTICLE 3

BOARD OF ADJUSTMENT

§ 82-86 Created.
§ 82-87 Organization and procedures.
§ 82-88 Appeals to board of adjustment.
§ 82-89 Notice and hearings.
§ 82-90 Fees.

§ 82-91 Powers.
§ 82-92 Extent of relief.
§ 82-93 Appeals from the board of adjustment.

***Cross reference*: Administration, ch. 2; buildings and building regulations, ch. 14; environment, ch. 34; floods, ch. 42; manufactured homes and trailers, ch. 62; natural resources, ch. 66; signs, ch. 86; streets, sidewalks, and other public places, ch. 90; subdivisions, ch. 94; utilities, ch. 110; vegetation, ch. 114; zoning, ch. 122; planned residential development, R-6 district, §122-251 et seq.**

***State law reference*: Buildings, zoning, and planning, 11 O.S. §41-101 et seq.; city planning commission, 11 O.S. §45-101 et seq.**

ARTICLE 1

IN GENERAL

§§ 82-1 – 82-25 Reserved.

§§ 82-1 – 82-25 RESERVED.

ARTICLE 2

PLANNING COMMISSIONS*

DIVISION 1

GENERALLY

§ 82-26 Regional planning commission.
§ 82-27 Subdivision review committee.
§§ 82-28 – 82-50 Reserved.

§ 82-26 REGIONAL PLANNING COMMISSION.

There is hereby created a regional planning commission for the city. The members of the regional planning commission shall consist of the members of the city planning commission. The mayor, city engineer, chairman of the board of county commissioners, and county engineer shall be ex officio voting members of the regional planning commission but shall not be counted for purposes of a quorum. The regional planning commission shall have the powers and duties outlined in this part of the city Code. (Prior Code 1991, §12-111)

***State law reference*: Similar provisions, 11 O.S. §46-101.**

§ 82-27 SUBDIVISION REVIEW COMMITTEE.

A. here is hereby created a subdivision review committee for the city, the membership of which shall be made up of one representative of each of the following agencies, as applicable, and such other public officials as the city manager may designate:

1. City staff;

2. Police department;

3. Planning commission;

4. Appropriate public utility companies;

5. Utilities staff;

6. Fire department; and

7. Health department.

B. It is the responsibility of the subdivision review committee to meet on call of the city manager, who shall serve as chairman, to review pre-application plans, to study the suitability of any proposed subdivision for the purposes for which it is intended, and to submit their findings and recommendations to the planning commission at the time the preliminary plat is to be reviewed by the planning commission. (Prior Code 1991, §12-112)

***Cross reference*: Board, commissions, and committees, §2-56 et seq.**

§§ 82-28 – 82-50 RESERVED.

DIVISION 2

CITY PLANNING COMMISSION

§ 82-51 Created; membership.
§ 82-52 Chairman; secretary.
§ 82-53 Rules and regulations; special meetings.
§ 82-54 Powers and duties.
§ 82-55 Purposes of plan.
§ 82-56 Subdivision of land.
§ 82-57 Zoning commission.
§ 82-58 Uniformity of regulations.
§ 82-59 Purpose of regulations; comprehensive plan.
§§ 82-60 – 82-85 Reserved.

§ 82-51 CREATED; MEMBERSHIP.

There is hereby created the city planning commission to be composed of five citizens, all of whom shall reside within the city, and with the mayor and city manager as ex officio members. The members of the planning commission appointed as provided in section 2-86 and shall serve without salary. An effort shall be made to appoint as members of the planning commission persons who are the best qualified to plan for the future growth and development of, and set goals for, the city as a whole. (Prior Code 1991, §§12-101, 12-206(82))

§ 82-52 CHAIRMAN; SECRETARY.

Immediately after the appointment and qualification of the members of the planning commission, the commission shall meet and elect one of their number as chairman and one of their number as secretary. Such officers when so elected shall serve in their

respective capacity until the same date the next succeeding year when the terms for new commissioners begin, at which time a chairman and secretary shall be elected for a term of one year, or until their successors are elected and qualified. (Prior Code 1991, §12-102)

§ 82-53 RULES AND REGULATIONS; SPECIAL MEETINGS.

The planning commission shall prescribe rules and regulations governing and controlling the transaction of business before it and shall determine a date and place for regular meetings. The chairman, mayor, or any three members may call special meetings of the planning commission at any time. (Prior Code 1991, §12-103)

§ 82-54 POWERS AND DUTIES.

The planning commission shall have the power and the duty to prepare and recommend to the city council for adoption a comprehensive plan for the physical development of the city. In conducting its work, the planning commission may consider and investigate any subject matter tending to the development and betterment of the city and may make recommendations as it may deem advisable concerning the adoption thereof to the city council. The planning commission may make or cause to be made surveys, studies, maps, and plans in the conduct of its activities. Before final action is taken by the city council on the location or design of any public building, statue, memorial, park, boulevard, street and alley, playground, public grounds, bridge, or change in any location of any street or alley, such question may be submitted to the planning commission for investigation and report. In the preparation of the comprehensive plan the planning commission may from time to time prepare and recommend to the city council for adoption a part or parts thereof, which parts shall cover one or more major geographical divisions of the city or one or more major elements of the comprehensive plan. The planning commission may from time to time recommend extending, amending, or changing any portion of the comprehensive plan. (Prior Code 1991, §12-105)

§ 82-55 PURPOSES OF PLAN.

In the preparation of the comprehensive plan, the planning commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the city and with due regard to its relation to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the city and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, propriety, and general welfare, as well as efficiency and economy in the process of development, including, among other things, adequate provisions for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of healthful and convenient distribution of population, the promotion of good civic design and arrangement, and wise and sufficient expenditure of public funds. (Prior Code 1991, §12-106)

§ 82-56 SUBDIVISION OF LAND.

A. The planning commission may exercise jurisdiction over subdivision of land and adopt regulations governing the subdivision of land within its jurisdiction. Any such regulations, before they become effective, shall be approved by the city council and shall be published as provided by law for the publication of ordinances. All plans, plats, or replats of land laid out in two or more lots, plats, or parcels, or streets, alleys, or other ways intended to be dedicated to public use within the corporate limits of the city shall first be submitted to the planning commission for its recommendations.

B. The planning commission shall, with the help of appropriate city officials, check the proposed dedications or subdivision of land to ensure compliance with this chapter and with the comprehensive plan for the city. The disapproval of any such plan, plat, or replat by the city council shall be deemed a refusal of any proposed dedication shown thereon. No plat or replat of subdivision of land, or dedication of street or alley or other easement, shall be entitled to record unless it bears the signature of the mayor, attested by the city clerk, certifying the approval and acceptance thereof by the city council. (Prior Code 1991, §12-107)

***State law reference*: Similar provisions, 11 O.S. §§41-106, 45-104.**

§ 82-57 ZONING COMMISSION.

The planning commission shall also act as the zoning commission, which shall have the power to prepare and to recommend to the city council for adoption a zoning plan to regulate and restrict the height, number of stories, and size of buildings and other structures; the percentage of lots that may be occupied; the size of yards, courts, and other open spaces; the density of population; and the location and use of buildings, structures, and land for trade, industry, residence, and other purposes. (Prior Code 1991, §12-108)

***State law references*: General zoning power, 11 O.S. §43-101; zoning commission, 11 O.S. §43-109.**

§ 82-58 UNIFORMITY OF REGULATIONS.

The planning commission may recommend the division of the city into districts of such number, shape, and area as may be deemed best suited to carry out the zoning plan. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts. (Prior Code 1991, §12-109)

§ 82-59 PURPOSE OF REGULATIONS; COMPREHENSIVE PLAN.

Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to

prevent overcrowding of land; to promote historical preservation; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. Such regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city. (Prior Code 1991, §12-110)

§§ 82-60 – 82-85 RESERVED.

ARTICLE 3

BOARD OF ADJUSTMENT*

§ 82-86 Created.
§ 82-87 Organization and procedures.
§ 82-88 Appeals to board of adjustment.
§ 82-89 Notice and hearings.
§ 82-90 Fees.
§ 82-91 Powers.
§ 82-92 Extent of relief.
§ 82-93 Appeals from the board of adjustment.

§ 82-86 CREATED.

There is hereby created a board of adjustment consisting of five members, all of whom shall be residents of the city. The board of adjustment may be the same persons as the members of the planning commission. (Prior Code 1991, §12-120)

***Cross reference*: Boards, commissions, and committees, §2-56 et seq.**

§ 82-87 ORGANIZATION AND PROCEDURES.

The board of adjustment shall elect one of its members as chairman. The board shall adopt rules in accordance with the provisions of these regulations. 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 by subpoena. The board shall keep the minutes of its proceedings, showing the vote of each member upon each question or if absent or 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 board of adjustment and shall be a public record, except as otherwise authorized by law. All meetings of the board of adjustment shall be open to the public. (Prior Code 1991, §12-121)

§ 82-88 APPEALS TO BOARD OF ADJUSTMENT.

Appeals to the board of adjustment may be taken by any person aggrieved or by an officer of the city affected by any administrative decision based on these regulations. Such appeal shall be taken within thirty (30) days of such decision by filing with the city clerk and the board of adjustment a notice of appeal specifying the grounds thereof. The city clerk shall forthwith transmit to the board all the papers constituting the record of the action from which the appeal is taken. (Prior Code 1991, §12-122)

§ 82-89 NOTICE AND HEARINGS.

A. The board of adjustment shall fix a reasonable time for the hearing of an appeal or other matters referred to it.

B. Notice of 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 clerk of the board of adjustment to all owners of property within a three-hundred (300) foot radius of the exterior boundary of the subject property, error in any order, requirement, decision, A copy of the published notice may be mailed in lieu of written notice; however, the notice by publication and written notice shall be published and mailed at least ten (10) days prior to the hearing.

C. The notice, whether by publication or mail, of a public hearing before the board of adjustment shall contain:

1. A legal description of the property and the street address or approximate location in the city;

2. The present zoning classification of the property and the nature of the appeal, variance or exception requested; and

3. The date, time, and place of the hearing.

D. 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 has 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 case the 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 or notice to the officer from whom the appeal is taken and on due cause shown. (Prior Code 1991, §12-123)

***State law reference*: Similar provisions, 11 O.S. §§44-108, 44-109.**

§ 82-90 FEES.

The city council shall establish a fee for the hearing of appeals, which shall be

sufficient to defray the cost of publishing the notice of public hearing and any other costs associated with the hearing. The appellant shall pay such fee upon filing the appeal. (Prior Code 1991, §12-124)

§ 82-91 POWERS.

A. *Generally.* The board of adjustment shall location have the following powers:

1. *Administrative review.* 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 enforcement of chapter 122. In reaching its decision, the board shall establish firm guidelines for future administrative actions on like matters.

2. *Special exceptions.* To hear and decide special exceptions to chapter 122 to allow a use, or a specifically designated element associated with a use, which is not permitted by right in a particular district because of potential adverse effect, but which, if controlled in the particular instance as to its relationship to the neighborhood and to the general welfare, may be permitted by the board of adjustment, where specifically authorized by chapter 122, and in accordance with the substantive and procedural standards of chapter 122. In reaching its decision, the board shall not grant the application if it finds:

a. That the use is not specifically permitted under the regulations;

b. That the location of proposed activity and improvements are not clearly defined on the site plan filed by the applicant; or

c. That the exception will not be wholly compatible with the use and permitted development of adjacent properties.

1) *Special exception application.* An application for a special exception to use or develop property as specifically authorized in the district use regulations or in this section may be filed by any person owning the affected property or by any tenant upon written authorization of the owner. Such application shall be filed with the board and a copy thereof with the enforcing officer.

2) *Form of appeal or application.* Such application shall show the location and intended use of the site, the names of all the property owners and existing land uses within three-hundred (300) feet, and any other material pertinent to the request which the board of adjustment may require.

3) *Public hearing.* The board of adjustment shall hold one or more public hearings thereon in accordance with the requirements for notice and hearings.

Any appeal or application may be withdrawn upon written notice to the enforcing officer but no appeal shall be withdrawn after posting of hearing notice and prior to board action thereon without formal consent of the board.

Exceptions to uses may be authorized. The city council may authorize the board of adjustment to make special exceptions to specific uses allowed within each zoning category according to chapter 122. In appropriate cases and subject to appropriate conditions and safeguards in harmony with its general purpose and intent and only in accordance with general or specific provisions contained in chapter 122.

3. ***Variances.*** **To authorize in specific cases a variance from the terms, standards, and criteria that pertain to an allowed use category within a zoning district as authorized by chapter 122 when such cases are shown not to be contrary to the public interest if, owing to special conditions, a literal enforcement of the provisions of chapter 122 will result in unnecessary hardship and so that the spirit of such chapter shall be observed and substantial justice done. Such variances may be granted in whole, in part, or upon reasonable conditions only upon a finding by the board of adjustment that:**

a. The application of this chapter to this particular piece of property would create an unnecessary hardship, not self-imposed by the owner or developer;

b. Such conditions are peculiar only to the particular piece of property involved; or

c. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of chapter 122 or the comprehensive plan; provided, however, that no variance may be granted for a use of land or buildings or structures that is prohibited by this chapter; and

d. The variance, if granted, would be the minimum necessary to alleviate the unnecessary hardship;

Provided, however, the board shall have no power to authorize variances as to use except as provided by subsection (a) (4) of this section;

4. ***Oil and gas applications.*** **To hear and decide oil and/or gas applications or appeals unless prohibited throughout the city by city ordinance. The board of adjustment shall be required to make the findings prescribed by 11 O.S. §44-107 in order to grant a variance as to use with respect to any such application or appeal.**

B. ***Extent of relief.*** **In exercising the abovementioned powers, the board of adjustment, in conformity with the provisions of 11 O.S. §44-105, and the provisions of this chapter, may reverse or affirm, wholly or partly, or 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. Every decision of the board shall be based upon findings of fact and every finding of fact shall be supported in the record of proceedings. The enumerated conditions required to exist on any matter upon which the board is authorized to pass under these regulations shall be construed as limitations on the power of the board to act. Nothing herein contained shall be construed to empower the board to change the terms of these regulations or to effect changes in the zoning districts. The powers of the board shall be so applied that the terms of these regulations will be strictly enforced.

1. ***Three votes required.*** **The concurring vote of at least three (3) members of the board of adjustment shall be necessary to reverse any order, requirement, and decision or determination being appealed from, to decide in favor of the applicant, or to decide any matter which may properly come before it under this chapter or state law.**

a. A member shall disqualify himself from voting whenever he has a personal or monetary interest in the property under appeal or will be directly affected by the decision of the board; and

b. A member may disqualify himself from voting whenever any applicant, or his agent, has sought to influence the member's vote on the appeal, other than in the public hearing;

2. ***Approval of request:***

a. In approving any request, the board may designate such conditions in connection therewith in order to secure substantially the objectives of the regulation or provision to which such variance is granted to provide adequately for the maintenance of the integrity and character of the zone in which such permit is granted;

b. When necessary, the board may require guarantees, in such form as it deems proper, to ensure that conditions designated in connection therewith are being or will be complied with. Where any condition under which a request has been granted appears to have been violated, the board may hold a public hearing thereon to determine whether or not the permit theretofore granted shall be terminated; and

c. Upon approval of an application for special exception or of a variance appeal, the applicant shall apply for occupancy or construction permits within sixty (60) days after the board's decision unless a greater time is requested in the application and is authorized by the board. Any approval may be granted one emergency extension of sixty (60) days on written request filed with the board before expiration of the original approval. Failure of the applicant to apply for occupancy or construction permits within the authorized time period shall void the right to secure such permits except

upon the filing of a new application or appeal.

3. *Denial of request.* No appeal or application that has been denied shall be further considered by the board under a subsequent request obtained by filing new plans and obtaining of a new decision from the enforcing officer unless:

a. The new plans materially change the nature of the request; or

b. The permitted development of other nearby property in the same zone has been substantially altered or changed by a ruling of the board so as to support an allegation of changed conditions.

C. *Hearing, findings, and record.* Exceptions and/or variances may be allowed by the board of adjustment only after notice and hearing as provided in 11 O.S. § 44-108. The record of the meeting at which the variance or special exception was granted shall show that each element of a variance or special exception was established at the public hearing on the question, otherwise such variance or special exception shall be voidable on appeal to the district court. (Prior Code 1991, §12-125)

***State law reference*: Similar provisions, 11 O.S. §44-104.**

§ 82-92 EXTENT OF RELIEF.

A. When exercising the powers provided for in section 82-91, the board of adjustment, in conformity with the provisions of chapter 122, may reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination from which appealed and may make such order, requirement, decision, or determination as ought to be made.

B. The concurring vote of at least three members of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination being appealed from, to decide in favor of the applicant, or to decide any matter which may properly come before it pursuant to chapter 122 and section 82-91. (Prior Code 1991, §12-126)

***State law reference*: Similar provisions, 11 0.S. §44-105.**

§ 82-93 APPEALS FROM THE BOARD OF ADJUSTMENT.

A. *Appeal to district court.* An appeal from any action, decision, ruling, judgment, or order of the board of adjustment may be taken by any person or persons, jointly or severally aggrieved, or any taxpayer or any officer, department, board, or bureau of the city to the district court in the county in which the situs of the city is located.

B. *Filing of notice of appeal.* The appeal shall be taken by filing with the city clerk and with the clerk of the board of adjustment, within sixty (60) days from the filing of

the decision of the board, a notice of appeal. The notice shall specify the grounds for the appeal. No bond or deposit for costs shall be required for such appeal.

C. ***Filing of record.*** **Upon filing the notice of appeal, the board of adjustment shall forthwith transmit to the court clerk the original, or certified copies, of all papers constituting the record in the case, together with the order, decision or ruling of the board.**

D. ***Trial de novo.*** **The appeal shall be heard and tried de novo in the district court. All issues in any proceedings under this section shall have preference over all other civil actions and proceedings.**

E. ***Stay of proceedings.*** **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, from which the appeal is taken, certifies to the court clerk, after the notice of appeal has 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 chapter 122 and upon notice to the chairman of the board from which the appeal is taken and upon due cause being shown.**

F. ***Actions of district court.*** **The district court may reverse or affirm, wholly or partly, or modify the decision brought up for review. Costs shall not be allowed against the board of adjustment unless it shall appear to the district court that the board acted with gross negligence or in bad faith or with malice in making the decision appealed from. An appeal shall lie from the action of the district court as in all other civil actions. (Prior Code 1991, §12-127)**

State law reference**: Similar provisions, 11 0.S. §44-110.**

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CHAPTER 86

SIGNS*

§ 86-1 Definitions.
§ 86-2 Violations.
§ 86-3 Appendix to building code adopted.
§ 86-4 Signs over sidewalks.
§ 86-5 Political advertising signs.
§ 86-6 Grand opening signs.
§ 86-7 Portable display surface.
§ 86-8 Other restrictions.

***Cross references*: Buildings and building regulations, ch. 14; placing signs on property of another, §70-34; planning, ch. 82.**

***State law reference*: Highway Advertising Control Act of 1972, 69 O.S. §1271 et seq.**

SIGNS*

§ 86-1 Definitions.
§ 86-2 Violations.
§ 86-3 Appendix to building code adopted.
§ 86-4 Signs over sidewalks.
§ 86-5 Political advertising signs.
§ 86-6 Grand opening signs.
§ 86-7 Portable display surface.
§ 86-8 Other restrictions.

§ 86-1 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:

A. *Political advertising sign* means any sign or placard printed, painted, made, or designed for the purpose of furthering or advertising the candidacy of any person who is or intends to become or may be a candidate for the election to any public office, whether such public office is in the local, state, or federal government, or any subdivision thereof.

B. *Portable display surface* means a display surface temporarily fixed to a standardized advertising structure which is regularly moved from structure to structure at periodic intervals.

C. *Sign* means any letter, figure, character, mark, plane, point, marquee sign, design, poster, pictorial, picture, stroke, stripe, line, trademark, reading matter, or illuminated service which shall be constructed, placed, attached, painted, erected, fastened, or manufactured in any manner whatsoever, so that the same shall be used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine, or merchandise whatsoever which is displayed in any manner whatsoever outdoors. Every sign shall be classified and conform to the requirements of that classification as set forth in this chapter. (Prior Code 1991, §§5-1201, 5-1204(A))

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

§ 86-2 VIOLATIONS.

Any sign erected, placed, or displayed in violation of the provisions of this chapter, or otherwise unlawfully erected, placed or displayed, shall be a public nuisance and may be removed by the city, in addition to any other penalty imposed for such violation. No property right shall exist in such sign unlawfully erected, placed, or displayed. (Prior Code 1991, §5-1204(D), 5-1207(B))

§ 86-3 APPENDIX TO BUILDING CODE ADOPTED.

The latest edition of appendix "H" to the International Building Code, published by the International Code Council, Inc., three (3) copies of which are on file in the office of the city clerk, is adopted for the regulation of signs as therein provided. Each and all of the regulations, provisions, penalties, conditions, and terms appendix "H" of the International Building Code are hereby referred to, adopted, incorporated, and made a part hereof as if fully set out in this Code with the additions, insertions, deletions, and changes if any prescribed in this chapter. (Prior Code 1991, §5-1202)

§ 86-4 SIGNS OVER SIDEWALKS.

A. No sign shall be placed over or on a sidewalk or other public property unless a permit is secured from the city manager therefore.

B. A permit will only be issued after the applicant has filed an application in a form prescribed by the city manager and the city manager or his designee has approved the application.

C. The city manager shall not issue such permit if, in his judgment, the proposed sign would be or would likely become a danger or hazard to persons or property, would be unsightly, or would otherwise be prejudicial to the public welfare.

D. After such permit is issued, it shall be unlawful to erect, place, or construct such sign except in accordance with the plans and specifications submitted to the city manager or as the plans and specifications may be changed by approval of both the city manager and applicant. Each permit shall only be valid for twelve (12) consecutive calendar months after its issuance and may be renewed annually thereafter providing the sign remains in compliance with applicable codes and fees are paid. (Prior Code 1991, §5-1203)

***Cross reference*: Streets, sidewalks, and other public places, ch. 90.**

§ 86-5 POLITICAL ADVERTISING SIGNS.

A. No person, firm, or corporation shall erect or display any political advertising sign on any street or alley right-of-way or upon any public utility easement within this city.

B. No person, firm, or corporation shall place, sign face, tack, nail, staple, or glue any political advertising and sign on any telephone, telegraph, electric, or street lighting pole within this city. (Prior Code 1991, §5-1204(B), (C))

§ 86-6 GRAND OPENING SIGNS.

All businesses shall be permitted to display grand opening signs on a one-time basis

for a maximum of fourteen (14) consecutive days. Grand opening signs include sign banners, balloons, streamers, flags, pennants, inflatable structures, merchandise, and other attention-attracting media and devices, as well as vehicle-mounted signs and portable display surface. At the end of the fourteen (14) day period, the sign must be removed.

§ 86-7 PORTABLE DISPLAY SURFACE.

A portable display surface may be used on the premises for a period not to exceed 45 days. At the end of the period, the display surface must be removed. Any vehicle displaying signage or advertising shall be parked in an assigned parking space which is not immediately adjacent to a street frontage. (Prior Code 1991, §5-1206)

§ 86-8 OTHER RESTRICTIONS.

A. A nonpublic sign may not be placed in the public right-of-way or on public property except as may be authorized by the city. No sign may be placed on private property without the property owner's written approval.

B. General non-accessory signs under one-hundred (100) square feet shall be permitted as uses permitted by right in the C-3, general commercial, and industrial zoning districts, subject to the following regulations. All general non-accessory signs over 100 square feet shall be permitted on review in the C-3, general commercial, and industrial zoning districts, subject to the following regulations:

1. ***Sign size.***

a. In area properly zoned and adjacent the Interstate 35;

1) The display surface shall not be not exceed six-hundred seventy-two (672) square feet per sign face, except for a twenty (20) per allowance for extension and cutouts.

2) The maximum width of a sign shall be forty-eight (48) feet.

3) Signs exceeding six-hundred seventy-two (672) square feet shall require a variance permit in any zoning district.

b. In areas properly zoned and not adjacent to the interstate:

1) The display surface area shall exceed three-hundred (300) square feet.

2) The maximum width of a sign shall be twenty (24) feet.

3) Signs shall not have more than one display face facing in any one direction. Therefore, no stacked or side-by-side faces can be constructed.

2. ***Height.***

a. In areas properly zoned and adjacent to the interstate

1) The maximum height of the highest point of the structure shall be fifty (50) feet above road grade; provided, however, that where the sign is adjacent to an elevated roadway, then the maximum height shall be thirty (30) feet above the road grade.

2) The minimum clearance between ground level and the lowest point of display surface, exclusive of supports, shall not be less then ten (10) feet.

b. In areas properly zoned and not adjacent to the interstate:

1) The maximum height above ground shall be thirty (30) feet.

2) The minimum clearance between ground level and the lowest point of display surface, exclusive of supports, less than ten (10) feet.

3. ***Spacing.***

a. In areas properly zoned and adjacent to the interstate, regardless of size or height, no non-accessory sign shall be constructed, erected, placed, or replaced closer than one-thousand (1,000) feet to another non-accessory sign facing in the same direction and on the same side of the roadway from which the sign is intended to be read.

b. In area properly zoned and not adjacent to the interstate:

1) No non-accessory sign with a display area of two-hundred (200) square feet or less shall be constructed, erected, placed, or replaced closer than five-hundred (500) feet unless such sign reaches a maximum height of twenty (20) feet or less, in which case it may be located no closer than two-hundred (250) feet to another non-accessory sign facing in the same direction and on the same side of the roadway from which the sign is intended to be read.

2) No non-accessory sign with a display area of more than two-hundred (200) square feet shall be constructed, erected, placed, or replace closer than five-hundred (500) feet to another non-accessory sign facing in the same direction and on the same side of the roadway from which the sign is intended to be read.

4. ***Spacing from residentially zoned property.*** **No non-accessory sign shall be constructed, erected, placed, or replaced closer than one-hundred (100) feet to the nearest**

residentially zoned property or two-hundred (250) feet to any residence.

5. ***Lighting.*** **Non-accessory signs may be illuminated which are in compliance with the following conditions and any other applicable ordinances:**

a. Signs shall not be erected which contain, include, or are illuminated by any flashing, intermittent, revolving, or moving light.

b. Signs shall not be erected or maintained which cause an annoying glare to any residential neighborhood. (Prior Code 1991, §5-1207(A), (D); Ord. No. 00-14, §1(5-1207), 6-5-2000; Ord. No. 06-14, §1, 10-22006; Ord. No. 07-13, §1, 10-1-2007)

CHAPTER 90

STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES*

ARTICLE 1

IN GENERAL

§ 90-1 Penalty.
§ 90-2 Sidewalk, gutter kept clean, in good repair.
§ 90-3 Pollution of street, alley, or sidewalk.
§ 90-4 Hazardous sidewalk or sidewalk area.
§ 90-5 Golf carts on city streets.
§§ 90-6 – 90-30 Reserved.

ARTICLE 2

OBSTRUCTIONS, OBSTACLES, AND ENCROACHMENTS

§ 90-31 Sidewalks, streets generally.
§ 90-32 Playing.
§ 90-33 Water, mud from vehicle.
§ 90-34 Trash.
§ 90-35 Businesses generally.
§ 90-36 Fluids, polluting substances from businesses.
§ 90-37 Drainage.
§ 90-38 Encroachments in rights-of-way and easements.
§ 90-39 Obstacles in street rights-of-way; notice; abatement.
§§ 90-40 – 90-65 Reserved.

ARTICLE 3

EXCAVATIONS

§ 90-66 Penalty for violation.
§ 90-67 Permit required.
§ 90-68 Applications.
§ 90-69 Fees.
§ 90-70 Bond.
§ 90-71 Manner of excavating.
§ 90-72 Sidewalks.
§ 90-73 Restoring surface.
§ 90-74 Supervision.
§ 90-75 Tunneling.

***Cross references*:** **Any ordinance dedicating, naming, establishing, locating, relocating, opening, vacating, etc., any street or public way in the city saved from repeal, §1-7(5); any ordinance establishing and prescribing the street grades of any street in the city saved from repeal, §1-7(8); any ordinance providing for local improvements and assessing charges for such improvements saved from repeal, §1-7(9); moving buildings, §14-406 et seq.; cemeteries, ch. 22; environment, ch. 34; floods, ch. 42; library, ch. 58; manufactured homes and trailers, ch. 62; natural resources, ch. 66; throwing advertising on street, §70-37; public streets and trees, §70-40; sleeping on streets and other property without consent, §70-113; parks and recreation, ch. 74; peddlers and solicitors, ch. 78; planning, ch. 82; signs over sidewalks, §86-4; subdivisions, ch. 94; subdivision design-general provisions, §94-167; subdivision design for cul-de-sacs and dead-end streets, §94-169; subdivision improvements for streets and alleys, §94-211; subdivision improvements for streets and regulatory signs, §94-213; subdivision improvements for streets lights, §94-214; telecommunications, ch. 102; traffic and vehicles, ch. 106; driving on sidewalk, §106-129; through streets, §106-140; riding on sidewalks, §106-333; leaving junked vehicle on street, §106-407; utilities, ch. 110; vegetation, ch. 114; vehicles for hire, ch. 118; zoning, ch. 122.**

***State law references*:** **Municipal regulation of games and amusements on streets and sidewalks, 11 O.S. §22-117; municipal roads and streets, 11 O.S. §36-101 et seq.; improvement districts, 11 O.S. §39-101 et seq.; cooperation by state, 69 O.S. §§303, 317; bridges, 69 O.S. §§611, 612; appropriation of highway for public purpose, dedication of adjacent land, 69 O.S. §648; obstructions, nuisances, 69 O.S. §1208 et seq.**

ARTICLE 1

IN GENERAL

§ 90-1 Penalty.
§ 90-2 Sidewalk, gutter kept clean, in good repair.
§ 90-3 Pollution of street, alley, or sidewalk.
§ 90-4 Hazardous sidewalk or sidewalk area.
§ 90-5 Golf carts on city streets.
§§ 90-6 – 90-30 Reserved.

§ 90-1 PENALTY.

Any person, firm, or corporation who violates any provision of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided in section 1-12 of this Code. (Prior Code 1991, §14-211)

§ 90-2 SIDEWALK, GUTTER KEPT CLEAN, IN GOOD REPAIR.

It is the duty of the occupant of any lot or piece of ground abutting upon any street where there is a sidewalk or gutter on the street to keep such sidewalk or gutter clean and to remove therefrom all materials, snow or ice, trash, weeds, refuse, rubbish, or hazards of any kind and to keep the sidewalk and gutter in good repair. If there is no such occupant of any such lot other than the owner, it is the duty of the owner to do the same. (Prior Code 1991, §14-112)

§ 90-3 POLLUTION OF STREET, ALLEY, OR SIDEWALK.

It is unlawful for the owner or person in possession of any residence or business to cause or allow drainage into any street, alley, or sidewalk that causes pollution of a street, alley, or sidewalk. For the purposes of this section, "pollution" is defined as provided in 82 O.S. § 1084.2, except that it applies to streets, alleys, and walks in the city instead of waters of the state. (Prior Code 1991, §14-113)

§ 90-4 HAZARDOUS SIDEWALK OR SIDEWALK AREA.

It is unlawful for the owner or occupant of property abutting upon a sidewalk area to permit the sidewalk or sidewalk area adjacent to the property to become a hazard to persons using the sidewalk or sidewalk area. (Prior Code 1991, §14-110)

§ 90-5 GOLF CARTS ON CITY STREETS.

Golf carts shall be allowed on city streets subject to the following restrictions, to-wit:

1. Only those persons who have a legitimate medical condition that keeps them from being able to walk and/or use other transportation shall be allowed to operate a golf

cart on city streets (does not apply to Chandler Road west of 1-35).

2. Golf carts shall be operated only during daylight hours.

3. Golf carts shall not be allowed on state highways within the city limits other than traveling directly across them at intersections.

4. The operator must be at least eighteen (18) years of age.

5. Operators of golf carts must yield to all motor vehicles at intersections and must operate the golf cart as far to the right of the traffic lane as possible.

6. Operators of golf carts must obey all applicable traffic laws. (Ord. No. 02-10, §1, 8-5-2002)

§§ 90-6 – 90-30 RESERVED.

***Editor's note*: Ord. No. 02-10, §1, adopted August 5, 2002, did not specify manner of inclusion; hence, inclusion as §90-5 is at the discretion of the editor.**

ARTICLE 2

OBSTRUCTIONS, OBSTACLES, AND ENCROACHMENTS

§ 90-31 Sidewalks, streets generally.
§ 90-32 Playing.
§ 90-33 Water, mud from vehicle.
§ 90-34 Trash.
§ 90-35 Businesses generally.
§ 90-36 Fluids, polluting substances from businesses.
§ 90-37 Drainage.
§ 90-38 Encroachments in rights-of-way and easements.
§ 90-39 Obstacles in street rights-of-way; notice; abatement.
§§ 90-40 – 90-65 Reserved.

§ 90-31 SIDEWALKS, STREETS GENERALLY.

It is unlawful for any person, firm, or corporation to use or obstruct the sidewalks of the city in any manner so as to with pedestrian traffic thereon or to use or obstruct the streets and alleys of the city in any manner so as to interfere with lawful traffic and parking thereon. (Prior Code 1991, §14-104)

§ 90-32 PLAYING.

It is unlawful for any person to play on the sidewalks, alleys, or upon the main-traveled portion of the streets and alleys of the city, except as may be authorized by

ordinance. (Prior Code 1991, §14-106)

§ 90-33 WATER, MUD FROM VEHICLE.

No automobile or other vehicle shall be washed at any place within the city where the water, dirt, mud, or other substances removed therefrom by or during the washing thereof shall drain into or upon any street or sidewalk of the city. (Prior Code 1991, §14-108)

***Cross reference*: Traffic and vehicles, ch. 106.**

§ 90-34 TRASH.

It is unlawful for any person, firm, or corporation to deposit, throw, or sweep into or upon the streets, alleys, parking, or sidewalks of the city any paper, rubbish, grass, weeds, tree trimmings, dirt, trash, crates, boxes, or other refuse of any kind. (Prior Code 1991, §14-105)

§ 90-35 BUSINESSES GENERALLY.

A. It is unlawful for any person, firm, or corporation to place upon or permit to be placed upon the sidewalks, parkways, streets, and alleys of the city any goods, wares, articles of merchandise, or any other obstruction and leave same thereon or to use the same as a place to carryon a business or trade.

B. It is unlawful for any person, firm, or corporation to construct, erect, place, operate, maintain, or permit to exist any ice box, ice dock, gasoline pump, gasoline storage reservoir, tire rack, tire tools or equipment, water hose connection, or any tools, stands, equipment, merchandise, or appurtenances thereof, aerials, poles, or wires therefore, whether permanent or temporary, or any other obstruction upon any part of any street, alley, boulevard, parkway, curbing, or parking within the city. (Prior Code 1991, §§14-103, 14-107)

§ 90-36 FLUIDS, POLLUTING SUBSTANCES FROM BUSINESSES.

It is unlawful for any owner or operator of a motor vehicle service station or other place of business, or any agent or employee thereof, to cause or allow water, grease, other fluid, or polluting substance to flow or drain into, upon, over, or across any sidewalk, parking, street, alley, or other public way. (Prior Code 1991, §14-109)

***Cross reference*: Businesses, ch. 18.**

§ 90-37 DRAINAGE.

It is unlawful for any person, firm, or corporation to obstruct any street, sidewalk, or alley by placing any approach driveway or other obstruction or substance whatever that

will obstruct or prevent the natural flow of water into the storm sewers or drains or dam the same so as to back any water upon the streets, alleys, sidewalks, or gutter. (Prior Code 1991, §14-111)

§ 90-38 ENCROACHMENTS IN RIGHTS-OF-WAY AND EASEMENTS.

A. It is unlawful for any person, firm, or corporation to obstruct or otherwise prevent access to any street, alley, or other city-owned property; provided that, the city may prevent or provide access to streets, alleys, and city-owned property from time to time in the public interest.

B. The city may permit certain streets, alleys, and city property which are dedicated, but not required for traffic or other public access or use, to be fenced or otherwise made inaccessible to the public, as in the case of land being farmed or grazed as a part of a larger field or pasture. The city or any of its officers or employees shall have the right of ingress, egress, and easement for the purpose of installing or maintaining utilities, cleaning, grading, moving, or any other activity which is in the public interest.

C. Persons, companies, corporations, or individuals who have fenced in or are farming or grazing dedicated but unopened streets, alleys or city property, as permitted in this section, shall:

1. Not construct any building, structure, earthworks, or ponds nor in any other way disturb the general grade and slope of the land;

2. Maintain the property so that no nuisance is created;

3. Immediately relinquish any rights, presumed to be held concerning the property upon notice by the city; and

4. Permit access to the property at any reasonable time when requested to do so by a city officer or employee.

§ 90-39 OBSTACLES IN STREET RIGHTS-OF-WAY; NOTICE; ABATEMENT.

A. It is unlawful for any person to construct, maintain, or operate any building, sign, fence, post, gasoline pump, driveway canopy, tree, shrub, or other thing or structure on any right-of-way of or upon any street in the city, and the constructing or maintaining of any such thing or structure on any right-of-way of or upon any such street shall constitute a public nuisance, which may be summarily abated by the city or its officers, agents, and employees in the manner provided in this section.

B. If the owner or person in possession of any building, sign, fence, post, gasoline pump, driveway canopy, tree, shrub, or other thing or structure on any right-of-way of or upon any street fails to remove such structure or thing for a period often days after written demand for the removal thereof has been made upon him by registered or

certified mail or the personal service, the city, its officers, agents, and employees are hereby authorized and empowered to physically tear down and remove such thing or structure and for such purposes may enter upon private property to the extent necessary to accomplish such removal. Neither the city nor its officers, agents, or employees shall be liable for any damage caused or sustained by reason of the abatement and removal of such nuisance.

C. This section is not intended to prevent the construction or maintenance of any culvert or driveway as a means of ingress and egress to private property. The city shall have power to regulate the construction and maintenance of such culverts or driveways with due regard to the safety section of the traveling public and also drainage and maintenance of the streets. (Prior Code 1991, §4-114)

§§ 90-40 – 90-65 RESERVED.

ARTICLE 3

EXCAVATIONS*

§ 90-66 Penalty for violation.
§ 90-67 Permit required.
§ 90-68 Applications.
§ 90-69 Fees.
§ 90-70 Bond.
§ 90-71 Manner of excavating.
§ 90-72 Sidewalks.
§ 90-73 Restoring surface.
§ 90-74 Supervision.
§ 90-75 Tunneling.

§ 90-66 PENALTY FOR VIOLATION.

Any person, firm, or corporation who violates any provision of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided in section 1-12 of this Code. (Prior Code 1991, §14-211)

§ 90-67 PERMIT REQUIRED.

It is unlawful for any person to tunnel under or to make any excavation in the street, alley, or other public place in the city without having obtained a permit as is required in this article or without complying with the provisions of this article or in violation of or variance from the terms of any such permit. (Prior Code 1991, §§14-201, 14-206(A))

§ 90-68 APPLICATIONS.

Applications for such permits shall be made to the city clerk and shall:

1. Describe the location of the intended excavation or tunnel;

2. The size thereof;

3. The purpose therefore;

4. The person, firm, or corporation doing the actual excavating work; and

5. The name of the person, firm, or corporation for whom or which the work is being done.

6. Contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. (Prior Code 1991, §14-202)

§ 90-69 FEES.

The fee for such permits shall be as set by the city council by motion or resolution, payable to the city clerk. The fee for permits not secured within four hours prior to work being performed by the city will be computed at one-hundred twenty-five (125) percent of the set fee. In the event extra services, materials, and/or equipment are required by the city, an additional fee shall be assessed. (Prior Code 1991, §14-203)

***State law references*: Excavations under sidewalks and along streets, 11 O.S. §36-107; Oklahoma Underground Facilities Damage Prevention Act, 63 O.S. §1421 et seq.**

§ 90-70 BOND.

No such permit shall be issued unless and until the applicant therefore has filed with the city clerk a bond in an amount to be determined by the city manager, conditioned to indemnify the city for any loss, liability, or damage that may result or accrue from or because of the making, existence, or manner of guarding or constructing any such tunnel or excavation. Any required bond shall have as surety a corporation licensed to do business in the state as a surety company. (Prior Code 1991, §14-204)

§ 90-71 MANNER OF EXCAVATING.

A. Proper bracing shall be maintained to prevent the collapse of adjoining ground. The city will cut the street per area designated by the requesting/responsible party.

B. No injury shall be done to any pipes, cables, or conduits in the making of such excavations or tunnels. Notice shall be given to the persons maintaining any such

pipes, cables, or conduits or to the city department or officer charged with the care thereof which are or may be endangered or affected by the making of any such excavation or tunnel before such pipes, cables, or conduits shall be disturbed.

C. No unnecessary damage or injury shall be done to any tree or shrub or the roots thereof.

D. The city will remove street surface waste material. The responsible party, in order to accomplish the desired work, shall remove dirt or gravel and all other waste material. (Prior Code 1991, §14-206)

§ 90-72 SIDEWALKS.

If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed or provided which shall be safe for travel and convenient for any users. (Prior Code 1991, §14-207)

§ 90-73 RESTORING SURFACE.

A. Any person making any excavation or tunnel in or under any public street, alley, or other public place in the city shall cause the surface to be restored to its original condition. Backfills shall be properly tamped down and any bracing in such tunnel or excavation shall be left in the ground.

B. The requesting or responsible party shall backfill and compact work area to within eight inches of the street surface.

C. Backfill material and compaction shall be in compliance and to the city Code and as approved by the city.

D. Any opening in a paved or improved portion of a street shall be repaired and the surface re-laid by the applicant in compliance with the policies and ordinances of the city and under the supervision of the city.

E. The city will complete backfill and repair the street surface area. (Prior Code 1991, §14-208)

§ 90-74 SUPERVISION.

The city manager or his designee shall from time to time inspect or cause to be inspected all excavations and tunnels being made in or under any public street, alley, or other public place in the city to see to the enforcement of the provisions of this section. Notice shall be given to him at least ten hours before the work of refilling any such tunnel or excavation commences. (Prior Code 1991, §14-209)

§ 90-75 TUNNELING.

Tunneling will be required when it is feasible to tunnel underneath any portion of any street or sidewalk in the city which is paved with concrete or asphalt paving. The street or sidewalk in the city which is paved with concrete or asphalt paving may be excavated as otherwise provided in this article if tunneling is not feasible after taking into consideration the location, costs, and time involved, and where a proper permit has been secured, tunnels may be driven or excavated under any such pavement, provided that upon completion of the work involved, the backfill shall be compacted with sand. (Prior Code 1991, §14-210)

CHAPTER 94

SUBDIVISIONS

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§ 94-4 Statement of policy.
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§ 94-8 Application of regulations.
§ 94-9 Exceptions to regulations.
§ 94-10 Responsibility for administration.
§ 94-11 Amendment of regulations.
§ 94-12 Conflict with public and private provisions.
§ 94-13 Official recording.
§ 94-14 Vacation of plats.
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<u>Cross references</u>: Any ordinance dedicating or accepting any plat or subdivision saved from repeal, §1-7(14); environment, ch. 34; floods, ch. 42; manufactured homes and trailers, ch. 62; subdivisions for mobile home, manufactured home, and travel trailer parks, §62-45; natural resources, ch. 66; planning, ch. 82; streets, sidewalks, and other public places, ch. 90; utilities, ch. 110; vegetation, ch. 114; zoning, ch. 122.

<u>State law references</u>: Platting, 11 O.S. §41-101 et seq.; vacating plats and public ways, 11 O.S. §42-101 et seq.

DIVISION 4

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§ 94-1 AUTHORITY.

The following regulations governing the subdivision and development of land within the jurisdictional area of the city municipal and regional planning commissions have been prepared, adopted, and enacted by Ordinance No. 918, on June 5, 1978, and became effective on July 15, 1978, in accordance with and pursuant to the authority granted by 11 O.S. §§45-104, 46-103 and 46-104. (Prior Code 1991, §12-401(B))

§ 94-2 PURPOSE.

These regulations are designed, intended, adopted, and should be administrated for the following purposes:

1. Protect and provide for the health, safety, and general welfare of present and future residents of the city;

2. Guide the future growth and development of the community in accordance with the implementation of the comprehensive plan for the city;

3. Ensure the provision of adequate light, air, privacy, and fire and flood protection for residents of the city;

4. Prevent overcrowding of the land and undue congestion of population;

5. Protect the character and the social and economic stability of all parts of the community;

6. Promote neighborhood conservation and prevent the development of slums and blight;

7. Encourage orderly and beneficial development of all parts of the community;

8. Protect and conserve the value of land throughout the community, as well as the value of buildings and improvements upon the land;

9. Minimize conflicts among the uses of land and buildings;

10. Guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, parks, schools, and other public requirements and facilities;

11. Provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the community, with particular regard for the avoidance of congestion in the streets and highways, and the pedestrian traffic movements appropriate to the various uses of land and buildings, through proper location, width, design, and construction of streets and other traffic ways;

12. Establish reasonable standards of design and procedures for subdivisions, re-subdivisions, and lot-splits in order to further the orderly layout and use of land;

13. Establish adequate, accurate, and accessible public records and monumenting of subdivided land;

14. Ensure the availability of public utilities and facilities as well as their capacity to serve the proposed subdivision;

15. Equitably distribute the costs involved in land subdivision;

16. Prevent the pollution of air, streams, lakes, and other bodies of water;

17. Safeguard the area's water table;

18. Encourage the wise use and management of natural resources in order to preserve the integrity, ecological stability, and the beauty of the community, as well as the value of the land;

19. Provide for open spaces through the most efficient design and layout of the land;

20. Ensure the adequacy of drainage facilities; and

21. Minimize flood losses resulting from periodic inundation through:

a. Restriction or prohibition of subdivision of land for uses which are dangerous to health, safety, or property in times of flood or which, with reasonably anticipated improvements, will cause excessive increases in flood heights or velocities;

b. Requirements that each subdivision lot in an area vulnerable to flooding be provided with a safe building site with adequate access and that public utilities and facilities which serve such uses be installed with protection against flood damage at the time of installation; and

c. Protection of individuals from purchase of lands unsuitable for intended purposes because of flood hazards through the prohibition of unprotected flood hazard lands subdivision, requirements of delineated flood hazard areas on the final plat, and suitable uses provided for areas unsuitable for residential development. (Prior Code 1991, §12-402)

§ 94-3 JURISDICTION.

These regulations shall govern the subdivision of land within the jurisdictional area of the municipal and regional planning commission of the city. (Prior Code 1991, §12-403)

§ 94-4 STATEMENT OF POLICY.

A. It is hereby declared to be the policy of the city to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the city pursuant to the comprehensive plan of the city for the orderly, planned, efficient, and economical development of the city.

B. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace, and land shall not be subdivided until available public facilities and improvements exist and proper provision has been made for drainage, water, sewerage, and capital improvements such as schools, parks, recreation facilities, transportation facilities, and improvements.

C. Existing and proposed public improvements shall conform to and be properly related to the proposals shown in the city's comprehensive plan and the capital improvements program, and it is intended that these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in the city's building and housing codes, zoning regulations, code of ordinances, comprehensive plan and capital improvements program. (Prior Code 1991, §12-404)

§ 94-5 INTERPRETATION.

In their interpretation and application, the provisions of these regulations shall be

held to be the minimum requirements for the promotion of the public health, safety, and general welfare. (Prior Code 1991, §12-414)

§ 94-6 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. *Air rights* mean the rights to a space above a property for development, usually for a dissimilar use.

2. *Air space* means the space above the land which might be subject to division and sale either with, or separate from, the surface.

3. *Alley* means a minor right-of-way, dedicated to public use, from which a secondary means of access to the back or side of properties otherwise abutting a street is obtained and which may be used for public utility purposes.

4. *Bikeway* means a right-of-way, primarily for the use of bicycles, which may be any of three basic design types:

a. *Class I* is a completely separated right-of-way designated for the exclusive use of bicycles;

b. *Class II* is a restricted right-of-way designated for the exclusive or semi-exclusive use of bicycles with through-travel by motor vehicles not allowed; or

c. *Class III* is a shared right-of-way designated as such by signs placed on posts or on the pavement.

5. *Block* means a parcel of land intended to be used for development purposes, which is entirely surrounded by public streets, highways, railroad rights-of-way, public walks, parks, rural lands, drainage channels, or boundary lines of municipalities.

6. *Bond* means any form of security, including a cash deposit, surety bond, collateral, property, or instrument of credit, in an amount and form satisfactory to the city council. All bonds shall be approved by the city council whenever a bond is required by these regulations.

7. *Building* and *structure* mean any structure built for the support, shelter, or enclosure of persons, animals, chattel, or movable property of any kind, including any part of a building or structure.

8. *Building code* means a collection of regulations, adopted by the city council,

setting forth standards for the construction of buildings and other structures for the purpose of protecting the health, safety, and welfare of the public.

9. *Building line* and *setback line* mean a line or lines within a lot designating the area outside of which buildings may not be erected.

10. *Building permit* means a permit required before construction can be initiated. Building permit provisions are contained in the Code of Ordinances for the city.

11. *Channel* means a natural or artificial watercourse of perceptible extent with definite bed and banks to confine and conduct continuously or periodically flowing water.

12. *Cluster development* means a development pattern in which the uses are built close together rather than spread evenly throughout a parcel as in conventional lot-by-lot development. Cluster development is used to preserve open space, create workable land use mixtures, and save money by building fewer streets and shorter utility lines.

13. *Comprehensive plan* and *master plan* mean the officially adopted plan or plans for the city which provide long-range development policies for the area subject to urbanization in the foreseeable future and which include, among other things, the land use plan, the circulation plan, and the community utilities plan.

14. *Construction plans* mean maps or drawings accompanying a subdivision plat showing the specific location and design of required subdivision improvements.

15. *Dedication* means the transfer of property from private to public ownership under adopted subdivision regulations as a condition of subdivision plat approval.

16. *Dedication, fee in lieu of,* means the payments of cash, authorized and provided for in adopted subdivision regulations, when requirements for mandatory dedication of land cannot be met because of site conditions or other reasons.

17. *Density* means the average number of families, persons, or housing units per acre of land.

18. *Drainage way* means any depression below the surrounding land, serving to give direction to a regular or periodic current of water.

19. *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.

20. *Erosion* means the general process whereby soils are removed or moved by flowing surface or subsurface water.

21. *Extra-territorial jurisdiction* means the jurisdiction of the city regional planning commission for subdivision review only within an area outside of the corporate

limits of the city whose any one boundary at any point shall be within a distance of three (3) miles from the corporate limits of the city.

22. ***Flood*** **and** ***flooding*** **mean general and temporary conditions of partial or complete inundation of normally dry land areas from the overflow of lakes, streams, rivers or any other inland waters.**

23. ***Flood hazard area*** **means the maximum area of the floodplain that, on the average, is likely to be flooded once every 100 years; ie., that has a one percent change of being flooded in any given year.**

24. ***Flood hazard boundary map (FHBM)*** **means an official map or plat ofthe community issued or approved by the Federal Insurance Administration or the Federal Emergency Management Agency on which the boundaries of the floodplain area having special hazards have been drawn.**

25. ***Flood insurance rate map (FIRM)*** **means the official map or plat of the city issued or approved by the Federal Insurance Administration or the Federal Emergency Management Agency on which special flood hazard zones, for insurance purposes, have been drawn.**

26. ***Floodplain*** **means the land adjacent to a body of water which has been or may be covered by flooding, including, but not limited to, the one-hundred (100) year flood.**

27. ***Floodplain management program*** **means the full range of codes, ordinances, and other regulations, projects, and programs relating to the use of land and construction within the limits of the floodplain. The term "floodplain management program" encompasses the city's zoning regulations, subdivision regulations, and sanitary and building codes.**

28. ***Flood proofing*** **means any combination of structural and nonstructural additions, changes, or adjustments to properties and structures subject to flooding which reduces or eliminates flood damage to lands, water, and sanitary facilities or the contents of buildings in a flood hazard area.**

29. ***Floodway*** **means the channel of a stream, watercourse, or body of water and those portions of floodplains which are reasonably required to carry and discharge the floodwater or flood flow of any river or stream.**

30. ***Floodway encroachment lines*** **means the lines marking the limits of floodways on official federal, state, and local floodplain maps.**

31. ***Floodway fringe zoning district*** **means an overlay zoning district to provide special regulations for reduction of flood losses in those areas of the floodplain outside of the floodway which are subject to periodic flooding and therefore require special consideration before development is permitted to occur. Requirements of this overlay**

district are in addition to the requirements contained in the basic, underlying zoning district.

32. ***Frontage*** **means that side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but not the ordinary side of a comer lot.**

33. ***Grade*** **means the slope of a road, street, or other public way specified in percentage terms.**

34. ***Improvements*** **means the street pavements, with curbs and sidewalks, pedestrian ways, water mains, sanitary and storm sewers, permanent street monuments, trees, and other appropriate items for which the city may ultimately assume the responsibility for maintenance and operation or which may affect an improvement for which municipal responsibility is established. All such improvements shall be properly bonded in accordance with the provisions of these regulations.**

35. ***Intensity*** **means the degree to which land is used. The term "intensity" is often used synonymously with the term "density."**

36. ***Lot*** **means a parcel of land intended as a unit for the transfer of ownership or for development of at least sufficient size to meet minimum zoning regulation requirements for use, coverage, and area and to provide such yards and other open spaces as are required. Such lot shall have frontage on a public street and may consist of:**

a. A single lot of record;

b. A portion of a lot of record;

c. A combination of complete lots of record, and portions of lots of record; or

d. A parcel of land described by metes and bounds; provided, that in no case of division or combination shall any lot or parcel be created which does not meet the requirements of these regulations or the city's adopted zoning regulations.

37. ***Lot area*** **means the total horizontal area included within lot lines.**

38. ***Lot, corner,*** **means a lot located at the intersection of and abutting on two or more streets.**

39. ***Lot 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.**

40. ***Lot, double frontage,*** **means a lot which runs through a block from street to street and has nonintersecting frontage on two or more streets.**

41. ***Lot frontage*** **means that dimension of a lot, or portion of a lot, abutting on a street, except the side dimension of a corner lot.**

42. ***Lot, interior,*** **means a lot other than a corner lot.**

43. ***Lot line adjustment*** **means a relocation of the lot lines of two or more lots included in a plat which is filed of record, for the purpose of making necessary adjustments to building sites.**

44. ***Lot lines*** **means the lines bounding a "lot," as that term is defined in this section.**

45. ***Lot, mobile home,*** **means a parcel or tract of land for the placement of a single mobile home and for the exclusive use of its occupants.**

46. ***Lot of record*** **means a separate and distinct parcel of land designated on a legally recorded subdivision plat or a legally recorded deed filed in the records of the county courthouse.**

47. ***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 access provided on a minor street.**

48. ***Lot split*** **means any division of land by metes and bounds description into two or more parcels for the purpose, whether immediate or future, of transfer of ownership and which constitutes a "subdivision," as that term is defined in this section.**

49. ***Lot, townhouse,*** **means a lot shown on a townhouse plat and intended as the site of a single, attached dwelling unit.**

50. ***Metes and bounds*** **mean a system of describing and identifying land by measures (metes) and direction (bounds) from an identifiable point of reference.**

51. ***Mobile home*** **means any single-family dwelling designed for transportation on streets and highways on its own wheels or on flatbed or other trailers, both highway and rail, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, connection to utilities, and similar operations.**

52. ***Mobile home park*** **mean land or property which is used, or intended to be used, or rented for occupancy by two or more mobile homes, trailers, or movable sleeping quarters of any kind.**

53. ***Mobile home subdivision.*** **See the definition of "Subdivision".**

54. ***Monument*** **and** ***marker*** **mean a subdivision improvement designed to provide**

permanent survey reference points within a subdivision which may be of one of three (3) types:

a. Type "A": A noncorrosive metal plate set in Portland cement or asphaltic concrete;

b. Type "B": Iron bar or pipe set in concrete; or

c. Type "C": Iron bar set in unexcavated soil.

55. *100-year flood* means a flood which has a one percent chance of occurring each year, based upon the criteria established by the Oklahoma Water Resources Board.

56. *Parcel* means a lot or contiguous group of lots in single ownership or under single control and usually considered as a unit for purposes of development.

57. *Pedestrian way* means a right-of-way dedicated to public use which cuts across a block or area to facilitate pedestrian access to adjacent streets and properties.

58. *Planned unit development* includes cluster housing, planned residential and nonresidential development, community unit plan, and other zoning requirements which are designed to accomplish the objectives of a comprehensive plan and zoning ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area. This permits the planning of a project and the calculation of densities over the entire development, rather than on an individual lot-by-lot basis.

59. *Planning commission* means the municipal planning commission or the regional planning commission of the city.

60. *Plat, final,* means a map of a land subdivision and any required accompanying material 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.

61. *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.

62. *Plat, sketch,* means a sketch of a proposed development submitted to the planning commission prior to the preliminary plat to enable the sub-divider to illustrate the subdivision's general nature and allow the city and the sub-divider to work out basic problems with the proposal.

63. *Private covenants* and *restrictive covenants* mean any specification limiting the

transfer, rental, or lease of any dwelling because of race, color, religion, sex, national origin, age, handicap, or familial status.

64. ***Re-subdivision*** **means a change in an approved or recorded subdivision plat if such change affects any street layout, lot line, or area reserved thereon for public use, or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.**

65. ***Right-of-way*** **means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or another special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels.**

Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

66. ***Roadway*** **means that portion of any street so designated for vehicular traffic; where curbs are in place, that portion of the street between the curbs.**

67. ***Sedimentation*** **means processes that operate at or near the surface of the ground to deposit soils, debris, and other materials either on other ground surfaces or in water channels.**

68. ***Solar collector*** **means any device or combination of devices or elements which rely upon sunshine as an energy source and which are capable of collecting not less than twenty-five (25,000) BTU's on a clear winter solstice day. The term "solar connector" also includes any substance or device which collects solar energy for use in:**

a. The heating or cooling of a structure or building;

b. The heating or pumping of water;

c. Industrial, commercial, or agricultural processes; or

d. The generation of electricity.

A solar collector may be used for purposes in addition to the collection of solar energy. These uses include, but are not limited to, serving as a structural member, or part, of a roof of a building or structure and serving as a window or wall.

69. ***Solar right*** **means a right to an unobstructed line-of-sight path from a solar collector to the sun which permits radiation from the sun to impinge directly on the solar**

collector.

70. ***Start of construction*** **means the first placement of permanent construction on a site, such as the pouring of footings or any work beyond the stage of excavation. For a structure without a basement or poured footings, the start of construction includes:**

a. The first permanent framing or assembly of the structure or any part thereof on its pilings or foundation; or

b. The affixing of any prefabricated structure or mobile home to its permanent site.

Permanent construction does not include:

a. Land preparation;

b. Land clearing, grading, or filling;

c. Excavation for basement footings, piers, or foundations;

d. Erection of temporary forms;

e. The installation of piling under proposed subsurface footings;

f. Installation of sewer, gas, and water pipes or electric or other service lines from the street; or

g. Existence on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not a part of the main structure.

71. ***Street*** **means any public or private right-of-way which affords the primary means of access to abutting property.**

72. ***Street classification*** **means that, for the purpose of providing for the development of the streets, highways, roads, and rights-of-way in the city, and for their future improvement, reconstruction, realignment, and necessary widening, including provision for curbs and sidewalks, each existing, street, highway, road, and right-of-way has been designated, arranged, or organized according to category within the comprehensive plan for the city. The classification of each street, highway, road, and right-of-way is based upon its location in the respective zoning districts of the city, its present and estimated future traffic volume, and its relative importance and function as specified in the city's comprehensive plan. The required street and sign improvements shall be measured as set forth for each classification in the city's adopted subdivision regulations or the city's comprehensive plan.**

73. ***Street, commercial or industrial,*** **means a street which abuts property zoned**

for commercial or industrial use and which is designed to provide access to those parcels so designated.

74. ***Street, half,*** **means any street platted twenty-five (25) feet or more in width, where, at the time of the approval of the plat, it is the intent of the city council that the street dedication shall constitute only a part of the total street easement width.**

75. ***Street, major,*** **means an arterial street which is so designated on the major street plan, comprehensive or community plan, and is designed to carry inter-city traffic and to relate the various neighborhoods or residential areas within the city. Major streets shall be classified as follows:**

a. ***Limited access highway.*** **A freeway or expressway providing a traffic way for through-traffic in respect to which owners or occupants of abutting property or lands and other persons have no legal right to access to or from the same, except at such points and in such manner as may be determined by the state highway department of transportation.**

b. ***Primary arterial or thoroughfare.*** **A roadway intended to move through-traffic to and from major traffic generators or as a route for traffic between communities or employment centers.**

c. ***Secondary arterial or thoroughfare.*** **A road intended to collect and distribute traffic in a manner similar to primary arterials, except that these roads service minor traffic-generating areas or a road which may be designated to carry traffic from collector streets to the system of primary arterials.**

76. ***Street, minor,*** **means any street other than one designated as a major street in the major street plan or the community or comprehensive plan, but not including alleys. Minor streets shall be classified as follows:**

a. ***Collector street.*** **A street collecting traffic from other minor streets; serves as the most direct route to a major street or community facility and should be designed so that no residential properties front onto it.**

b. ***Court.*** **A secondary designation following a street name used only when street alignment is such that a short street is created that does not warrant a new street name.**

c. ***Cul-de-sac.*** **A street having one end open to vehicular traffic and one closed end, terminated by a turnaround.**

d. ***Dead-end street.*** **A street, similar to a cul-de-sac, but providing no turnaround at its closed end.**

e. ***Frontage or service street.*** **A 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.

f. ***Local street.*** **A street primarily providing access to and from abutting property and serving only occasional through traffic.**

g. ***Place.*** **A secondary designation following a street name used only when street alignment is such that a short street is created that does not warrant a new street name.**

77. ***Street, perimeter*** **means any existing street to which the parcel of land to be subdivided abuts on only one side.**

78. ***Sub-divider*** **and** ***developer*** **mean any person, firm, partnership, corporation, or other entity acting as a unit subdividing, proposing to subdivide, or re-subdividing land as defined in this section, including all changes in street or lot lines.**

79. ***Subdivision*** **means the division or re-division of land (vacant or improved) or airspace into two or more lots, tracts, parcels, sites, areas, units, or plots, anyone of which, when divided, has an area of less than ten acres, for the purpose of transfer of ownership or for development or the dedication, vacation, or realignment of any public or private right-of-way easement. Subdivision shall be classified as follows:**

a. ***Major.*** **All subdivisions not classified as minor subdivisions, including, but not limited to, subdivisions of four or more lots or any size subdivision requiring any new street or extension of municipal facilities or the creation of any public improvements.**

b. ***Minor.*** **Any subdivision containing not more than three lots fronting on an existing street nor involving any new street or road or the extension of municipal utilities or facilities or the creation of any public improvements and not adversely affecting the remainder of the parcel or adjoining property and not in conflict with any provision or portion of the comprehensive plan, zoning regulations, or these regulations. A "lot split" or "lot line adjustment" shall be considered a minor subdivision.**

c. ***Mobile home.*** **A unified development of mobile home lots which has been subdivided for the purpose of individual ownership and which is governed by the provisions of these regulations, the city's adopted zoning regulations, and the Code of Ordinances for the city.**

d. ***Nonresidential.*** **A subdivision whose intended use is other than residential, such as commercial or industrial. Such subdivision shall comply with the applicable provisions of these regulations.**

80. ***Subdivision regulations*** **and** ***this chapter*** **mean the officially adopted**

subdivision regulations for the city, designed to provide standards for the subdivision of land within the jurisdictional area of the planning commission of the city.

81. ***Substantial improvement*** **means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the actual cash value of the structure either before the improvement is started or, if the structure has been damaged and is being restored, before the damage occurred. Substantial improvement is started when the first alteration of any structural part of the building commences.**

82. ***Temporary improvement*** **means improvements built and maintained by a subdivider during construction of the subdivision prior to the release of the performance bond or its equivalent.**

83. ***Townhouse*** **means one of a series of two (2) or more attached dwelling units separated from one another by continuous, vertical walls without openings from basement floor to the roof deck and tight against the same or through the roof and which are intended to have ownership transferred in conjunction with a platted lot.**

84. ***Tree crown*** **means the outside diameter of a tree's branches.**

85. ***Urban service area*** **means an area, identified through official public policy, within which urban development will be encouraged during a specified time period.**

86. ***Used or occupied*** **as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."**

87. ***Water surface elevation*** **means the heights, in relation to mean sea level, expected to be reached by floods of various magnitudes and frequencies at pertinent points in the floodplains of riverine areas.**

88. ***Way*** **means any street, avenue, highway, boulevard, road, or alley reserved or dedicated for public or private use, chiefly by vehicular or pedestrian traffic.**

89. ***Zero lot line*** **means a development approach in which a building is sited on one or more lot lines with no yard (conceivably, three of the four sides of the building could be on the lot lines) in order to allow more flexibility in site design and to increase the amount of usable open space on the lot.**

90. ***Zoning regulations*** **and** ***chapter 122*** **mean the officially adopted zoning regulations for the city. (Prior Code 1991, §12-416)**

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

State law reference**: Similar provisions, 11 O.S. §43110, 25 O.S. §1451, 82 O.S. §1603.**

§ 94-7 VIOLATION AND PENALTY.

A. No building permit shall be issued for any new structure or change, improvement or alteration of any existing structure on any tract of land in a subdivision filed of record after July 15, 1978, which does not comply with all the provisions of this chapter.

B. Any person, firm, or corporation which violates or refuses to comply with any of the provisions of these regulations shall be punished as provided in section 1-12 of this Code for each offense. Each day a violation is permitted to exist shall constitute a separate offense. (Prior Code 1991, §12-417)

§ 94-8 APPLICATION OF REGULATIONS.

These regulations shall apply to the following forms of land subdivision and development:

1. The division of land or air space into two (2) or more tracts, lots, sites, or parcels, any part of which, when subdivided, shall contain ten (10) acres or less in area;

2. The re-division of land, previously divided or platted, into tracts, lots, sites, or parcels of ten acres or less in area;

3. The dedication, vacation, or reservation of any public or private easement through any tract of land, 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. Planned unit development or planned development, either residential or commercial, as defined in these subdivision regulations and the city's adopted zoning regulations;

6. Any commercial shopping center or industrial park development which fits the other jurisdictional provisions of these subdivision regulations;

7. Any tract, lot, site, or parcel of land, regardless of size, which is to be developed and on which exists, or will exist because of such contemplated development, any topographic feature or improvement requiring the dedication or reservation of any easement, public or private, under the provisions of these subdivision regulations;

8. Plats which are partially or entirely undeveloped, if the plats were either:

a. Recorded with the county clerk's office without prior planning commission approval;

b. If the plats were approved by the planning commission more than three years prior to granting a building permit or construction of improvements on the partially or entirely undeveloped land;

9. Any plat or part of a plat which is to be vacated by the owner of the premises or tract of land; and

10. Lot splits and lot line adjustments according to the provisions contained in section 94-9. (Prior Code 1991, §12-406)

§ 94-9 EXCEPTIONS TO REGULATIONS.

A. Whenever there is a tract or previously subdivided parcel of land under single ownership which is to be re-subdivided into three or fewer lots, the proposed subdivision may be excepted from the procedural requirements of these regulations; i.e., preliminary and final plats are not required; however, this shall not constitute an exception from the design and improvement requirements contained in this section. These exceptions, or lot splits, shall be permitted under the following provisions:

1. An accurate survey of the proposed tract and the re-subdivision thereof prepared by a land surveyor registered in the state shall be submitted to the planning commission.

2. The planning commission shall review the proposed lot split to ensure compliance with all design and improvement requirements of these regulations.

3. Upon approval, the planning commission chairman shall certify the plat by signing the document.

4. Upon denial, the planning commission chairman shall submit the reasons for denial, in writing, to the applicant.

5. Whenever a deviation is required from improvement standards or a street or other element is to be dedicated, the city council shall have final approval and acceptance rights. For all other lot splits, the action of the planning commission shall be final.

6. A tract of land which has been subject to more than seven lot splits over any period of time shall not be allowed further use of the lot split exception. The tract shall be subject to the procedures contained in this section for the platting of land.

B. For the purpose of adjusting the size of building sites, lot line adjustments to lines of platted lots shall be excepted from the procedural requirements of these regulations; however, it is not intended that extensive replatting be accomplished under this exception. The lot line adjustments shall be subject to the following provisions:

1. No additional lot shall be created by any lot line adjustment;

2. No lot line adjustment shall be allowed unless all required improvements are either completed and accepted by the city or their construction is secured under the applicable provisions of these regulations;

3. All proposed parcels or building sites involved in a lot line adjustment shall abut on either an existing alley or adequate utility easement and on a publicly dedicated street;

4. Unusable parcels shall not be created as a result of any lot line adjustment; and

5. Lot line adjustment requests shall be reviewed and approved or denied by the planning commission. (Prior Code 1991, §12-407)

§ 94-10 RESPONSIBILITY FOR ADMINISTRATION.

The primary responsibility for the administration of these regulations shall be that of the planning commission. It is the intent of the planning commission that the public interest be protected by a thorough review of all proposed plats without undue delay to developers. (Prior Code 1991, §12-409)

§ 94-11 AMENDMENT OF REGULATIONS.

The city council may, from time to time, adopt amendments to these regulations to the end that the public is better informed and that the approval and review of plats is improved or expedited. These amendments shall be adopted by the city council by ordinance, following at least one public hearing by the planning commission, due notice of which shall be given as required by municipal ordinance. (Prior Code 1991, §12-410)

§ 94-12 CONFLICT WITH PUBLIC AND PRIVATE PROVISIONS.

A. *Public provisions.* These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provisions of these regulations imposes a restriction different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, statute, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

B. *Private provisions.* These regulations are not intended to abrogate any easement, covenant, or any other private agreement or restriction; provided, that where the provisions of these regulations are more restrictive or impose standards or regulations higher than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive or of higher standards than the requirements of these regulations, or the determination of the planning commission in approving a subdivision or in enforcing these regulations, and such

private provisions are not inconsistent with these regulations or determination thereunder, then such private provisions shall be operative and supplemental to these regulations and determinations made thereunder. (Prior Code 1991, §12-415)

§ 94-13 OFFICIAL RECORDING.

A. No land shall be subdivided or a plat filed within the jurisdictional area of the municipal and regional planning commission of the city until:

1. The sub-divider or his agent shall obtain the approval of the planning commission and the city council, if the plat is within the city's corporate limits, for the sketch plan, the preliminary plat, and the final plat of the proposed subdivision; and

2. The approved plat is filed with the county clerk.

B. No plat or other land subdivision instrument shall be filed in the office of the county clerk until it has received approval, as required in this section.

C. All plats of record (i.e., final plats) shall be filed within two years of the date official approval by the city and regional planning commission of the city, and no lots shall be recorded as transferred by the county clerk regarding any final plat until such plat is filed.

D. Failure to record the plat within two (2) years of the date of approval shall void all approvals thereto. (Prior Code 1991, §12-405)

§ 94-14 VACATION OF PLATS.

A. Any plat or any part of any plat may be vacated by the owner of the premises at any time before the sale of any lot therein by a written instrument, to which a copy of such plat shall be attached, declaring the same to be vacated, following court action, as required by state law.

B. Such an instrument shall be approved by the planning commission in like manner as plats of subdivisions. The city council may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets, or alleys.

C. Such an instrument shall be executed, acknowledged, or approved and recorded or filed in like manner as plats of subdivisions and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated and to divest all public rights in the streets, alleys, public grounds, and all dedications laid out or described in such plat.

D. When lots have been sold, the plat may be vacated in the manner provided in this section by all of the owners of lots in such plat joining in the execution of such writing,

subsequent to court action as required by applicable state law. (Prior Code 1991, §12-408)

§ 94-15 AGENDA.

A. Each plat submitted for preliminary or final review shall be placed on the agenda of the planning commission only after fulfilling appropriate requirements of these regulations.

B. Any plat not meeting all of the requirements may be submitted if the subdivider presents with the plat a written request for specific exceptions and enumerates in detail the reasons therefore. (Prior Code 1991, §12-411)

§ 94-16 FILING FEES.

A. In order to partially defray the administrative costs of plat review, a filing fee shall be paid to the city clerk at the time of submission of the preliminary plat in the amounts per lot for the first fifty (50) lots and for each additional lot thereafter as set by the city council.

B. 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 (5) 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. (Prior Code 1991, §12-412)

§ 94-17 VARIANCES.

A. Where the planning commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to these subdivision regulations so that substantial justice may be done and the public interest secured; provided, that such variance shall not have the effect of nullifying the intent and purpose of these regulations; and further provided, that the planning commission shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case that:

1. The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property in the area where the variance is located;

2. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property;

3. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations

are carried out; and

4. The variance will not in any manner conflict with or vary from the provisions of the adopted zoning regulations or comprehensive plan.

B. In approving variances, the planning commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations. (Prior Code 1991, §12-413)

§§ 94-18 – 94-40 RESERVED.

ARTICLE 2

PLAT PREPARATION AND REVIEW

DIVISION 1

GENERALLY

§ 94-41 Plat approval.
§ 94-42 Acceptance of dedications and easements.
§ 94-43 Subdivision process.
§ 94-44 Special procedures.
§ 94-45 Solar orientation.
§ 94-46 - 94-70 Reserved.

§ 94-41 PLAT APPROVAL.

For all cases of subdivision within the scope of these regulations, a plat shall be drawn and submitted to the planning commission and, if the subdivision is within the city limits, the city council for their approval or disapproval. (Prior Code 1991, §12-420)

§ 94-42 ACCEPTANCE OF DEDICATIONS AND EASEMENTS.

All easements and areas dedicated to public use within the corporate limits of the city shall be submitted to the city council for acceptance. Outside of the corporate boundaries of the city, no easements or publicly dedicated areas shall be effectively dedicated to the county until such easements or areas, as shown on the plat, have been submitted to, and reviewed and formally accepted by, the board of commissioners of the county. (Prior Code 1991, §12-421)

§ 94-43 SUBDIVISION PROCESS.

The subdivision process prescribed in these regulations shall consist of three phases:

1. Sketch plat;

2. Preliminary plat and improvement plans; and

3. Final plat. (Prior Code 1991, §12-422)

§ 94-44 SPECIAL PROCEDURES.

Procedures for the following types of subdivisions shall be as provided in article 1 of this chapter:

1. Lot splits;

2. Lot line adjustments;

3. Planned unit development;

4. Mobile home subdivision;

5. Re-subdivision;

6. Undeveloped plats; and

7. Vacation of plats. (Prior Code 1991, §12-423)

§ 94-45 SOLAR ORIENTATION.

The owner or sub-divider shall provide a written statement explaining how the proposed subdivision design will promote the use of solar heating and cooling and assist in the achievement of energy-efficient development. Possible elements for consideration include street layout and width, lot size and shape, building site orientation, existing or proposed zoning regulation restrictions on building height and setbacks, existing and proposed vegetation and landscaping, and private restrictions related to building lines. (Prior Code 1991, §12-436)

§§ 94-46 – 94-70 RESERVED.

DIVISION 2

SKETCH PLATS

§ 94-71 Purpose.
§ 94-72 Application.
§ 94-73 Planning commission review.
§. 94-74 Notice of dedications.
§ 94-75 Specifications.
§§ 94-76 – 94-100 Reserved.

§ 94-71 PURPOSE.

The purpose of the sketch plat requirement is to provide for the identification and arbitration of the interests of the various parties involved in the subdivision of land. (Prior Code 1991, §12-424)

§ 94-72 APPLICATION.

Prior to subdividing land, the owner or his representative shall request in writing formal planning commission consideration of a sketch plat of the proposed subdivision. (Prior Code 1991, §12-425)

94-73 PLANNING COMMISSION REVIEW.

Planning commission review of the sketch plat shall be in accordance with the following provisions:

1. Upon receipt of a written request for sketch plat review, the chairman of the planning commission or the appropriate city staff member shall set a hearing date for planning commission review of the sketch plat. The owner of the land shall be notified of the hearing.

2. The planning commission shall review the sketch plat considering the requirements of these regulations, the best use of land in the area according to the comprehensive plan, the design of traffic ways in the area and their relation to the topography, utilities, drainage, lot size, and arrangement, and other municipal ordinances, resolutions, or policies. The owner or sub-divider shall provide the planning commission with as many copies of the sketch plat as will be necessary to allow adequate review.

3. The planning commission may request the comments of any individual or agency, public or private, with respect to the sketch plat.

4. Following their review, the planning commission shall discuss with the owner or sub-divider any questions, changes, or conditions which it will require as a prerequisite to ultimate approval of the plat. This shall not abridge the right of the planning commission to require additional changes in the subsequent preliminary and final plats, as further study may dictate.

5. Approval by the planning commission of the sketch plat shall constitute authorization to prepare and submit a preliminary plat and improvement plans.

6. Approval or disapproval of the sketch plat shall be made within forty-five (45) days of the date of receipt of the written notification, unless an extension is requested by the owner or sub-divider and approved by the planning commission. Failure to meet this deadline or extension shall mean that the sketch plat application must be resubmitted by the owner or sub-divider. (Prior Code 1991, §12-426)

§ 94-74 NOTICE OF DEDICATIONS.

In all instances where the sketch plat indicates the dedication or reservation of public spaces, drainage ways, or other easements, the owner or sub-divider shall submit one copy of the sketch plat to either the city council or the county board of commissioners, for their review of the proposed dedication or reservation. (Prior Code 1991, §12-427)

§ 94-75 SPECIFICATIONS.

The sketch plat submitted to the planning commission shall be drawn at an approximate scale of one-hundred (100) feet to an inch and shall include the following:

1. Name of the proposed subdivision;

2. Full legal description of the proposed subdivision;

3. Scale, north arrow, and date;

4. Name, address, and telephone number of the legal owner or agent of the owner and citation of the last instrument conveying title to the owner;

5. Name, address, and telephone number of the person or persons responsible for the subdivision design;

6. Overall dimensions of the proposed subdivision;

7. The proposed street or alley layout;

8. Approximate lot dimensions;

9. Topography (contour interval no greater than five (5) feet);

10. The location of all existing and proposed easements which may effect or be within the proposed subdivision;

11. The approximate location of adjoining streets, drainage ways, and subdivisions;

12. The location of all proposed open space areas, drainage ways, and drainage easements; and

13. The proposed street naming system. (Prior Code 1991, §12-428)

§§ 94-76 - 94-100 RESERVED.

DIVISION 3

PRELIMINARY PLATS

§ 94-101 Intent.
§ 94-102 Application.
§ 94-103 Planning commission review.
§ 94-104 City council review.
§ 94-105 Approval period.
§ 94-106 Sectionalizing subdivision plats.
§ 94-107 Conditional approval provisions.
§ 94-108 Plat specifications.
§ 94-109 Improvement plans—Generally.
§ 94-110 Same—Specifications.
§ 94-111 Preparation of plans.
§ 94-113 – 94-135 Reserved.

§ 94-101 INTENT.

The preliminary plat is intended to provide an interim step in the subdivision process in which the developer presents detailed plats and improvement plans for review and approval by the planning commission and the city council, if the subdivision is within the city limits. (Prior Code 1991, §12-429)

§ 94-102 APPLICATION.

Based upon the approval of the sketch plat, the owner or his representative may file an application for approval of a preliminary plat. The application shall:

1. Be made on forms available from the office of the city clerk;

2. Be accompanied by at least four copies of the preliminary plat and at least two (2) copies of the required construction plans, as described in this article; and

3. Be delivered to the chairman or his designated representative on the city staff not less than fourteen (14) days prior to the meeting date at which the plat is to be reviewed. (Prior Code 1991, §12-430)

§ 94-103 PLANNING COMMISSION REVIEW.

A. The chairman of the planning commission or his designated representative on the city staff shall be responsible for setting a date for planning commission review of the preliminary plat and notifying the owner of the subdivision or his agent in writing of the date.

B. He shall also be responsible for obtaining the comments of the city manager,

utilities superintendent, county health department, city fire chief, and the school superintendent on the proposed subdivision. The planning commission's review of the preliminary plat shall be in accordance with the following provisions:

1. The planning commission shall review the applicant's preliminary plat and shall approve, approve conditionally, or disapprove the plat within sixty (60) days of the date of its receipt by the chairman of the planning commission to the applicant. The sub-divider shall be notified in writing of this action, which notification shall specifically state any conditions of approval or those provisions of the comprehensive plan or other regulations with which the disapproved plat was not in conformance. One copy of the preliminary plat shall be returned to the sub-divider with the notification. On conditionally approving a plat, the planning commission may require the submission of a revised preliminary plat.

2. If the preliminary plat has not been acted upon by the planning commission within the sixty (60) day period and an agreement to extend the time has not been obtained from the applicant, the plat shall be deemed to have been approved by the planning commission.

3. If the plat conforms to all of the standards referred to in this section or after all agreed-to revisions are included therein two copies of the preliminary plat shall be forwarded to the city clerk, along with a written recommendation from the planning commission, for scheduling of review by the city council. (Prior Code 1991, §12-431)

§ 94-104 CITY COUNCIL REVIEW.

The city clerk shall be responsible for placing the subdivision on the agenda of the city council and providing written notice of the date to the chairman of the planning commission and the owner or his agent of the subdivision. The city council's review of the subdivision shall be in accordance with the following provisions:

1. The city council shall approve, approve conditionally, or disapprove the preliminary plat within sixty (60) days of its receipt by the city clerk for placing on the city council agenda. The sub-divider shall be notified in writing of this action, which notification shall specifically state any conditions of approval or those provisions of the comprehensive plan or other regulations with which the disapproved plat was not in conformance. One copy of the preliminary plat shall be returned to the sub-divider with the notification. On conditionally approving a plat, the city council may require the submission of a revised preliminary plat.

2. If the preliminary plat has not been acted upon by the city council within the sixty (60) day period and an agreement to extend the time has not been obtained from the applicant, the plat shall be deemed to have been approved by the city council without the acceptance by the city of dedications, easements, etc.

3. If the preliminary plat conforms to all of the standards of the comprehensive

plan, these and other regulations of the community and is approved or, after the applicant and the city council agree upon any revision which shall be filed with the city council on a revised copy, the sub-divider may proceed with the construction of required improvements and the preparation of the final plat. (Prior Code 1991, §12-432)

§ 94-105 APPROVAL PERIOD.

The approval or conditional approval of a preliminary plat shall be effective for a period of two (2) years from the date of city council approval; at the end of which time, unless a final plat on the subdivision shall have been submitted to the planning commission, the preliminary plat shall be considered null and void. In such cases, the sub-divider shall be required to resubmit a preliminary plat for the subdivision. In reviewing a preliminary plat which has been resubmitted by reason of being voided by the passage of time, the planning commission shall not be bound by a previous approval (Prior Code 1991, §12-433)

§ 94-106 SECTIONALIZING SUBDIVISION PLATS.

Prior to approval of a final plat, the planning commission may permit the preliminary plat to be divided into two or more sections and may impose such conditions upon filing of the final plat sections as it may deem necessary to ensure the orderly development of the plat. (Prior Code 1991, §12-434)

§ 94-107 CONDITIONAL APPROVAL PROVISIONS.

The planning commission or the city council may elect to place conditions upon the approval of the preliminary plat and may stipulate the requirements for satisfaction of such conditions. In addition, either the planning commission or the city council may conditionally approve a preliminary plat which is submitted for consideration without complete improvement plans in order to expedite the review process. Such conditional approval shall be given only when the sub-divider provides written assurance of plan submission within a specified period of time which will allow the adequate review of the plans prior to consideration of the final plat. (Prior Code 1991, §12-435)

§ 94-108 PLAT SPECIFICATIONS.

Preliminary plats submitted to the planning commission shall be drawn at a scale of one-hundred (100) feet to one inch and shall bear, or be accompanied by, the following information or materials:

1. ***Descriptive margin data:***

a. Map scale, north point, and date;

b. Proposed subdivision name;

c. Names and addresses of the owners of record, the sub-divider, and the

registered engineer preparing the plat; and

d. An inset key map showing the location of the proposed subdivision, referenced to existing or major streets and to government section lines or other survey control points, and including the boundaries and number of acres of the drainage area of which the proposed subdivision is a part;

2. ***Existing conditions:***

a. Location and names of adjacent subdivisions and the owners of adjoining parcels of un-subdivided land;

b. Topography, with contour intervals of two (2) feet or less, referenced to a United States Geological Surveyor United States Coast and Geodetic Surveyor National Geodetic Survey benchmark;

c. Water elevations of adjoining lakes or steams at the date of the survey and the approximate high- and low-water elevations of such lakes or streams; if any portion of any land within the proposed subdivision lies within the city's designated floodplain, such fact and the land shall be clearly shown on the preliminary plat;

d. Location, widths, and name of all existing platted or dedicated streets, alleys or other public ways and easements, railroad and utility rights-of-way, parks, watercourses, drainage ditches, permanent buildings, bridges, and the location, size, and type of sanitary and storm sewers, water mains, culverts, power and natural gas lines and other surface and subsurface structures or pipelines; and

e. Zoning district classification (if there is more than one (1) classification, the dividing lines shall be shown) of land to be subdivided, as well as adjoining lands;

3. ***Proposed development*:**

a. The boundaries of the proposed subdivision to the indicated scale, showing the total perimeter; lengths of all lines shall be measured to the nearest foot and bearings of lines shall be given;

b. The location and width of proposed streets, alleys, easements, and pedestrian ways conforming to the approved street classification criteria;

c. The classification of every street within or adjacent to the proposed subdivision, in accordance with the intended use of the street based on the proposed design; this shall be done by placing the appropriate term directly on each street;

d. **The location of all drainage channels and subsurface drainage structures, the proposed method of disposing of all run off 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 subdivision;**

e. **Approximate radii of all curves and lengths of all tangents;**

f. **Layout, numbers, and approximate dimensions of lots and the number or letter of each block;**

g. **Building setback lines with dimensions;**

h. **Indication of any lots on which use other than residential is proposed by the sub-divider;**

i. **The location, size, and type of all proposed public utility lines, including storm and sanitary sewer, water, gas, and power lines. If a community sewage treatment plant or other type of community disposal system is to be installed or constructed to serve all or certain portions of the proposed subdivision, the general plan for such community type sewage treatment or disposal system shall be shown or accompany the plat and shall be so identified on the preliminary plat; and**

j. **The location and size of proposed parks, playgrounds, churches, school sites, or other special uses of land to be considered for dedication to public use or to be reserved by deed of covenant for the use of all property owners in the subdivision and any conditions of such dedication or reservation.**

4. ***Additional materials:***

a. **Four (4) copies of a generalized statement, signed by the developer, describing the conditions existing on the site, suitability for development, and the potential effects of the proposed development upon the area;**

b. **Four (4) copies of a statement, signed by the registered engineer preparing the plat, that he has, to the best of his ability, designed the subdivision in accordance with the comprehensive 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;**

c. **A description of the improvement, such as grading, paving, walkways, and the installation of utilities, etc., which the developer proposes to make and the times when they are proposed to be made;**

d. **Two (2) copies of profiles shall be furnished for each proposed street showing existing grades and proposed approximate grades and gradients on the**

centerline and along the property lines of the street;

e. Two (2) copies of the proposed house numbering system by lot in accordance with the specifications of section 14-2 of this Code;

f. Where deed restrictions are to be recorded on the plat, a brief description of the proposed restrictions shall accompany the plat; and

g. In case of re-subdivision, a copy of the existing plat shall accompany the preliminary plat.

5. *Floodplain subdivision materials:*

a. Preliminary plan of on-site waste disposal systems, including disposal sites for lands subject to flooding or sanitary sewers with grade, pipe size, and points of discharge;

b. Preliminary plan of the drainage system with grade, pipe size, and location of outlet;

c. Preliminary plan of the water supply and distribution system with pipe sizes and location of hydrants; and

d. Proposed fill or other structure elevating techniques, levees, channel modifications, or other methods to overcome flood or related hazards and a statement describing their impacts on existing development in upstream and downstream areas. (Prior Code 1991, §12-437)

§ 94-109 IMPROVEMENT PLANS — GENERALLY.

The owner or sub-divider shall, at the time of his submission of the preliminary plat to the planning commission, also include at least four copies of the improvement plans required by these subdivision regulations. Improvement plans shall include, but not be limited to, plans for the following:

1. Street improvements;

2. Sanitary sewer;

3. Water;

4. Drainage; and

5. Erosion and sediment control. (Prior Code 1991, §12-438)

§ 94-110 SAME — SPECIFICATIONS.

Plans shall be drawn at a scale of not more than one-hundred (100) feet to one (1) inch on twenty-four (24) inch by thirty-six (36) inch sheets and shall include, but not be limited to, the following:

1. Plans and profiles showing the locations and typical cross-section of proposed street improvements, including curbs, gutters and sidewalks;

2. The location, size, profile, and invert elevations of proposed sanitary sewers, including manholes;

3. The location and size of proposed water mains, valves, fittings, and fire hydrants, including service taps underneath proposed streets;

4. The location and design of drainage structures, easements, or rights-of-way dedicated to the public, including typical cross sections of all channel improvements and a site grading plan. Improvement plans shall be accompanied by drainage calculations in accordance with the adopted standards and regulations for drainage improvements; and

5. The location of all existing or proposed easements and rights-of-way and a typical cross-section of the proposed utility installations within the easements. (Prior Code 1991, §12-439)

§ 94-111 PREPARATION OF PLANS.

Improvement plans shall be prepared by and bear the seal of an engineer registered in the state. (Prior Code 1991, §12-440)

§ 94-112 EROSION AND SEDIMENT CONTROL PLANS.

Erosion and sediment control plans shall be submitted for the planning commission's and city council's review, showing compliance with the following provisions, before a final plat may be approved:

1. Stands of existing trees, as they are to be preserved upon project completion, specifying their locations on the property, shall be shown. Differentiation shall be made between existing trees to be preserved and trees proposed to be planted;

2. The projected sequence of work represented by the erosion and sediment control plan, as related to other major items of construction, shall be shown;

3. Development shall be accomplished so as to minimize adverse effects upon the natural or existing topography and soil conditions and to minimize the potential for erosion. No site shall be graded except in accordance with approved plans to meet foundation, parking, and the drainage requirements of these regulations;

4. Plans for development and construction shall minimize cut and fill operations;

5. During development and construction, adequate protective measures shall be provided to minimize damage from surface water to the cut face of excavations of the sloping surfaces of fills;

6. Fills shall not encroach upon natural watercourses, their floodplains, or constructed channels in a manner so as to adversely affect other properties;

7. Alteration of land in existing developed areas shall be conducted in such a manner that changes in patterns of natural drainage shall not adversely affect other landowners;

8. No construction materials or construction by-products shall be discarded in any drainage way or stream;

9. Land shall be developed in increments of workable size which can be completed during a single construction season. Erosion and sediment control measures shall be coordinated with the sequence of grading, development, and construction operations. Control measures, such as hydro-seeding, berms, interceptor ditches, terraces, and sediment traps, shall be put into effect prior to the commencement of each increment of the development/construction process;

10. Sediment basins (debris basins or silt traps) shall be installed in conjunction with the initial grading operations and maintained through the development process to remove sediment from runoff waters draining from land undergoing development;

11. Existing trees shall not be cut or otherwise damaged or destroyed within portions of property to be used for required open space, setback, or buffer requirements of the city's zoning regulations;

12. In cases where retention of natural trees would create unusual hardship or development problems in open space, setback, and buffer areas, planted trees may be required in lieu of preserving existing trees;

13. No paving with concrete, asphalt, or other impervious material within the tree crown zone of trees to be preserved shall be allowed; and

14. Soil and other materials shall not be temporarily or permanently stored in locations which would cause suffocation of root systems of trees to be preserved. (Prior Code 1991, §12-441)

§§ 94-113 – 94-135 RESERVED.

DIVISION 4

FINAL PLATS

§ 94-136 Final plat.
§ 94-137 Application.
§ 94-138 Planning commission review.
§ 94-139 City council review.
§ 94-140 Approval period.
§ 94-141 Boundary traverse closure.
§ 94-142 Final plat and plat record specifications.
§§ 94-143 – 94-165 Reserved.

§ 94-136 FINAL PLAT.

The purpose of the final plat is to create a document for record which accurately describes the subdivided land, both as to accurate dimensions and legal provisions which are pertinent to the subdivision. (Prior Code 1991, §12-442)

§ 94-137 APPLICATION.

Following approval of the preliminary plat by the planning commission and the city council, the owner or sub-divider shall file a written application with the chairman of the planning commission or his designated representative on the municipal staff or final plat approval. The application shall:

1. Be made on forms available in the office of the city clerk;

2. Comply in all respects with the preliminary plat, as approved by both the planning commission and the city council, if necessary;

3. Be accompanied by at least four prints of the proposed plat and either one original linen tracing or a reproduction original of stable polyester base or stable polyester base film;

4. Be accompanied by two copies of the proposed restrictive covenants;

5. Be accompanied by one set of as built plans for any improvements already completed; and

6. Be delivered to the planning commission chairman, or his designated representative on the city staff, not less than fourteen (14) days prior to the meeting date at which the plat is to be reviewed. (Prior Code 1991, §12-443)

§ 94-138 PLANNING COMMISSION REVIEW.

Upon receipt of the final plat application and materials, the chairman of the planning commission shall set a date for planning commission review of the final plat and shall notify the owner or sub-divider, in writing, of the review date. The planning commission's review shall be in accordance with the following provisions:

1. The final plat of the proposed subdivision shall be submitted to the planning commission for final approval within two years of the date on which the preliminary plat was approved by the city council. 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;

2. The planning commission shall act upon the final plat within forty-five (45) days after it has been submitted to the planning commission chairman for final approval. The sub-divider shall be notified in writing upon approval or conditional approval of the plat by the planning commission. If no action on the plat has been taken within the above-specified time and the applicant does not agree to an extension of time for action, the plat shall be deemed to have been approved. Certification by the city clerk as to the date of the final plat's submission and the failure of the planning commission to act thereon within such time shall be sufficient in lieu of written endorsement of approval;

3. If the final plat is disapproved by the planning commission, the reasons for such disapproval shall be stated in writing, with reference to specific sections of the comprehensive plan or those ordinances or regulations with which the plat does not comply. A copy of this statement shall be sent to the applicant, along with one of the prints submitted by the applicant;

4. If the plat conforms to all of the requirements provided in this section, one (1) copy of the final plat shall be forwarded to the city council for its review, along with the written recommendation of the planning commission and the signature of the chairman of the planning commission on the approved plat; and

5. No vested rights shall accrue to any plat by reason of preliminary or final approval until the actual signing of the final plat by the chairman of the planning commission. All requirements, conditions, or regulations adopted by the planning commission applicable to the subdivision, or on all subdivisions generally, shall be deemed a condition for any subdivision prior to the time of signing of the final plat by the chairman of the planning commission. Where the planning commission has required the installation of improvements prior to signing of the final plat, the commission shall not unreasonably modify the conditions set forth in the final approval. (Prior Code 1991, §12-444)

§ 94-139 CITY COUNCIL REVIEW.

The city clerk shall be responsible for placing the subdivision on the agenda of the city council and providing written notice of the date to the chairman of the planning

commission and the owner of the subdivision or his agent. The city council's review of the subdivision shall be in accordance with the following provisions:

1. The city council shall approve or disapprove the final plat and notify the sub-divider in writing of its action. Such notification shall include specific references to those portions of the plat which are not in compliance with these or other regulations, if the plat is disapproved; and

2. After the final approval of the plat and the affixing of all required signatures on the original tracing, the sub-divider shall provide the planning commission with three (3) dark-line prints thereof and file with the city clerk one (1) contact reproducible tracing. The applicant shall file the original tracing and two (2) prints with the county clerk. (Prior Code 1991, §12-445)

§ 94-140 APPROVAL PERIOD.

The final plat shall be filed in the office of the county clerk within two (2) years after final approval by the city council; if not filed within such time, the approval shall be considered null and void. (Prior Code 1991, §12-446)

§ 94-141 BOUNDARY TRAVERSE CLOSURE.

Boundary traverse closure data, based on the engineer's calculations thereof, shall be provided to the office of the city clerk at the time of submission of the final plat. (Prior Code 1991, §12-447)

§ 94-142 FINAL PLAT AND PLAT RECORD SPECIFICATIONS.

A. Any final plat submitted to the planning commission and any plat submitted for recording shall have the following specifications:

1. The dimensions of the plat shall be twenty-four (24) inch by thirty-six (36) inch; or shall be a size that can be properly and conveniently folded to these dimensions and shall be drawn to a minimum scale of one-hundred (100) feet to the inch; except that plats in which all lots contain a net area in excess of forty-thousand (40,000) square feet, the plat may be drawn to a scale of two-hundred (200) feet to the inch;

2. The drawing surface of the plat shall have a binding margin of two (2) inches at the left side of the plat, a margin of not less than one inch at the right side, and a margin of not less than one and one-half (1½) inches at the top and bottom;

3. The original tracing of each plat and two (2) prints thereof shall be presented for recording;

4. The original plat shall be an original drawing made with India ink on a good grade linen tracing cloth or with a suitable black acetate-base ink on a stable polyester-base

film coated upon completion with a suitable plastic material to prevent flaking and to ensure permanent legibility, or a print on a stable polyester base film made by photographic processes from a film scribing tested for residual hypo with an approved hypo testing solution to ensure permanency;

5. Marginal lines, standard certificates, and approval forms may be printed or legibly stamped on the plat with permanent opaque black ink when permitted by local ordinance; and

6. The county clerk may require one of the prints to be a blueprint cloth and the other print to be a photographic matte film positive.

B. The final plat shall bear or be accompanied by the following information or materials:

1. *Title data*:

a. Name of the subdivision;

b. Name of the city, county, and state; and

c. Location and description of the subdivision, referenced to section, range and township.

2. *Margin data*:

a. Map scale, north arrow, and date;

b. Names and addresses of the developer and the engineer or surveyor;

c. A key map, on the first sheet in a plat series, showing the location of the subdivision referenced to government section corners, section lines and major streets. When more than two (2) sheets are required for the plat, the key map shall show the sheet number of the sheet for the area included on the sheet;

d. Owner's certificate and dedication, signed;

e. Surveyor's certificate or survey, signed and his seal;

f. Certificate for release of mortgage for any portion dedicated to the public, signed;

g. 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;

h. **The proper acknowledgements of owners and the consent of the mortgagee to plat restrictions;**

i. **County treasurer's certificate;**

j. **Approval certificate of the planning commission, and the date, over the signature of the planning commission chairman;**

k. **Certificate of city council acceptance of ways, easements, and the public land dedications; and**

l. **Certificate of health department approval, where sanitary sewers are not proposed, signed.**

3. ***Existing and proposed conditions:***

a. **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 specified in this section;**

b. **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;**

c. **The lines of all proposed streets, fully dimensioned by lengths and bearings or angles;**

d. **The lines of all proposed alleys. Where the length or direction of an alley is not readily discernible from data given for lot and block lines, the length and bearing shall be given;**

e. **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;**

f. **The lines of all proposed lots, fully dimensioned 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;**

g. **The outline of any property which is offered for dedication to public use, fully dimensioned and marked "public";**

h. **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";**

i. **The location of all building lines, setback lines, and easements for public services or utilities, with dimensions showing their location;**

j. **The radii, arcs, points, or tangency, points of intersection and central angles for curvilinear streets and radii for all property returns; and**

k. **The location and description of all section corners and permanent survey monuments in or near the tract. Reference to at least one (1), and preferably two (2), known survey control points shall be shown by angle and distance.**

4. ***Floodplain subdivision materials:***

a. **All information required on the preliminary plat, including, but not limited to, regulatory flood elevations, boundaries of flood prone areas, fills, flood protection works, and areas subject to special deed restrictions;**

b. **Floodway and floodway fringe areas determined by the city;**

c. **Final plans for any sanitary, sewers, with grading, pipe sizes and points of discharge;**

d. **Final plans for drainage systems, with grading, impacting, storage, and regulating structures, pipe sizes and location of outlets; and**

e. **Final plans for any water supply and distribution system, with pipe sizes and location of hydrants. (Prior Code 1991, §12-448)**

***State law reference*: Plat record specifications, 11 O.S. §41-108**

§§ 94-143 – 94-165 RESERVED.

ARTICLE 3

SUBDIVISION DESIGN

§ 94-166 General design principles and standards.
§ 94-167 Streets — General provisions.
§ 94-168 Same — Alignment.
§ 94-169 Same — Cul-de-sac and dead-end streets.
§ 94-170 Intersections.
§ 94-171 Alleys.
§ 94-172 Easements — Street and alley.
§ 94-173 Same — Utility.
§ 94-174 Same — Drainage.
§ 94-175 Lots.
§ 94-176 Blocks.

§ 94-177 Building lines.
§ 94-178 Public areas.
§ 94-179 Parks, open spaces, and natural features.
§ 94-180 Planned unit development.
§ 94-181 Nonresidential subdivisions.
§§ 94-182 - 94-206 Reserved.

§ 94-166 GENERAL DESIGN PRINCIPLES AND STANDARDS.

A. The design of each new subdivision shall be prepared in accordance with the principles established by the comprehensive plan for the city for land use, transportation, community facilities, and public utility services, and with the minimum standards of these and other regulations, to ensure efficient and coordinated development of the entire community.

B. The sizes of lots, blocks, and other areas for residential, commercial, industrial, and public uses shall be designed to provide adequate light, air, open space, landscaping, and off-street parking and loading facilities.

C. The arrangement of lots, blocks, and the street system should be designed to make the most advantageous use of topography and natural physical features. Tree masses or large individual trees should be preserved. The system of sidewalks, roadways, and the lot layout should be designed to take advantage of the visual qualities of the area. (Prior Code 1991, §12-450)

§ 94-167 STREETS — GENERAL PROVISIONS.

The following general provisions shall apply to streets in subdivisions designed in accordance with this article:

1. No subdivision shall be approved unless the area to be subdivided shall have frontage on, and access from, an existing street, unless such street is:

a. An existing state or county highway; or

b. A street shown upon a plat approved by the planning commission and recorded in the county clerk's office. Such street or highway must be suitably improved as required by the highway regulations and specifications or must be secured by a performance bond required under these subdivision regulations with the width and right-of-way required by these subdivision regulations.

2. Wherever the area to be subdivided is to utilize existing road frontage, such road shall be suitably improved as provided herein.

3. The arrangement, character, extent, width, grade, and location of all streets

shall conform to all of the elements of the comprehensive plan and be designed in accordance with the provisions of these and other applicable regulations.

4. Roads shall be related appropriately to the topography. Local roads shall be curved wherever possible to provide topographic compatibility. All streets shall be arranged so as to obtain as many as possible of the building sites at or above the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided.

5. All thoroughfares shall be properly related to special traffic generators such as industries, business districts, schools, churches, and shopping centers, to population densities, and to the pattern of existing and proposed land uses.

6. In business and industrial developments, the streets and other access ways shall be planned in connection with the grouping of buildings, location of rail facilities, and the provision of alleys, truck loading and maneuvering areas, and walks, and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.

7. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, unless, in the opinion of the planning commission, such extension is not necessary or desirable for the coordination of the layout of the sub division with the existing layout or the most advantageous future development of adjacent tracks.

8. Where the plat to be submitted includes only part of the tract owned or intended for development by the sub-divider, a tentative plan of the proposed future street system for the un-subdivided portion shall be prepared and submitted by the sub-divider.

9. No street name 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 and the city council.

10. Major streets in the subdivision shall be planned to conform with the major street plan adopted by the city, and provision shall be made for the extension of major and secondary thoroughfares. Except for courts, places, or cul-de-sacs, streets normally shall connect with streets already dedicated in the adjoining or adjacent subdivisions, provide for future connections to adjoining un-subdivided tracts, be a reasonable projection of streets in the nearest subdivided tracts, or conform to a neighborhood plan approved or adopted by the planning commission.

11. 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 non-access 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.

12. Minor streets shall be laid out so that their use by through traffic will be discouraged.

13. Railroad rights-of-way and limited access highways, where so located as to affect the subdivision of adjoining lands, shall be treated as follows:

a. In residential districts, a buffer strip at least twenty-five (25) feet in depth in addition to the normal depth of the lot required in the district shall be provided adjacent to the railroad right-of-way or limited access highway. This strip shall be part of the platted lots and shall be designated on the plat: "This strip is reserved for screening. The placement of structures hereon is prohibited";

b. In districts zoned for business, commercial, or industrial uses, the nearest street extending parallel or approximately parallel to the railroad shall, wherever practicable, be at a sufficient distance therefrom to ensure suitable depth for commercial or industrial sites; and

c. Streets parallel to the railroad when intersecting a street which crosses the railroad at grade shall, to the extent practicable, be at a distance of at least one-hundred fifty (150) feet from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.

14. Reserve strips controlling access to minor streets by parties or persons other than public agencies shall be prohibited.

15. Half-streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, 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 property is subdivided. Whenever a half (½) 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.

16. Whenever the major or minor street is located wholly within the proposed subdivision, the total width of the right-of-way shall be dedicated; whenever the major or minor street is located adjacent to the outer edge of the subdivision, one-half (½) of the right-of-way shall be dedicated, if it is determined by the planning commission that 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.

17. The finished elevation of proposed streets within the designated floodplain shall be no more than two feet below the level of the one-hundred (100) year flood.

18. The criteria established in the table below shall be followed in the layout and

design of all major and minor streets:

Street Design Standards

Design Element	*Primary Thoroughfare*	*Major Streets Secondary Thoroughfare*	*Collector*	*Minor Streets Local*
Design speed	**40 mph**	**30 mph**	**30 mph**	**25 mph**
Grade:				
Maximum	**5%**	**7%**	**10%**	**10%**
Minimum	**0.5%**	**0.5%**	**0.5%**	**0.5%**
Stopping sight distance	**350 ft**	**200 ft**	**200 ft**	**200 ft**

Design Element	*Primary Thoroughfare*	*Major Streets Secondary Thoroughfare*	*Minor Streets Collector*	*Minor Streets Local*
Number of traffic lanes	**4 (min.)**	**4**	**2**	**2**
Minimum paving thickness	**Asphalt section**	**Structurally designed**	**5 in.**	**5in.***
	Concrete section	**Structurally designed**	**6 in.**	**6 in.**
	Residential estates section	**--**	**--**	**Bituminous surface**
Minimum r-o-w width	**100 ft**	**80 ft**	**60 ft**	**50 ft**
Minimum roadway width	**50 ft**	**50 ft**	**32 ft**	**26 ft**
Traffic lane effective width	**12 ft**	**12 ft**	**12 ft**	
Shoulder or parking lane width	**10 ft**	**10 ft**	**6 ft**	**6 ft**

*** Minor commercial streets shall have a minimum paving thickness of six (6) inches.**

a. No curbing is required if the subdivision is zoned R-l (residential estates) and all lots contain one and one-half (1½) acres or more with a minimum of two-hundred ten (210) feet of road frontage per lot. Subdivisions shall also contain a minimum of twenty (20) acres and fifteen-hundred (1,500) linear feet of streets within subdivisions.

b. Street widths shall be measured from edge of asphalt to edge of asphalt.

c. Street shall slope from the centerline to the edge of the shoulder at one-fourth (¼) inch fall per one (1) foot;

d. Base shall vary in accordance with local conditions, including soil tests, and shall be approved by a specified engineer. Base rock shall be as per section 703.1, "Aggregate for aggregate base type A" of the state standard specification for highway construction. (Prior Code 1991, §12-451; Ord. No. 99-06, §1, 3-1-1999)

***Cross reference*: Streets, sidewalks, and other public places, ch. 90.**

§ 94-168 SAME — ALIGNMENT.

A. The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire protection, for efficient provision of utilities, and where such continuation is in accordance with the comprehensive plan.

B. Street jogs with centerline offsets of less than one-hundred fifty (150) feet shall be avoided.

C. A tangent of not less than one-hundred (100) feet in length shall be introduced between reverse curves on major streets and collector streets. (Prior Code 1991, §12-452)

§ 94-169 SAME — CUL-DE-SACS AND DEADEND STREETS.

A. The maximum length of a cul-de-sac shall normally be five-hundred (500) feet, including a turnaround which shall be provided at the closed end, with an inside curb radius of at least forty (40) feet and right-of-way radius of not less than fifty (50) feet.

B. In the case of temporarily dead-ended streets which are incompleted but designed to provide future connection with adjoining un-subdivided areas, proper provisions shall be made for adequate storm drainage so that stormwater does not collect at the ends of these streets. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way shall be extended to the property line. A temporary T- or L-shaped turnabout shall be provided on all temporary dead-end streets, with the notation on the subdivision plat that land outside the normal street right-of-way shall revert to abuttors whenever the street is continued. The planning commission may limit the length of temporary deadend streets in accordance with the design standards of these regulations.

C. Where a road does not extend to the boundary of the subdivision and its continuation is not required by the planning commission for access to adjoining property, its terminus shall normally not be nearer to such boundary than fifty (50) feet. However, the planning commission may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. A cul-de-sac turnaround shall be provided at the end of a permanent dead-end street. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length in accordance with the design standards of these regulations. (Prior Code 1991, §12-453)

***Cross reference*: Streets, sidewalks, and other public places, ch. 90.**

§ 94-170 INTERSECTIONS.

A. *Angle of intersection.* Street shall be laid out to intersect at right angles and may be curved, if necessary, in order to make this possible. In no event shall a street intersect any other street at any angle of less than seventy-five (75) degrees.

B. *Radius of residential streets.* Street corners on local residential streets shall have a minimum radius of twenty (20) feet at the curb line or its equivalent.

C. *Radius of commercial and industrial streets.* Street corners on commercial and industrial streets shall have a minimum radius of twenty-five (25) feet at the curb line or its equivalent.

D. *Radius of major streets.* Street intersections involving major streets shall have a minimum street corner radius of thirty (30) feet at the curb line or its equivalent.

E. *Area of clear vision.* A twenty-five (25) foot area of clear vision at street intersections in subdivisions shall be provided. This area shall be kept clear of all structures and vegetation exceeding a height of three (3) feet above the established municipal street elevation. Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the developer shall cut such ground or vegetation, including trees, in connection with the grading of the public right-of-way to the extent deemed necessary to provide an adequate sight distance.

F. *Grade.* Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having not greater than a two percent rate at a distance of sixty (60) feet, measured from the nearest right-of-way line of the intersecting street. (Prior Code 1991, §12-454)

§ 94-171 ALLEYS.

A. *Required for commercial and industrial districts.* Alleys shall be provided in commercial and industrial districts, except that the planning commission may waive this requirement where other definite and ensured provisions are made for service access, such as off-street loading, unloading, and parking consistent with and adequate for the uses proposed.

B. *Width.* Alleys serving commercial and industrial areas shall not be less than thirty (30) feet in width.

C. *Alleys in residential districts.* Alleys are not required for residential areas, but when provided, shall not be less than twenty (20) feet in width.

D. *Intersections and changes in alignment.* Alley intersections and sharp changes in alignment shall be avoided, but where necessary corners shall be cut off sufficiently to

permit safe vehicular movement.

E. ***Dead-end alleys.*** **Dead-end alleys shall be avoided where possible, but if unavoidable, then shall be provided with adequate turnaround facilities at the dead end, as determined by the planning commission. (Prior Code 1991, §12-455)**

§ 94-172 EASEMENTS – STREET AND ALLEY.

A. Where alleys are not provided, easements not less than ten (10) feet wide shall be provided along each rear lot line and alongside 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.

B. Right-of-way widths in excess of the standards designated in these regulations shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall not be in excess of three to one. (Prior Code 1991, §12-458)

§ 94-173 SAME — UTILITY.

A. Easements centered on rear lot lines shall be provided for utilities, private and municipal, such easements shall be at least ten (10) feet wide. Proper coordination shall be established between the sub-divider and the applicable utility companies for the establishment of utility easements established in adjoining properties.

B. Where topographical or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual unobstructed easements at least ten (10) feet in width shall be provided along side lot lines with satisfactory access to the road or rear lot lines. Easements shall be indicated on the plat. (Prior Code 1991, §12-459)

§ 94-174 SAME — DRAINAGE.

A. ***Provision for stormwater drainage.*** **Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse and of such width and construction, or both, as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.**

B. ***Drainage facilities outside road rights-of-way.*** **Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, perpetual unobstructed easements at least fifteen (15) feet in width for such drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall be carried from the road to a natural watercourse or to other drainage**

facilities.

C. ***Drainage across private land.*** **When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat.**

D. ***Dedication by applicant.*** **The applicant shall dedicate, either in fee or by drainage or conservation easement of land on both sides of existing watercourses, to a distance to be determined by the planning commission.**

E. ***Low-lying lands.*** **Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainage ways. Such land or lands subject to periodic flooding shall not be computed in determining the number of lots to be utilized for average density procedure not for computing the area requirement of any lot. (Prior Code 1991, §12-460)**

§ 94-175 LOTS.

A. ***Arrangement.*** **Lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with the zoning regulations and health regulations and in providing driveway access to buildings on such lots from an approved street. Where possible, driveways shall be designed and arranged so as to avoid requiring vehicles to back into traffic on major or secondary arterials.**

B. ***Dimensions.*** **Lot dimensions shall comply with the minimum standards of the zoning regulations. Where lots are more than double the minimum required area for the zoning district, the planning commission may require that such lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve such potential lots, all in compliance with the zoning regulations and these regulations.**

C. ***Lot lines.*** **In general, side lot lines shall be at right angles to street lines or radial to curving street lines unless a variation from this rule will give a better street or lot plan. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum front yard setback from both streets.**

D. ***Depth of residential lots.*** **The depth of residential lot, other than lots for townhouses, should not be less than one-hundred (100) feet.**

E. ***Area of residential lots.*** **The area of residential lots, other than lots for townhouses, shall not be less than six-thousand five hundred (6,500) square feet.**

F. ***County health department approval of size.*** **In subdivisions where septic tanks or other individual sewage disposal devices are to be installed, the size of all lots included in**

such subdivision shall be subject to the approval of the county health department. The health department shall notify the developer and the planning commission in writing of its finding.

G. ***Double and reverse frontage lots.*** **Double frontage and reverse frontage lots shall 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.**

H. ***Commercial and industrial subdivisions.*** **Lots shall not be 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. 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 regulations. (Prior Code 1991, §12-461)**

§ 94-176 BLOCKS.

A. The dimensions and shape of blocks shall be generally determined with regard for the following:

1. Provision of adequate building sites suitable to the special needs of the type of use contemplated;

2. Zoning requirements as to lot sizes and dimensions;

3. Needs for convenient access, circulation, control, and safety of street traffic; and

4. Limitations and opportunities of topography.

B. Blocks for residential use shall not be longer than one-thousand eight-hundred (1,800) feet, measured along the centerline of the block.

C. Pedestrian ways or crosswalks not less than four feet wide or more than ten (10) feet in width may be required by the planning commission through the center of blocks more than eight-hundred (800) feet long, where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation, or other community facilities.

D. Blocks used for residential purposes should be of sufficient width to allow for two (2) 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. (Prior Code 1991, §12-462)

§ 94-177 BUILDING LINES.

A. Building lines shall be provided for all residential subdivisions in accordance with the setback requirements of the zoning regulations.

B. A side yard building line shall be provided not less than five (5) feet back of a crosswalk right-of-way line on the side of a lot abutting a midblock crosswalk.

C. Where there is found to be a producing oil or gas well which is in or within one-hundred fifty (150) feet of the boundaries of the proposed subdivision or an abandoned oil or gas well which is not adequately plugged according to the standards established by state law and the state corporation commission, and so certified by the corporation commission, and which is outside of the boundaries of a proposed subdivision but within one-hundred fifty (150) feet thereof, there shall be a building setback line so placed on the plat so as to prevent the erection of any building within one-hundred fifty (150) feet of such wells. Where there is found to be an abandoned oil or gas well which is adequately plugged according to the standards established by state law and the state corporation commission, which well is within the boundaries of a proposed subdivision, certificate or clearance from the state corporation commission shall be obtained for each such well before the final plat of the subdivision is approved. (Prior Code 1991, §12-463)

***Cross reference*: Buildings and building regulations, ch. 14.**

§ 94-178 PUBLIC AREAS.

A. Except when an applicant utilizes planned unit development, whenever a tract to be subdivided includes a school, recreation uses in excess of the requirements of section 94-179, or other public use as indicated on the comprehensive plan or any portion thereof, such space shall be suitably incorporated by the applicant into his sketch plat. After proper determination of its necessity by the planning commission and the appropriate local government official or other public agency involved in the acquisition and use of each such site, and after a determination has been made to acquire the site by the public agency, the site shall be suitably incorporated by the applicant into the preliminary and final plats.

B. The planning commission shall refer the sketch plat to the public body concerned with acquisition for its consideration and report. The planning commission may propose alternate areas for such acquisition and shall allow the public body or agency thirty (30) days for reply. The agency's recommendation, if affirmative, shall include a map showing the boundaries and area of the parcel to be acquired and an estimate of the time required to complete the acquisition.

C. Upon receipt of an affirmative report, the planning commission shall notify the property owner and designate on the preliminary and final plats that area proposed to be acquired by the public body.

D. The acquisition of land reserved by a public agency on the final plat shall be initiated within twelve (12) months of notification, in writing, from the owner that he intends to develop the land. Such letter of intent shall be accompanied by a sketch plat of the proposed development and a tentative schedule of construction. Failure on the part of the public agency to initiate acquisition within the prescribed twelve (12) months shall result in the removal of the "reserved" designation from the property involved and the freeing of the property for development in accordance with these regulations. (Prior Code 1991, §12-464)

§ 94-179 PARKS, OPEN SPACES, AND NATURAL FEATURES.

A. Where, as indicated by the comprehensive plan, a proposed subdivision contains, wholly or in part, a proposed public open space, parks, recreation areas, etc., the following land requirement shall apply:

1. In subdivisions containing eighty (80) acres or more the subdivider shall make a dedication of suitable land for public purposes of not less than two percent of total land area of the subdivision;

2. In subdivisions containing less than eighty (80) acres, the planning commission shall require the dedication of two (2) percent of total land area or shall require the payment of a fee equal to the market value of two (2) percent of the total land area of the subdivision. Such fee is to be deposited in a fund reserved and expended for park facilities and improvements only;

3. In lieu of either of the above standards, the sub-divider may elect to retain two (2) percent of the total land area to be designated as park or open spaces, etc., such land to be maintained by the sub-divider or by agreement of the purchasers of lots in the subdivision; and

4. In no case will the sub-divider dedicate land for public parks and open spaces unless the city agrees to develop and maintain such parks or open spaces.

B. Existing features which would add value to residential development or to the city as a whole, such as trees, as defined in this chapter, watercourses and falls, landmarks, historic sites and similar irreplaceable assets, shall be preserved in the design of the subdivision, whenever possible. No trees shall be removed from any subdivision nor any change of grade of the land effected until approval of the preliminary plat has been granted. All trees on the plat required to be retained shall be preserved, and all trees where required shall be welled and protected against change of grade. The sketch plat shall show the number and location of existing trees and shall further indicate all those marked for retention and the location of all proposed shade trees along the street side of each lot.

C. New trees provided in new subdivisions shall be approved by the planning commission and shall be planted in accordance with any city regulations. Only long-lived shade trees, acceptable to the planning commission, shall be planted.

D. For shade tree easement and dedication, the preliminary plat and final plat shall preserve an easement authorizing the local government to plant shade trees within five (5) feet of the required right-of-way of the local government; this provision may be waived at the option of the planning commission. (Prior Code 1991, §12-456)

***Cross reference*: Parks and recreation, ch. 74.**

§ 94-180 PLANNED UNIT DEVELOPMENT.

Whenever a subdivision is developed as a planned unit development under the appropriate provisions of the zoning regulations, wherein adequate park or recreation 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 design requirements of these regulations in order to allow the sub-divider more freedom in the arrangement of streets and lots, but at the same time protect the convenience, health, safety, and welfare of the entire community. However, in no case shall the overall density, intensity of use, or land area coverage for the planned unit development exceed those minimums established in the zoning regulations under the provision of the R-6, planned residential development district, or the C-4, planned commercial district. (Prior Code 1991, §12-466)

§ 94-181 NONRESIDENTIAL SUBDIVISIONS.

A. If a proposed subdivision includes land that is zoned for commercial or industrial purposes, the layout of the subdivision with respect to such land shall make such provisions as the planning commission may require.

B. A non-residential subdivision shall also be subject to all the requirements of site plan approval set forth in the zoning regulations. Site plan approval and non-residential subdivision plat approval may proceed simultaneously at the discretion of the planning commission. A non-residential subdivision shall be subject to all the requirements of these regulations, as well as such additional standards required by the planning commission, and shall conform to the proposed land use and standards established in the comprehensive plan and zoning regulations.

C. In addition to the principles and standards in these regulations, the applicant shall demonstrate to the satisfaction of the planning commission that the street parcel and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

1. Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated;

2. Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon;

3. Special requirements may be imposed with respect to street, curb, gutter, and sidewalk design and construction;

4. Special requirements maybe imposed with respect to the installation of public utilities, including water, sewer, and stormwater drainage;

5. Every effort shall be made to protect adjacent residential areas from the potential nuisance of a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for a permanently landscaped buffer strip when necessary; and

6. Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas. (Prior Code 1991, §12-467)

§§ 94-182 – 94-206 RESERVED.

ARTICLE IV

SUBDIVISION IMPROVEMENTS

DIVISION 1

GENERALLY

§ 94-207 Improvement and maintenance bonds.
§ 94-208 Plans required.
§ 94-209 Miscellaneous provisions.
§ 94-210 Monuments and markers.
§ 94-211 Streets and alleys.
§ 94-212 Bridges and culverts.
§ 94-213 Street and regulatory signs.
§ 94-214 Street lights.
§ 94-215 Pedestrian ways.
§ 94-216 Bikeways.
§ 94-217 Landscaping and natural features.
§§ 94-218 – 94-240 Reserved.

§ 94-207 IMPROVEMENT AND MAINTENANCE BONDS.

A. Such bonds, provided to guarantee the installation and maintenance of the required improvements, shall:

1. Be in favor of the city;

2. Be in an amount equal to one-hundred (100) percent of the cost of

improvements, installations, and reasonable maintenance thereof, as approved by the city council; and

3. Provide conditions satisfactory to the planning commission and the city council.

B. Performance bonds shall be in force until and terminate ninety (90) days after the filing with the city council of a completion affidavit obtained from the city building official, unless within the ninety (90) days the building official determines that the requirements, standards, and specifications of these standards applicable to the construction, installation, and completion of the improvements have not been met. In such case, the building official shall notify the applicant in writing, by registered or certified mail, and the bond shall continue to run until the filing of proof that the deficiencies have been corrected and all standards met. The performance bond shall not be released until required as built plans and specifications are received by the city.

C. Maintenance bonds shall run for a period of one year from the date of release of the performance bond. (Prior Code 1991, §12-471)

§ 94-208 PLANS REQUIRED.

A. Plans for the improvements required by this article shall be prepared by a qualified engineer or the city engineer and shall be approved by the city council, or its designee, prior to final plat approval.

B. One (1) 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 improvements installed by the sub-divider. (Prior Code 1991, §12-472)

§ 94-209 MISCELLANEOUS PROVISIONS.

A. *Design and installations generally.* All improvements shall be designed and installed so as to provide for a logical system of utilities, drainage, and streets and to create continuity of improvements for the development of adjacent properties.

B. *Time limitation on completion.* The construction and installation of all improvements required by these rules and regulations shall be completed within two years of the date of approval of the final plat by the planning commission, unless good cause can be shown for the granting of an extension of time by authority of the planning commission or city council.

C. *Location of utility facilities.* All utility facilities, including, but not limited to, gas, electricity, telephone, and CATV cables, may be located underground within the subdivision. Wherever existing facilities are located aboveground, except where such facilities are located on public roads or rights-of-way, they may be removed and placed

underground. Underground service connections to the street property line of each platted lot shall be installed at the developer's expense. At the discretion of the planning commission, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use. After installation of such lines, "as installed" diagrams shall be furnished by the installer to the city manager, drawn to scale and indicating the location of all lines.

D. *Compliance laws, rules, and regulations.* In addition to the requirements established in this section, all subdivision plats shall comply with the following laws, rule, and regulations:

1. All applicable provisions of state statutes;

2. The adopted zoning regulations, building, and housing codes and all other applicable laws of the city;

3. The official comprehensive plan and 'capital improvements program of the city;

4. The special requirements of any rules and regulations of the state health department or other appropriate state agencies;

5. The rules and regulations of the state department of transportation, if the subdivision or any lot contained therein abuts a state highway or connecting street; and

6. The standards and regulations adopted by the city engineer and all boards, commissions, agencies and officials of the city. (Prior Code 1991, §12-473)

§ 94-210 MONUMENTS AND MARKERS.

The following provisions shall apply to monuments and markers placed in subdivisions regulated by this chapter:

1. The developer of any subdivision shall install within that subdivision, permanent reference monuments and markers, placed flush with the ground, in accordance with the provisions of this section.

2. All monuments and markers shall be properly set in the ground and approved by a registered land surveyor prior to the time the planning commission recommends approval of the final plat.

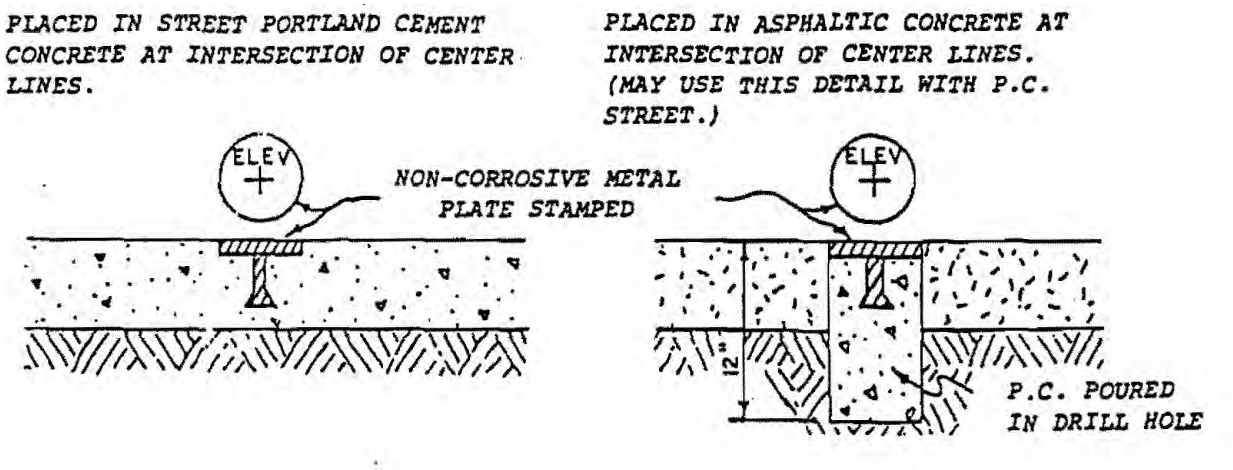
3. Existing monuments or markers shall not be disturbed, unless absolutely necessary, in which case the monuments or markers shall be replaced at the exact spot from which they were removed.

4. The location of all monuments and markers shall be included on the final plat.

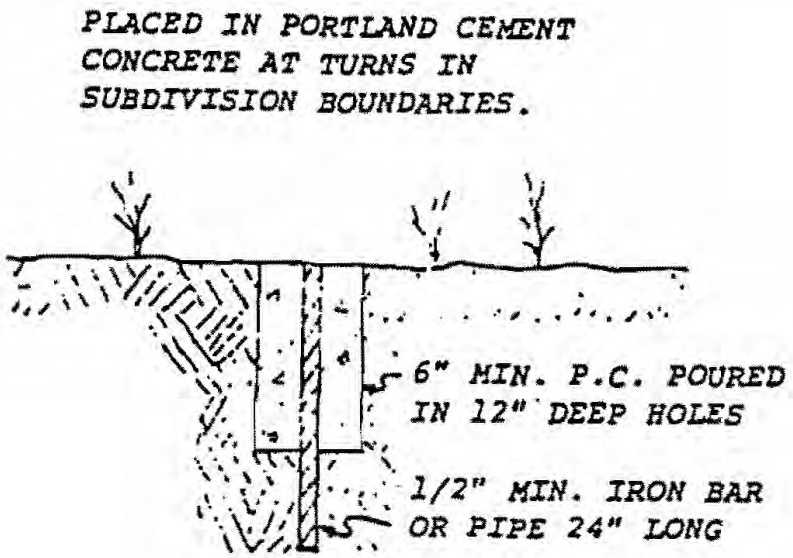
5. Three (3) types of monuments and markers shall be used for different situations.

The following specifications shall be applicable to each type of situation:

a. *Type A:* Permanent reference monuments shall be placed at the intersection of the centerlines of rights-of-way, regardless of whether the paving of the street is centered in the right-of-way. There shall be a minimum of two (2) such monuments in each subdivision. If no two (2) of the intersection monuments are within line-of-sight of each other, an additional marker shall be placed on the right-of-way centerline, so as to establish a straight line which can be seen (line-of-sight) from one (1) end to the other. An additional such marker shall be placed at the center-point of the turnaround in each cul-de-sac. These monuments shall be of non-corrosive metal plate, set in accordance with the following diagram, and each shall be stamped with a cross at the point of the intersection and the elevation to the nearest tenth (.10) of a foot.



6. *Type B:* Permanent reference markers shall be placed at each turning point in the external boundary of the subdivision to be set in concrete in accordance with the following diagram:



7. ***Type*** **C: Permanent reference markers shall be placed at:**

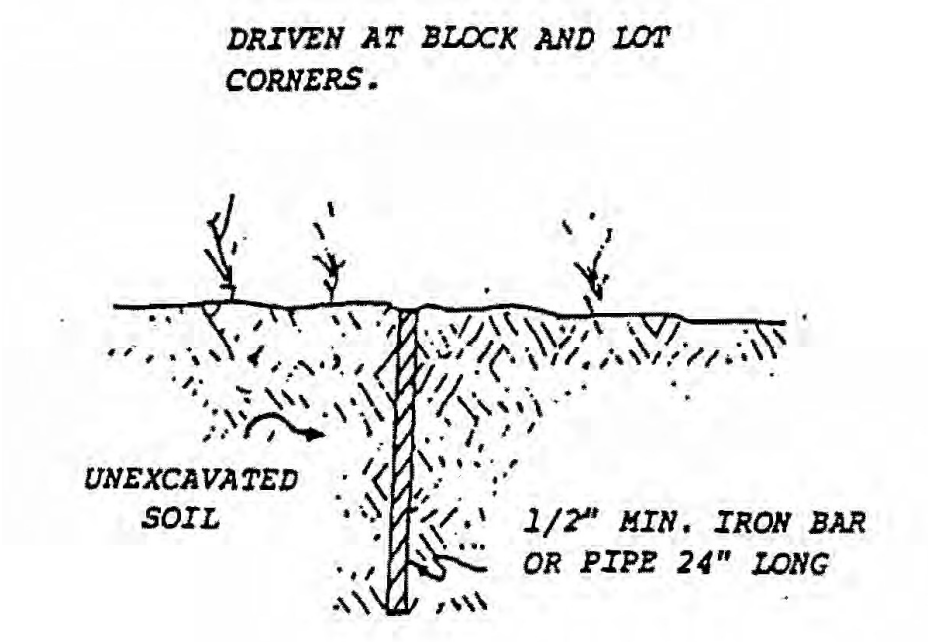
a. **Each corner of each block;**

b. **Each corner of each lot;**

c. **The points of curvature and points of tangency of all inside and outside rights-of-way lines;**

d. **The point of intersection of the outside line of a curve in a street right-of-way; and**

e. **On all quarter (¼) section points within the subdivision or on its perimeter to be set in unexcavated earth. (Prior Code 1991, §12-474)**



§ 94-211 STREETS AND ALLEYS.

The following provisions shall apply to streets and alleys in subdivisions regulated by this chapter:

1. The developer of any subdivision designed to be used for residential, commercial, or other purposes shall layout, grade, and otherwise improve all streets that are designated on the approved plat or that directly serve the subdivision in accordance with the standards and specifications of these and other applicable regulations.

2. Streets shall conform in design and layout to the standards and principles contained in article III of this chapter.

3. Every lot within a subdivision shall have access to a public street. Private streets, where permitted, must comply with the improvements required of comparable public streets.

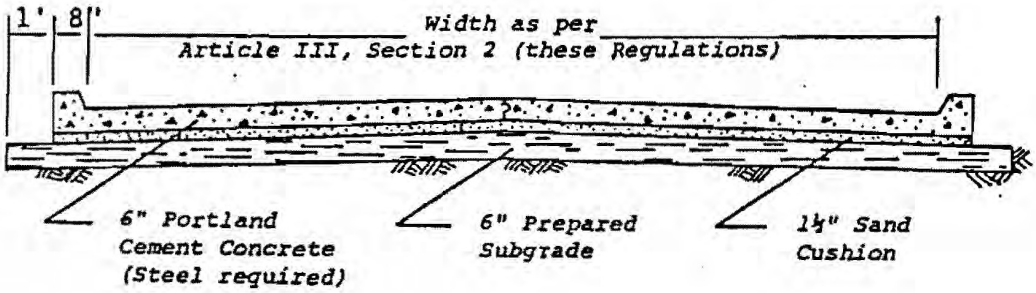
4. Whenever a subdivision contains a major street that requires a street facility that is future occupants of the subdivision, the sub-divider shall be required to pay only the portion of the cost of the major street that would equal the cost of an improvement required to serve only the subdivision, as determined by the city council.

5. Streets shall be designed, graded, and improved to conform to the design and construction specifications and diagrams contained in these regulations. Contracts for construction of new public streets shall contain, in whole or by reference, the provisions of these regulations pertaining to street improvements. Construction plans for all street improvements shall be approved by the city council prior to final plat approval and filing.

6. Due to reduced street standards for subdivisions zoned for residential estates development (R-1, residential estates district), a maximum of forty (40) acres should be served by one (1) collector street. Where such collector streets will serve more than forty (40) acres, the planning commission may require higher quality street improvement more costly than is required to serve the standards be met by such collector.

7. In areas where alleys are required, they shall be constructed in accordance with those standards and requirements which may be established by the city council.

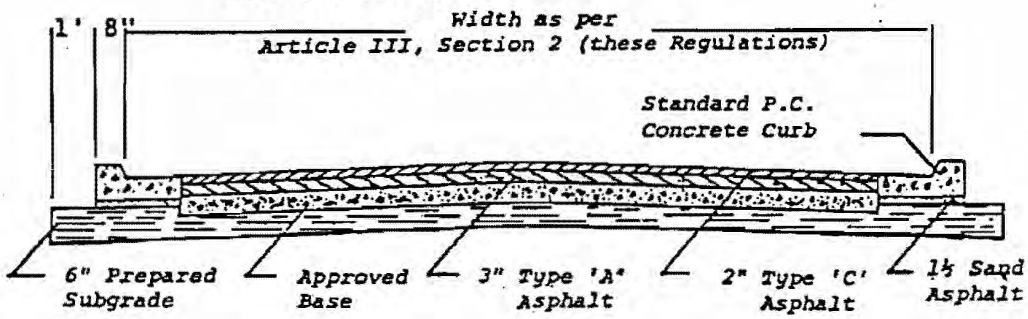
TYPICAL SECTION FOR CONCRETE STREETS



Notes:

1. This standard shall apply to minor streets as defined in section 94-167;
2. Street widths shall be measured from inside of curb to inside of curb;
3. Curbs shall be six inches in height and conform to the typical curb section as approved by the local government engineer;
4. The street shall slope from the centerline to curb at one-fourth inch fall per foot; and
5. Detailed specifications available from local government engineer.

ALTERNATE SECTION FOR ASPHALT STREETS

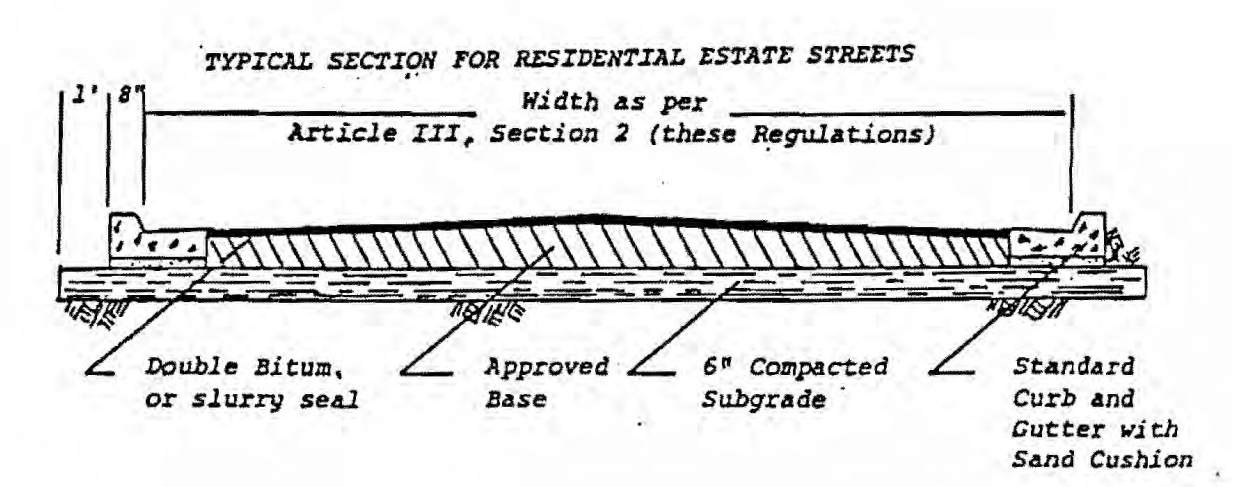


Notes:

1. **This standard shall apply to minor streets as defined in section 94-167 of these regulations;**
2. **Street widths shall be measured from inside of curb to inside of curb;**
3. **Curbs shall be six (6) inches in height and conform to the typical curb section**

as approved by the local government engineer;

4. The street shall slope from the centerline to curb at one-fourth (¼) inch fall per one (1) foot; and
5. Base shall vary in accordance with local conditions, including soil tests, and shall be approved by a designated city representative in accordance with ODOT 1999 Standard Specifications for Highway Construction.



Notes:

1. This standard shall apply to minor streets within the R-l, residential estates, zoning district;
2. Street widths shall be measured from inside of curb to inside of curb;
3. Curbs shall be six (6) inches in height and conform to the typical curb section as approved by the local government engineer;
4. Street shall slope from the centerline to curb at one-fourth (¼) inch fall per one (1) foot; and
5. Base shall vary in accordance with local conditions and shall be approved by a designee of the city in accordance with ODOT 1999 Standard Specifications for Highway Construction. (Prior Code 1991, § 12-475)

Cross reference: Streets, sidewalks, and other public places, ch. 90.

§ 94-212 BRIDGES AND CULVERTS.

A. Bridges of primary benefit to the developer, as determined by the planning commission, shall be constructed at the full expense of the developer without reimbursement from the city or county government. The sharing of expense for the construction of bridges not of primary benefit to the developer, as determined by the planning commission, will be fixed by special agreement between the city or county government and the developer.

The cost shall be charged to the developer pro rata as the percentage of his land developed and so served.

B. Bridges or culverts shall be provided where watercourses cross continuous streets or alleys and shall be sized and constructed to accommodate the one-hundred (100) year frequency rain, based on the drainage area involved.

C. Design of bridges and culverts shall conform to the city or county construction specifications. (Prior Code 1991, §12-476)

§ 94-213 STREET AND REGULATORY SIGNS.

A. Street name signs shall be placed at all intersections within or abutting the subdivision by the developer. All such signs shall be approved as to type and location by the planning commission and the city manager.

B. The developer shall deposit with the city clerk, at the time of approval of the final plat for the subdivision, a sum established by city council resolution for each regulatory sign required by the city manager at road intersections. The city shall then cause installation of all such required regulatory signs within the subdivision. (Prior Code 1991, §12-477)

***Cross reference*: Streets, sidewalks, and other public places, ch. 90.**

§ 94-214 STREET LIGHTS.

Provisions shall be made by the developer for adequate lighting of public streets within the proposed subdivision, in accordance with the standards and specifications of the city. (Prior Code 1991, §12-478)

***Cross reference*: Streets, sidewalks, and other public places, ch. 90.**

§ 94-215 PEDESTRIAN WAYS.

A. *Submission of plan.* The developer of any subdivision, whether residential or nonresidential in character, shall submit a plan for a system of pedestrian ways or walkways to the planning commission at the time of preliminary plat submission.

B. *Delineation of system and provision for focal point approaches and circulation.* Such pedestrian way plan shall delineate the provision of adequate pedestrian ways within any subdivision or portion thereof, with consideration given to walkway connections in areas adjacent to or outside of the subdivision. Pedestrian approaches to such focal points as school sites, recreation areas, and parks shall be provided for in addition to pedestrian ways for normal circulation.

C. *Provision for future connections.* The planning commission, after reviewing the plan, may require that any or all of the pedestrian ways indicated in the plan be constructed and suitably surfaced to connect with existing or future walkways in the area and provide for adequate pedestrian circulation.

D. ***Design and location.*** **Pedestrian ways shall be designed and located in accordance with the provisions in section 94-176 and the following provisions:**

1. Minimum paving section, where sidewalks are required, shall be four (4) feet in width;

2. Pedestrian ways shall be located within the dedicated, non-pavement right-of-way of all roads;

3. Concrete curbs shall be required for all roads where pedestrian ways are required by the planning commission; and

4. A median strip of grassed or landscaped area, at least two (2) feet wide, shall separate all pedestrian ways from adjacent curbs.

E. ***Curb ramps.*** **Pedestrian way design and construction shall be in compliance with ODOT standards and specifications for curb ramps for the physically impaired. (Prior Code 1991, §12-479)**

§ 94-216 BIKEWAYS.

The following provisions apply to bikeways within subdivisions regulated by this chapter:

1. Bikeways shall be classified as follows:

a. Class I is a completely separated right-of-way designated for the exclusive use of bicycles;

b. Class II is a restricted right-of-way designated for the exclusive or semi--exclusive use of bicycles with through travel by motor vehicles not allowed; or

c. Class III is a shared right-of-way designated as such by signs placed in posts or on the pavement.

2. The planning commission may require, at the time of submission of the sketch plat, that the developer prepare a plan for the design and construction of a system of bikeways within the proposed subdivision.

3. In requiring such a system, the planning commission shall not allow the use of Class III bikeways.

4. A proposed bikeway plan may be required by the planning commission when there are existing natural or manmade features which would effectively complement or provide linkage or routes for such bikeways, in particular park areas and school sites.

5. Minimum design width for Class I bikeways shall depend on the number of lanes, with each line requiring a minimum of four (4) feet of bikeway width.

6. Where Class I bikeways are required, bikeway surfaces shall be of asphalt.

7. Additional considerations for bikeway construction shall include:

a. Physical barriers between automobile traffic and bicycle lanes are safer than painted lines;

b. Bicycle lanes at major intersections should shift away from the roadway rather than merge directly onto the road, whenever possible; and

c. Adequate provisions should be made for drainage without creating safety hazards for bicyclists due to drainage grates.

8. Additional specific criteria, as may be established by the planning commission, shall be considered when bikeways are required or proposed. (Prior Code 1991, §12-480)

§ 94-217 LANDSCAPING AND NATURAL FEATURES.

A. *Preservation of features generally.* Existing natural features which would add value to residential development, such as trees, watercourses, etc., shall be considered for preservation in the design of the subdivision. No trees shall be removed from any proposed subdivision nor any change of grade of the land made until the planning commission and the city council have both approved the preliminary plat.

B. *Preserved trees noted on sketch plan.* All trees, etc., to be preserved shall be shown on the preliminary sketch plan.

C. *Protection of trees.* All trees, where required, shall be welled and protected against change of grade.

D. *Review and approval of new trees.* New trees or landscaping to be provided by the developer shall be subject to review and approval by the planning commission, in accordance with the city's beautification policies and plans.

E. *Park, open space, and natural feature applications.* Applicable provisions of chapter 122 of the city's Code of Ordinances, as well as section 94-179 shall be considered. (Prior Code 1991, §12-481)

***Cross reference*: Vegetation, ch. 114.**

§§ 94-218 – 94-240 RESERVED.

DIVISION 2

WATER AND SEWERAGE IMPROVEMENTS*

§ 94-241 Water system.
§ 94-242 Sewage collection and disposal systems.
§ 94-243 Design criteria for sanitary sewers.
§ 94-244 Design factors.
§ 94-245 Maximum size.
§ 94-246 Minimum size.
§ 94-247 Velocity of flow.
§ 94-248 Alignment.
§ 94-249 Manholes.
§ 94-250 Sewerage locations.
§ 94-251 Water supply interconnections.
§ 94-252 Relation of sewers to water mains.
§§ 94-253 – 94-275 Reserved.

§ 94-241 WATER SYSTEM.

A. ***Installation in accordance with standards and specifications.*** **The developer shall install water lines and fire hydrants in accordance with the standards and specifications of these and other applicable regulations. In no case shall the use of flexible PVC pipe be permitted.**

B. ***Provision of adequate supply.*** **Action shall be taken by the developer to extend or create a water supply district for the purpose of providing a water supply system capable of providing domestic water use and fire protection. This system shall provide an adequate supply of potable water to every lot in the subdivision.**

C. ***Fire hydrant installation.*** **Fire hydrants shall be required for all subdivisions except those approved for low-density zoning districts in which individual wells are to be used. Fire hydrants shall be located no more than six-hundred (600) feet apart and within five-hundred (500) feet of any structure and shall be approved by the city manager. To eliminate future street openings, all underground utilities for fire hydrants, together with the fire hydrants themselves, and all other supply improvements shall be installed before any final paving of a street shown on the subdivision plat.**

D. ***Installation where public water already accessible.*** **Where a public water main is accessible, the developer shall install adequate water facilities, including fire hydrants, subject to the specifications of state or city requirements. All water mains shall be at least six (6) inches in diameter.**

E. ***Approval of extensions.*** **Water main extensions shall be approved by the appropriate government agencies.**

F. ***Inclusion of location on preliminary plat and cost in bond.*** **To facilitate the above, the location of all fire hydrants, all water supply improvements, and the boundary lines of proposed districts, indicating all improvements proposed to be served, shall be shown on the preliminary plat and the cost of installing the same shall be included in the performance bond to be furnished by the developer.**

G. ***Water systems for low-density districts.*** **In subdivisions approved by the planning commission for low-density zoning districts, if a public water system is not available, individual wells may be used or a central water system provided in such a manner that an adequate supply of potable water will be available to every lot in the subdivision. Water samples shall be submitted to the state health department for its approval, and individual wells and central water systems shall be approved by the state health department.**

H. ***Arrangement for public water connections.*** **If the planning commission requires that a connection to a public water main be eventually provided as a condition to approval of an individual well or central water system, the applicant shall make arrangements including the provision of necessary easements for future water service at the time the plat receives final approval. Performance or cash bonds may be required to ensure compliance. (Prior Code 1991, §12-482)**

******Cross reference*****: Utilities, ch. 110.**

§ 94-242 SEWAGE COLLECTION AND DISPOSAL SYSTEMS.

A. ***Use of sanitary sewers.*** **In accordance with the standards and specifications of these and other applicable regulations, the sub-divider shall install sanitary sewers whenever a sanitary sewer is reasonably accessible, as determined by the planning commission. If a public sanitary sewer is placed in a street or alley abutting any property, the owner thereof shall be required to connect to the sewer for the purpose of disposing of waste, and it shall be unlawful for any such owner or occupant to maintain upon any such property an individual sewage disposal system.**

B. ***Use of septic tanks, etc.*** **Whenever a sanitary sewer is not reasonably accessible, septic tanks or other unit disposal systems may be used, provided that such systems comply with the requirements of the state department of health and are not located within twenty (20) feet of the lot line of the lot on which the system is located. Where sanitary sewer systems are not reasonably accessible and will not become available for a period in excess of five (5) years, the applicant may install sewage systems as follows:**

1. ***Medium-density residential districts.*** **A central sewage system only; no individual disposal system will be permitted. Where plans exist for a public sewer system to be built, for a period in excess of five (5) years, the applicant shall install all sewer lines, lateral, and mains to be in permanent conformance with such plans and ready for connection to such public sewer main; and**

2. ***Low-density residential districts.*** **Individual disposal systems or central sewage systems may be used.**

C. ***Design and approval of sewer improvements.*** **All sanitary sewer improvements shall be designed by an engineer registered in the state and shall be approved by the city council, the city manager, the state health department, and other appropriate agencies. Sanitary sewer design shall be in accordance with the design criteria for sanitary sewers in this article. In no case shall the use of flexible PVC pipe or any rigid plastic pipe with a wall thickness and strength of less than ABA Standard Schedule 40 be allowed.**

D. ***Correspondence with comprehensive plan.*** **When a required or proposed improvement corresponds with a recommended improvement contained in the city's comprehensive plan, or other approved sanitary sewer report or document, the facility shall be designed in accordance with the plan or report.**

E. ***City participation in excess cost.*** **When an improvement required by the comprehensive plan or other approved sanitary sewer report or document exceeds the capacity needed to serve the proposed development, the city may participate in the excess cost of such facility in accordance with the city's utility extension policies.**

F. ***System in low-and medium-density residential districts.*** **In low-and medium-density residential districts, where a public sanitary sewage system is reasonably accessible but will become available within a reasonable time, not to exceed five years, the developer may choose one of the following alternatives:**

1. ***Central sewage system.*** **Maintenance cost to be assessed against each property benefitted. Where plans for future public sanitary sewage systems exist, the developer shall install the sewer lines, laterals, and mains to be in permanent conformance with such plans and ready for connection to such public sewer mains; or**

2. ***Individual disposal systems.*** **The developer shall install sanitary sewer lines, laterals, and mains from the street curb to a point in the subdivision boundary where a future connection with the public sewer main shall be made in addition to allowing the use of individual systems on each site. As a condition of building permit approval on each housing unit in such an area, sewer lines shall be laid from the house to the street line and a connection shall be available in the home to connect from the individual disposal system to the sewer system when the public sewers become available. Such sewer systems shall be capped until ready for use and shall conform to all plans for installation of the public sewer system, where such exists, and shall be ready for connection to such public sewer main.**

G. ***Systems in high-density residential and nonresidential districts.*** **Sewage collection and disposal systems in high-density residential and nonresidential districts shall connect with public sanitary sewage systems. Sewers shall be installed to serve each lot and to grades and sizes required by local officials and approving agencies. No individual disposal system or treatment plants or private or group disposal systems shall be permitted. Sanitary sewage facilities, including the installation of laterals in the right-of-**

way, shall be subject to the specifications, rules, regulations, and guidelines of the city and the state health department.

H. ***Individual disposal systems.*** **If public sewer facilities are not available and individual disposal systems are proposed, minimum lot areas shall conform to the requirements of the zoning regulations, and percolation tests and test holes shall be made as directed by the city building official and the results submitted to the health department. The individual disposal system, including the size of the septic tanks and size of the tile fields or other secondary treatment devices, shall also be approved by the city building official and be in accordance with the state statutes. (Prior Code 1991, §12-483)**

§ 94-243 DESIGN CRITERIA FOR SANITARY SEWERS.

These design criteria are not intended to cover extraordinary situations. Deviations will be allowed and may be required in those instances where considered justified by the local government engineer. (Prior Code 1991, §12-484)

§ 94-244 DESIGN FACTORS.

Sanitary sewer systems should be designed for the ultimate tributary population. Due consideration should be given to current zoning regulations and approved planning and zoning reports where applicable. Sewer capacities should be adequate to handle the anticipated maximum hourly quantity of sewerage and industrial waste, together with an adequate allowance for infiltration and other extraneous flow. (Prior Code 1991, §12-485)

§ 94-245 MAXIMUM SIZE.

The diameter of sewers proposed shall not exceed the diameter of the existing or proposed outlet, whichever is applicable, unless otherwise approved by the local government engineer. (Prior Code 1991, §12-486)

§ 94-246 MINIMUM SIZE.

No public sewer shall be less than eight (8) inches in diameter, except that the use of a six (6) inch diameter sewer may be permitted in situations where it cannot be extended and no more than four-hundred (400) feet will be installed in anyone place. (Prior Code 1991, §12-487)

§ 94-247 VELOCITY OF NOW.

All sewers shall be designed and constructed with hydraulic slopes sufficient to give mean velocities, when flowing full, of not less than two feet per second, based on Kutter's or Manning's formula, using an "n" value of 0.013. Use of other practical "n" values will be approved for the longer pipe sections if deemed justifiable on the basis of research or field data presented. The following are the minimum slopes which should be provided, especially where the depth of flow may be small, and are desirable minima in all parts of the system:

Minimum Slopes for Sewer Sizes

Sewer Size (inches)	Minimum slope in feet per 100 feet
8	0.40
10	0.20
12	0.22
14	0.17
15	0.15
16	0.14
18	0.12
21	0.10
24	0.08

Under special conditions, if full and justifiable reasons are given, slopes slightly less than those required for the two-foot-per-second velocity when full may be permitted. Such decreased slopes will only be considered where the depth of flow will be three-tenths (.3) of the diameter or greater for design average flow. Whenever such decreased slopes are selected, the engineer must furnish with his report his computations of the depths of low in such pipes at minimum, average, and peak rates of flow. It is recognized that such flatter grades may cause additional sewer maintenance expense and odor nuisance. The selection of the size of pipe shall be determined on the basis of the most desirable flow characteristics obtainable. (Prior Code 1991, §12-488)

§ 94-248 ALIGNMENT.

All sewers shall be laid with straight alignment between manholes, unless otherwise directed or approved by the local government engineer. (Prior Code 1991, §12-489)

§ 94-249 MANHOLES.

A. Manholes shall be installed:

1. At the end of each line;

2. At all changes in grade, size, or alignment;

3. At all intersections; and

4. At distances not greater than four-hundred (400) feet for sewers fifteen (15) inches and smaller and five-hundred (500) feet for eighteen (18) inches in diameter and larger.

B. The difference in elevation between an incoming sewer and the manhole invert shall not exceed twelve (12) inches, except where required to match crowns. The use of drop manholes will require approval by the local government engineer. The minimum inside diameter of the manholes shall conform to those specified by the local government engineer. Inside drop manholes will require special considerations; however, in no case shall the minimum clear distance be less than that indicated above. When a smaller sewer

joins a larger one, the crown of the smaller sewer shall not be lower than that of the larger one. The minimum drop through manholes shall be two tenths (.2) feet. (Prior Code 1991, §§12-490, 12-491)

§ 94-250 SEWERAGE LOCATIONS.

Sanitary sewers shall be located within street or alley rights-of-way, unless topography dictates otherwise. When located in easements on private property, access shall be to all manholes. A manhole shall be provided at each street or alley crossing. End lines shall be extended to provide access from street or alley rights-of-way where possible. Imposed loading shall be considered in all locations. Not less than six (6) feet of cover shall be provided over the top of the pipe in street and alley rights-of-way or three feet in all other areas. (Prior Code 1991, §12-492)

§ 94-251 WATER SUPPLY INTERCONNECTIONS.

There shall be no physical connection between a public or private potable water supply system and a sewer which will permit the passage of any sewage or polluted water into the potable supply. Sewers shall be kept removed from water supply wells and other water supply sources and structures. (Prior Code 1991, §12-493)

§ 94-252 RELATION OF SEWERS TO WATER MAINS.

A minimum horizontal distance of ten (10) feet shall be maintained between parallel water and sewer lines. At points where sewers cross water mains, the sewer shall be constructed of cast iron pipe or encased in concrete for a distance of ten (10) feet in each direction from the crossing, measured perpendicular to the water line. This will not be required when the water main is at least two (2) feet above the sewer. (Prior Code 1991, §12-494)

§§ 94-253 – 94-275 RESERVED.

DIVISION 3

DRAINAGE IMPROVEMENTS*

§ 94-276 Storm drainage and flood hazard areas.
§ 94-277 Responsibility for drainage.
§ 94-278 Flood hazard areas designated.
§ 94-279 Areas not designated floodway; drainage assessment.
§ 94-280 Flowage easements.
§ 94-281 Floodway — fringe areas.
§ 94-282 Runoff.
§ 94-283 Tributary and surface drainage channels.
§ 94-284 Storm sewers.
§ 94-285 Drainage channel location.

§ 94-286 Site grading.
§ 94-287 Surface water collection.
§ 94-288 Drainage easement widths.
§ 94-289 Closed storm sewer construction requirement.
§ 94-290 Bridges or culverts; size.
§ 94-291 Open paved storm drainage channels; specifications.
§ 94-292 Improvements, drainage easements, agreements beyond boundaries.
§ 94-293 Property owner agreements.
§ 94-294 Retention reservoirs.
§§ 94-295 – 94-320 Reserved.

§ 94-276 STORM DRAINAGE AND FLOOD HAZARD AREAS.

A. All subdivisions of land shall comply with the design and improvement requirements established in this division for the protection of flood hazard areas and the prevention of erosion.

B. For the purposes of these regulations, drainage shall be classified as follows:

1. *Major tributary.* Any channel having a drainage basin of not less than one square mile or greater than twenty-five (25) square miles.

2. *Minor tributary.* Any drainage channel having a drainage basin of six-hundred forty (640) acres (one square mile) or less in area.

3. *River.* Any channel having a drainage basin of greater than twenty (25) square miles.

4. *Surface drainage.* The runoff of such a limited quantity or slow rate that it does not cause erosion of a defined channel. (Prior Code 1991, §12-495)

****Cross reference*: Utilities, ch. 110.**

§ 94-277 RESPONSIBILITY FOR DRAINAGE.

Responsibility for drainage shall be allocated as follows, unless otherwise specifically designated:

1. The developer of a subdivision is responsible for the following:

a. All surface drainage on the subdivision;

b. All increase in surface drainage outside the subdivision which results from the development of the subdivision;

c. The improvement of all minor tributaries lying within the subdivision;

d. **Any significant increase in the rate or quantity of runoff in any minor or major tributary or river which results from the development of the subdivision; and**

e. **Provision for the maintenance of all floodway and floodway-fringe areas of major tributaries and rivers which have not been dedicated to the public;**

2. **The city and other levels of government will be responsible for the following:**

a. **The improvement of floodways of major tributaries;**

b. **The improvement of river floodways; and**

c. **The maintenance of floodway and floodway-fringe areas dedicated to the public. (Prior Code 1991, §12-496)**

§ 94-278 FLOOD HAZARD AREAS DESIGNATED.

Flood hazard areas are designated on the official zoning district map of the city. The boundaries of all floodway and floodway-fringe areas shall be designated on the preliminary and final plats and shall be clearly marked. (Prior Code 1991, §12-497)

§ 94-279 AREAS NOT DESIGNATED FLOODWAY; DRAINAGE ASSESSMENT.

For all areas not otherwise designated in a floodway or floodway-fringe area, the developer shall be responsible for having an engineer, registered in the state, prepare a drainage assessment of all of the area of the proposed subdivision and all areas affected by runoff resulting from development of the proposed subdivision in accordance with the following provisions:

1. **The one-hundred (100) year maximum flood shall be used as the basis for the sizing of all drainage channels, bridges, and other structures, unless otherwise specified in this section;**

2. **The calculation of all runoff shall be based on saturated urbanization of the drainage basin for minor tributaries and surface drainage, as reflected in the comprehensive plan, and shall be based on the maximum degree of urbanization, as reflected in the comprehensive plan, for the drainage basin of a major tributary or river; and**

3. **The calculation of stream flow and runoff characteristics of the subdivision shall be carried out in consultation with the city engineer, and the methodology and formulas used shall result in quantities which would be not less than those derived from the application of the following formulas and values:**

a. **Runoff from all drainage areas shall be not less than that determined by the Rational Formula:**

Q = AIR

Q **Cubic feet per second.**

A **Area to be drained, in acres, determined by field surveys for areas less than six-hundred forty (640) acres and by latest government quadrangle maps for larger areas.**

I **Percent of imperviousness of the area. This may vary between forty (40%) percent and ninety-five (95%) percent, but no value of less than fifty (50%) percent may be used for saturated urban development.**

R **Rate of rainfall over entire drainage area in inches per hour, based on time of concentration and latest government records for the area.**

b. **The size of closed storm sewers, open channels, culverts, and bridges shall be not less than that determined by using the Manning Formula:**

$$Q = \frac{1{,}486\ r^{2/3} s\ 112\ A}{n}$$

Q **Discharge in cubic feet per second.**

A **Cross-sectional area of water in conduit in square feet.**

r **Hydraulic radius of water in conduit.**

s **Mean slope of hydraulic gradient in feet of vertical rise per foot of horizontal distance.**

n **Roughness coefficient, based on condition and type of material of conduit lining, but not less than 0.013. (Prior Code 1991, §12-498)**

§ 94-280 FLOWAGE EASEMENTS.

All floodways located within the subdivision shall be designated by the developer as "flowage easements" and shall be maintained as permanent open space for private recreation or agriculture for which no buildings or structures are required or dedicated to the public for drainage, recreation, and utility use. (Prior Code 1991, §12-499)

§ 94-281 FLOODWAY — FRINGE AREAS.

All floodway-fringe areas shall be planned for uses which are permitted in the F2, floodway fringe district of the zoning regulations, and in no case shall the proposed use or construction cause a displacement of floodwater in the floodway fringe that will increase flooding in other areas of the flood way or floodway-fringe. (Prior Code 1991, §12-500)

§ 94-282 RUNOFF.

When it is determined by the city engineer that the development of the subdivision will significantly increase runoff in the flood hazard area or will otherwise adversely affect stormwater runoff, the planning commission may require any or all of the following to the extent needed to reduce the adverse affects of the development:

1. The existing floodway lying within or immediately adjacent to the subdivision shall be cleaned to provide for the free flow of water, and the channel shall be straightened, widened, and improved to the extent required to prevent overflow beyond the limits of the floodway;

2. Site improvement shall provide for the grading of all building sites and streets to an elevation where all lots, building areas, and streets will not be subject to overflow and in a manner that will provide for the rapid runoff of all rainfall; however, such improvements shall be carried out in a manner that will preserve and protect large trees and attractive physical features of the area;

3. Whenever channel improvement is carried out, sodding, back sloping, cribbing, and other bank protection shall be designed and constructed to control erosion for all the anticipated conditions of flow for the segment of channel involved;

4. A drainage channel shall not be located in a street easement, unless it is placed in an enclosed storm sewer, or unless a paved street surface is provided on both sides of a paved channel to give access to abutting properties; or

5. Culverts, bridges, and other drainage structures shall be constructed in accordance with the specifications of the city at all locations where drainage channels intersect with continuous streets or alleys. (Prior Code 1991, §12-501)

§ 94-283 TRIBUTARY AND SURFACE DRAINAGE CHANNELS.

All minor tributary and surface drainage channels located within the subdivision shall be improved in accordance with the standards set forth in the "Improved Drainage Channel" charts in section 94-290, or other equivalent standards, as determined by the city engineer. Sections on Chart No. 4 shall be used only for channels of minor tributaries which drain less than eighty (80) acres and which are designed as an integral part of the landscape of the area, so that maintenance of sodded slopes will be the responsibility of the property owners abutting the channel. All channels shall be designed to carry a one-hundred (100) year maximum flood, shall be designed for self-cleaning and ease of maintenance, shall have sufficient hard surface along the flow line to prevent ponding of water, and shall have design characteristics of alignment, materials, or construction and cross-sectioned elements that will be hydraulically efficient and visually harmonious with the adjacent landscape. (Prior Code 1991, §12-502)

§ 94-284 STORM SEWERS.

Enclosed storm sewers may be required by the city manager where special or unusual conditions make open channels hazardous or otherwise unfeasible. (Prior Code 1991, §12-503)

§ 94-285 DRAINAGE CHANNEL LOCATION.

A drainage channel shall not be located in a street easement unless it is placed in a closed storm sewer or unless a paved street surface is located on both sides of a paved drainage channel to give access to abutting properties. (Prior Code 1991, §12-504)

§ 94-286 SITE GRADING.

Site grading shall be carried out in such a manner that surface water from each lot shall flow directly to a storm sewer, improved channel, or paved street without crossing more than two adjacent lots. (Prior Code 1991, §12-505)

§ 94-287 SURFACE WATER COLLECTION.

Surface water collected on streets shall be diverted to storm drains at satisfactory intervals to prevent overflow of six (6") inch-high curbs during a fifty (50) year frequency rain for the area and grades involved; provided, however, that in no case shall the drainage area served by one (1) street exceed twenty (20) acres, regardless of the amount of flow. (Prior Code 1991, §12-506)

§ 94-288 DRAINAGE EASEMENT WIDTHS.

Drainage easements of satisfactory width to provide working room for construction and maintenance shall be provided for all storm sewers. In no case shall the total easement be less than twenty (20) feet. (Prior Code 1991, §12-507)

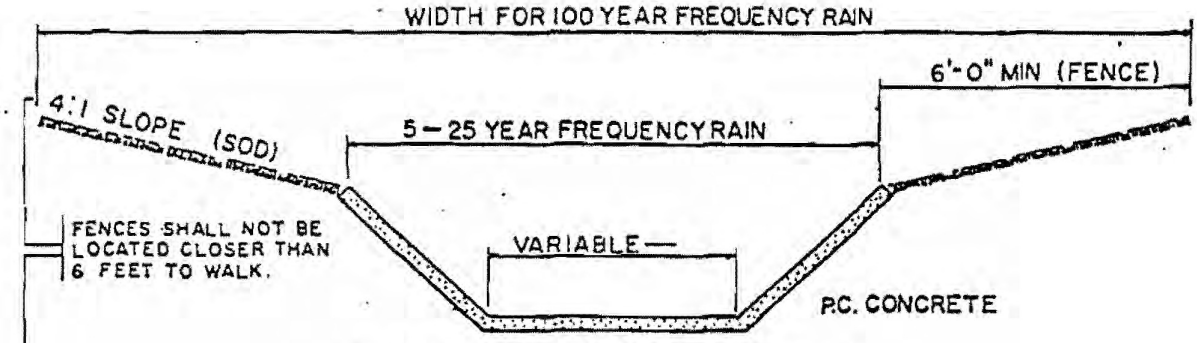
§ 94-289 CLOSED STORM SEWER CONSTRUCTION REQUIREMENT.

Closed storm sewers shall be constructed of precast or prefabricated pipe or built in place of closed box design to conform with city construction specifications to serve a one-hundred (100) year frequency rain for the drainage area involved. (Prior Code 1991, §12-508)

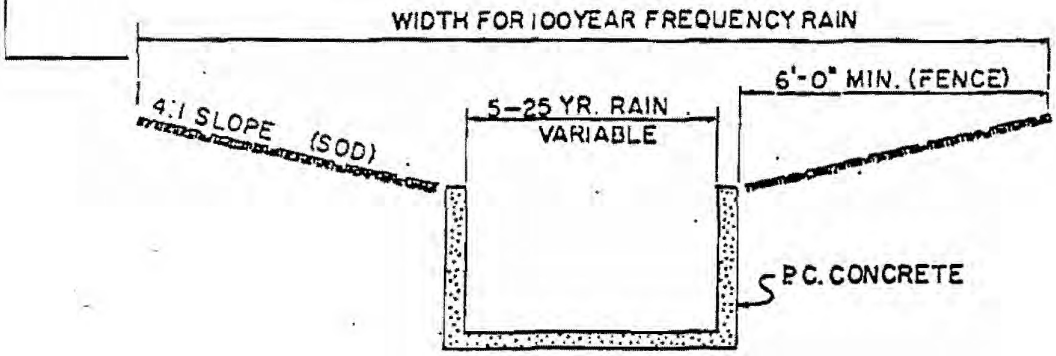
§ 94-290 BRIDGES OR CULVERTS; SIZE.

Bridges or culverts shall be provided where watercourses cross continuous streets or alleys, shall be sized to accommodate a one-hundred (100) year frequency rain, based on the drainage area involved, and shall be designed in conformance with city construction specifications.

IMPROVED DRAINAGE CHANNEL CHART NO. 1



TYPICAL SECTION–SLOPING WALLS

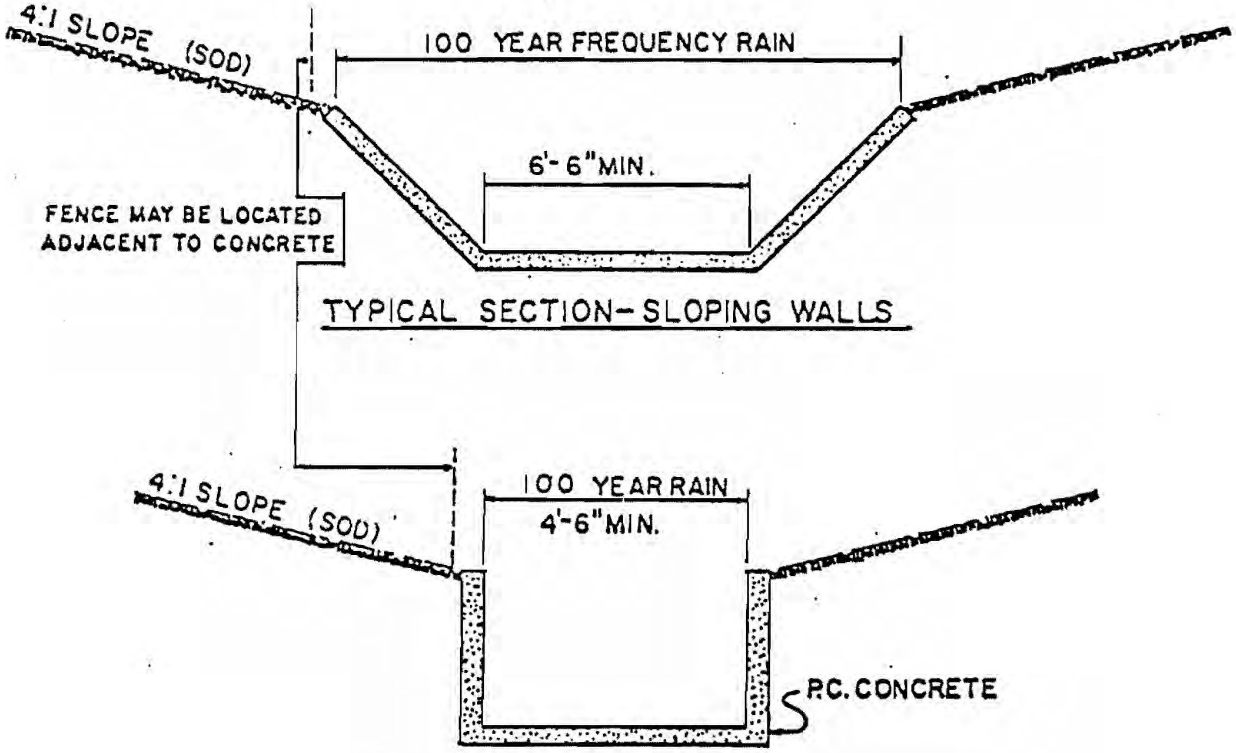


TYPICAL SECTION – STRAIGHT WALLS

GENERAL SPECIFICATIONS

1. USE OF SLOPING WALLS OR STRAIGHT WALLS IS OPTIONAL.
2. CONSTRUCTION OF CONCRETE LINING SHALL CONFORM TO CITY SPECIFICATIONS.
3. STRAIGHT WALLS SHALL BE DESIGNED TO WITHSTAND EARTH PRESSURES.
4. SLOPING WALLS SHALL HAVE SLOPE RATIO OF 1 HORIZONTAL TO 1 VERTICAL, OR FLATTER.
5. SODDED SLOPE RATIO SHALL BE 4 HORRIZONTAL TO 1 VERTICAL, OR FLATTER.

IMPROVED DRAINAGE CHANNEL CHART NO. 2



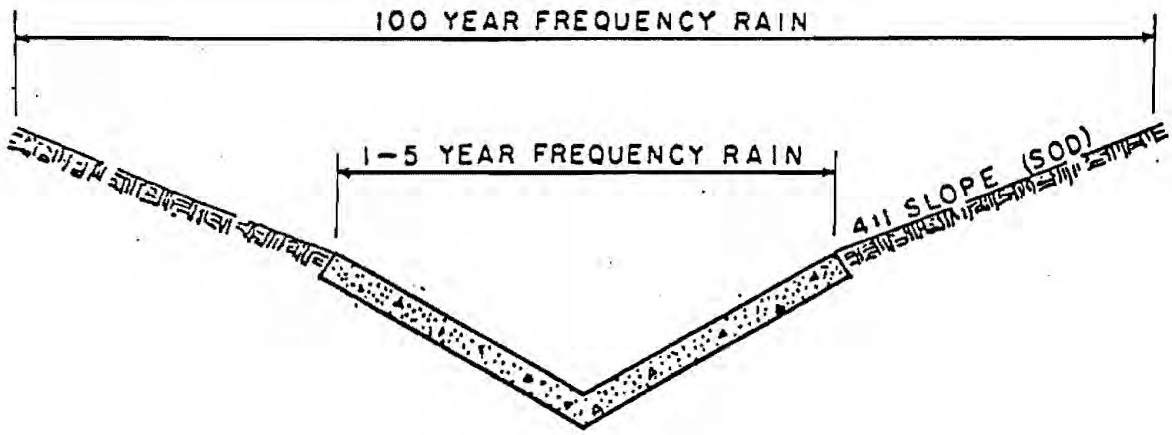
TYPICAL SECTION–SLOPING WALLS

TYPICAL SECTION–STRAIGHT WALLS

GENERAL SPECIFICATIONS

1. USE OF SLOPING WALLS OR STRAIGHT WALLS IS OPTIONAL.
2. CONSTRUCTION OF CONCRETE LINING SHALL CONFORM TO CITY SPECIFICATIONS.
3. STRAIGHT WALLS SHALL BE DESIGNED TO WITHSTAND EARTH PRESSURES.
4. SLOPING WALLS SHALL HAVE SLOPE RATIO OF 1 HORIZONTAL TO 1 VERTICAL, OR FLATTER.
5. SODDED SLOPE RATIO SHALL BE 4 HORIZONTAL TO 1 VERTICAL, OR FLATTER.

IMPROVED DRAINAGE CHANNEL CHART NO. 3

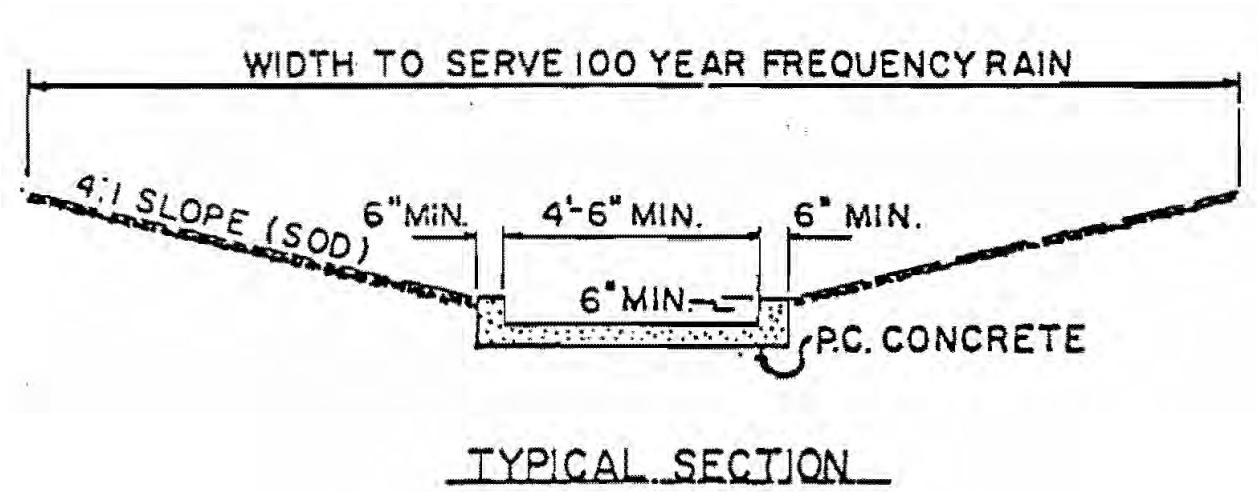


TYPICAL SECTION — V SLOPING WALLS

GENERAL SPECIFICATIONS

1. CONSTRUCTION OF CONCRETE LINING SHALL CONFORM TO CITY SPECIFICATIONS.
2. SLOPING WALLS SHALL HAVE SLOPE RATIO OF 1 HORIZONTAL TO 1 VERTICAL, OR FLATTER.
3. SODDED SLOPE RATIO SHALL BE 4 HORIZONTAL TO 1 VERTICAL, OR FLATTER.

IMPROVED DRAINAGE CHANNEL CHART NO. 4



TYPICAL SECTION

GENERAL SPECIFICATIONS

1. SLOPES BACK OF CURB SHALL HAVE A RATIO OF 4 HORRIZONTAL TO 1 VERTICAL, OR FLATTER.
2. SLOPES SHALL BE SODDED UNIFORMLY TO PERMIT MOWING.
3. CONCRETE CONSTRUCTION SHALL CONFORM TO CITY SPECIFICATIONS.
4. THIS SECTION SHALL BE CONSTRUCTED ONLY IN THOSE LOCATIONS OUTLINED IN GENERAL POLICIES AND REQUIREMENTS.

(Prior Code 1991, §12-509)

§ 94-291 OPEN PAVED STORM DRAINAGE CHANNELS; SPECIFICATIONS.

Open paved storm drainage channels shall be constructed in accordance with city construction specifications. Side slopes above the paved section shall be shaped and sodded on a slope of four (4) horizontal to one vertical or flatter. Fences shall be outside of the one-hundred (100) year frequency flooding line, shall not be erected below the shoulder of the sodded section, and in no case shall fences be closer than six (6) feet, measured horizontally, to the edge of the paved section, except on Chart No. 2 sections. Hand-laid riprap may be substituted for sodded shoulders where desired. (Prior Code 1991, §12-510)

§ 94-292 IMPROVEMENTS, DRAINAGE EASEMENTS, AGREEMENTS BEYOND BOUNDARIES.

The city reserves the right to require improvements, the provision of drainage easements, and the provision of agreements beyond the boundaries of the subdivision to facilitate flow of water through the addition, to avoid probability of law suits based on damage from changed runoff in the subdivision, and to provide continuous improvement of the overall storm drainage system.

The following kinds of improvements may be required:

1. Enlargement or replacement of undersized drainage structures to provide free flow;

2. Removal of obstructions;

3. Straightening of channel;

4. Widening or deepening of the channel;

5. Construction of erosion control structures;

6. Back sloping, sodding, or riprapping of bank; or

7. Construction of closed or open, paved storm sewers for the purposes of closing gaps or continuation of the overall storm sewer system. (Prior Code 1991, §12-511)

§ 94-293 PROPERTY OWNER AGREEMENTS.

Property owner agreements, where required, shall be designed to protect the city from probable law suits for damage caused by changed runoff conditions. (Prior Code 1991, §12-512)

§ 94-294 RETENTION RESERVOIRS.

When subdivision development will result in increased runoff beyond the boundaries of the subdivision which cannot be accommodated through channel improvements without causing downstream flooding, the planning commission may require the construction of one or more retention reservoirs on the subdivision which will temporarily impound and discharge water from the subdivision site at the rate and volume equivalent to the discharge from the undeveloped subdivision site. The design shall be for a one-hundred (100) year frequency flood. Plans shall be approved by the city engineer. The construction and maintenance of retention reservoirs shall be the responsibility of the developer. (Prior Code 1991, §12-513)

§§ 94-295 – 94-320 RESERVED.

ARTICLE 5

NEIGHBORHOOD PLANS PROGRAM

§ 94-321 Purpose; authority.
§ 94-322 Designation of neighborhoods.
§ 94-323 Preparation of plans.
§ 94-324 Adoption and status of plans.
§ 94-325 Review of plats for conformance.
§ 94-326 Amendment.
§ 94-327 Contents of the plan.

§ 94-321 PURPOSE; AUTHORITY.

The neighborhood plans program of the city is established as an adjunct to, and is intended to supplement, the city and regional subdivision regulations of the city planning commission and the comprehensive plan for the city, established under the authority granted in 11 O.S. §43-103.

The specific goals of this program are to:

1. Guide the growth and development of the community in accordance with the comprehensive plan and the adopted policies and regulations of the city;

2. Coordinate the development of adjacent parcels of land in order to ensure a logical and orderly extension of streets and utilities;

3. Facilitate the provision of adequate public open spaces and parks in accordance with the comprehensive plan and other functional plans of the city;

4. Identify the interests of various parties, including local governments, school districts, utility companies, and local property owners, affected by the development of land and to integrate these interests into development proposals; and

5. Provide a design alternative by which the planning commission may judge subdivision proposals in order to ensure compliance with the principles and purposes of the subdivision regulations and the comprehensive plan. (Prior Code 1991, §12-520)

§ 94-322 DESIGNATION OF NEIGHBORHOODS.

A. It is the responsibility of the planning commission to designate neighborhood units for which neighborhood plans shall be prepared, as specified in these regulations.

B. In designating these neighborhoods, due consideration shall be given to the following factors:

1. The current and projected growth patterns of the community; and

2. The concepts of neighborhood planning as contained in the comprehensive plan and these regulations. (Prior Code 1991, §12-521)

§ 94-323 PREPARATION OF PLANS.

A. Upon designation of the neighborhood unit, the planning commission shall prepare a neighborhood plan for that area so designated. This plan shall be prepared in accordance with the standards and procedures prescribed in this article.

B. Prior to the initiation of a neighborhood plan, the planning commission shall give notice by posting and legal notice in the local newspaper to all affected property owners of the plan preparation process. Adequate opportunity shall be given for input from the owners into the analysis of alternative neighborhood designs. (Prior Code 1991, §12-522)

§ 94-324 ADOPTION AND STATUS OF PLANS.

A. Upon the preparation of a neighborhood plan for a designated area, the planning commission shall recommend that the city council adopt the plan and thereby officially make the plan a legal portion of these regulations by reference.

B. The neighborhood plan shall be reproduced and included as an appendix to the subdivision regulations of the city.

C. Upon adoption of a neighborhood plan, the plan shall be considered as a legal part of the subdivision regulations for the city and shall have a status equal to that of the comprehensive plan for the city.

D. It is intended that the neighborhood plans serve as a summary of, and be in conformance with, the adopted standards and policies contained in the comprehensive plan and the regulations governing the use and development of land within the city. (Prior Code 1991, §12-523)

§ 94-325 REVIEW OF PLATS FOR CONFORMANCE.

The neighborhood plan shall not be deemed a mandatory design standard for the subdivision of a particular tract of land. The neighborhood plan shall serve as a performance guide and shall be utilized as follows:

1. The proposed plat shall be reviewed and compared to the neighborhood plan in order to ensure provision of:

a. Necessary utility extensions in appropriate locations;

b. Street extensions to existing or proposed streets; and

c. Open spaces and drainage ways in compliance with adopted regulations and policies.

2. Where a proposed subdivision does not correspond with the neighborhood plan, the planning commission may require the developer or the city staff to indicate amendments to the neighborhood plan which will meet the design principles of the neighborhood unit and accommodate the proposed subdivision.

3. Where the planning commission determines that the proposed subdivision design is not compatible with the neighborhood plan and that amendments to the plan are inappropriate, the planning commission may direct such revisions in the subdivision design as are necessary to achieve the goals established by the neighborhood plan. (Prior Code 1991, §12-524)

§ 94-326 AMENDMENT.

A. Neighborhood plans shall be reviewed and amended upon the motion of the planning commission.

B. The amendment process shall follow the procedures outlined for initial preparation of the neighborhood plan.

C. Whenever, after notice of hearing as required in the subdivision regulations, a plat is approved which differs substantially from the neighborhood plan, the planning commission may amend the neighborhood plan to incorporate the plat. Such amendment shall not require further hearings or notice. (Prior Code 1991, §12-525)

§ 94-327 CONTENTS OF THE PLAN.

A. A neighborhood plan, as provided for in these regulations, shall consist of an alternative design for a defined neighborhood unit. This design for the development of the neighborhood shall take into consideration all relevant physical, social, governmental, and political factors which the planning commission deems appropriate. It is intended that the following factors, at a minimum, be considered in developing neighborhood plans:

1. Existing land ownership and development patterns;

2. Adopted land subdivision regulations, the comprehensive plan, and functional plans for city water, sanitary sewer, parks, and storm drainage facilities;

3. Physical features such as topography, geology, woodlands, and water bodies;

4. Existing easements and undeveloped rights-of-ways; and

5. Current and projected housing trends.

B. Neighborhood plans shall be prepared in a format which will clearly depict existing neighborhood features and the recommended alternative neighborhood design. The plan shall include appropriate street alignments, lot patterns, major utilities, drainage ways, and public open spaces.

C. In preparing neighborhood plans, the planning commission shall give due consideration to the following criteria:

1. The provisions of an adequate collector street system which will discourage through-traffic;

2. The provision of local streets which will optimize the number of lots per linear foot of street;

3. The design of lots which shall minimize the need for joint development efforts by separate land owners;

4. The provision of adequate parks and open spaces in accordance with the comprehensive plan and the parks and recreation plan;

5. The provision of floodway and drainage easements in accordance with delineated floodways and the drainage improvement standards of the city; and

6. The design of the neighborhood plan shall conform, as closely as possible, to the principles of a neighborhood unit. (Prior Code 1991, §12-526)

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CHAPTER 98

TAXATION *

ARTICLE 1

IN GENERAL

§ 98-1 Sales and use taxes.
§§ 98-2 – 98-25 Reserved.

ARTICLE 2

UTILITIES TAX

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§ 98-27 Not to apply to franchises.
§ 98-28 Payment of tax.
§ 98-29 Failure to pay tax.
§ 98-30 Tax constitutes lien.
§ 98-31 Record of sales.
§§ 98-32 – 98-50 Reserved.

ARTICLE 3

USE TAX

§ 98-51 Excise tax on storage, use or other consumption of intangible, personal property levied.
§ 98-52 Exemptions.
§ 98-53 Time when due; returns; payment.
§ 98-54 Tax constitutes a debt.
§ 98-55 Collection of tax by retailer or vendor.
§ 98-56 Collection of tax by retailer or vendor not maintaining a place of business within state or both within and without state; permits.
§ 98-57 Revoking permits.
§ 98-58 Remunerative deductions allowed vendors or retailers of other states.
§ 98-59 Interest and penalties---Delinquencies.
§ 98-60 Waiver of interest and penalties.
§ 98-61 Erroneous payments---Claim for refund.
§ 98-62 Fraudulent returns.
§ 98-63 Records confidential.
§ 98-64 Provisions cumulative.
§ 98-65 Provisions severable.
§ 98-66 Definitions.
§ 98-67 Tax collector defined.

§ 98-68 Classification of taxpayers.
§ 98-69 Purposes of revenues.
§ 98-70 – 98-101 Reserved.

***Cross reference*: Any ordinance or resolution promising or guaranteeing the payment of money for the city or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligation assumed by the city saved from repeal, §1-7(2); Ordinance Nos. 735, 934, 1001, 00-19, 09-07 and any other ordinances consistent with this Code levying or imposing taxes or pertaining to tax rates saved from repeal, §1-7(7); administration, ch. 2; finance, §2·111 et seq.; business ch. 18.**

***State law reference*: Tax exemption for new manufacturing establishments and public utilities, 11 O.S. §17-112; municipal taxation, 68 O.S. §2701 et seq.; tax ordinance to be approved by voters, 68 O.S. §2706.**

ARTICLE 1

IN GENERAL

§ 98-1 Sales and use taxes.
§§ 98-2 – 98-25 Reserved.

§ 98-1 SALES AND USE TAXES.

A. The permanent rules of the state tax commission pertaining to the sales and use tax, as codified in title 710, chapter 65, of the Oklahoma Administrative Code (O.A.C. §710:65-1-1 et seq.), promulgated through June 25, 2000, for the purpose of compliance with the Administrative Procedures Act (75 O.S. §250 et seq.) and to facilitate the administration, enforcement, and collection of taxes under the Oklahoma Sales Tax Code (68 O.S. §1350 et seq.) and the Oklahoma Use Tax Code (68 O.S. §1401 et seq.), under the authority of 68 O.S. §203, are adopted as a part of this section as if set out at length in this section. Three (3) copies of such rules are on file in the office of the city clerk.

B. Under the authority of City of Purcell, Ordinance Nos. 735, 934, 1001, 00-19, and 09-07, city sales tax rates have been approved and adopted pursuant to a general election of the voters of the city.

§§ 98-2 – 98-25 RESERVED.

ARTICLE 2

UTILITIES TAX*

§ 98-26 Utility tax levied.
§ 98-27 Not to apply to franchises.
§ 98-28 Payment of tax.
§ 98-29 Failure to pay tax.
§ 98-30 Tax constitutes lien.
§ 98-31 Record of sales.
§§ 98-32 – 98-50 Reserved.

§ 98-26 UTILITY TAX LEVIED.

There is hereby levied and assessed an annual tax of two percent upon the gross receipt from residential and commercial sales of power, light, heat, gas, electricity, or water within the city, which tax shall be in lieu of any other franchise, license, occupation, or excise tax levied by the city, in accordance with the provisions of 68 O.S. §§2601-2605, and other applicable provisions of state law. (Ord. No. 98-09, §1, 4-6-1998)

***Cross reference*: Utilities, ch. 110**

***State law reference*: Municipal utility tax on gross receipts, 68 O.S. §2601 et seq., applicable to franchises, 68 O.S. §2602**

§ 98-27 NOT TO APPLY TO FRANCHISES.

The tax levied under this article shall apply to all persons, firms, associations, or corporations engaged in the business of furnishing power, light, heat, gas, electricity, or water within the city limits, except it shall not apply to any person, firm, association, or corporation operating under a valid franchise from the city granted pursuant to OK Const. Art. XVIII, §5(a) nor shall it apply to those entities exempt from taxation under applicable provisions of state law. (Ord. No. 98-09, §2, 4-6-1998)

§ 98-28 PAYMENT OF TAX.

The tax levied under this article shall be levied for a term of not less than one year and shall be payable quarterly on or prior to January 10, April 10, July 10, and October 10 of each year, as applicable, and the proceeds thereof shall be placed in the general revenue fund of the city. (Ord. No. 98-09, §3, 4-6-1998)

§ 98-29 FAILURE TO PAY TAX.

Any person, firm, association, or corporation failing or refusing to pay such tax shall be regarded as a trespasser and may be ousted from such city and, in addition thereto, an action may be maintained against such person, firm, association, corporation for the amount of the tax and all expenses of collecting same, including reasonable attorney's fees. (Ord. No. 98-09, §4, 4-6-1998)

§ 98-30 TAX CONSTITUTES LIEN.

The tax so imposed shall constitute a first and prior lien on all the assets located within the city of the person, firm, association, or corporation engaged in the business of selling utility services within the city limits. (Ord. No. 98-09, §5, 4-6-1998)

§ 98-31 RECORD OF SALES.

It shall be the duty of any person, firm, association, or corporation subject to the tax levied under this article to keep and maintain records as to the amount of gross receipts of sales of power, light, heat, gas, electricity, or water within the city, and such records shall be subject to review and audit by the city upon reasonable request. In addition, a summary of such sales for the preceding calendar quarter, including the number of customers served, the number of customers exempt from taxation under applicable state sales tax laws, the number of units of gas, electricity, or water (cubic feet, kilowatt hours, or gallons, respectively) sold to exempt and nonexempt customers, the gross receipts from sales to exempt and nonexempt customers, and the amount of sales tax charged and collected with respect to such sales, shall be provided to the city at the time of payment of the tax pursuant to section 98-28. (Ord. No. 98-09, §6, 4-6-1998)

§§ 98-32 – 98-50 RESERVED.

ARTICLE 3

USE TAX*

§ 98-51 Excise tax on storage, use or other consumption of intangible, personal property levied.
§ 98-52 Exemptions.
§ 98-53 Time when due; returns; payment.
§ 98-54 Tax constitutes a debt.
§ 98-55 Collection of tax by retailer or vendor.
§ 98-56 Collection of tax by retailer or vendor not maintaining a place of business within state or both within and without state; permits.
§ 98-57 Revoking permits.
§ 98-58 Remunerative deductions allowed vendors or retailers of other states.
§ 98-59 Interest and penalties---Delinquencies.
§ 98-60 Waiver of interest and penalties.
§ 98-61 Erroneous payments---Claim for refund.
§ 98-62 Fraudulent returns.
§ 98-63 Records confidential.
§ 98-64 Provisions cumulative.
§ 98-65 Provisions severable.
§ 98-66 Definitions.
§ 98-67 Tax collector defined.
§ 98-68 Classification of taxpayers.
§ 98-69 Purposes of revenues.
§ 98-70 – 98-79 Reserved.

§ 98-51 EXCISE TAX ON STORAGE, USE OR OTHER CONSUMPTION OF INTANGIBLW, 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 four 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 the state; 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 serve. 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 serves; 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. (Ord. No. 05-05, §1, 9-6-2005)

***Editor's note*: Ord. No. 05-05, §§1-19, adopted September 6, 2005, did not specify manner of inclusion; hence, inclusion as article III, §§98-51 - 98-69.**

§ 98-52 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 municipality by a nonresidential individual visiting in this municipality for his or her personal use or enjoyment while within the municipality;

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 the state use tax code and this article, has been paid by the person using such tangible, personal property in the municipality, whether such tax was levied under the laws of this state 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 the state or any other state or municipality in respect to its sale or use, in an amount less than the tax imposed by both the state use tax code and the city use tax measured by the difference only between the rate provided by both the state use tax code and this article, and the rate by which the previous tax upon the sale or use was computed. Provided, that 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 the state and municipality;

4. In respect to the use of machinery and equipment purchased and used by persons establishing new manufacturing or processing plants in the municipality, and machinery and equipment purchased and used by persons to the operation of manufacturing plants already established in the municipality. Provided, 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 municipality. 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 municipality;

6. In respect to the use of any article of tangible, personal property brought into the municipality by an individual with intent to become a resident of this municipality 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 the state and brought into this municipality for feeding or breeding purposes, and which is later resold. (Ord. No. 05-05, §2, 9-6-2005)

§ 98-53 TIME WHEN DUE; RETURNS; 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 the use tax code of the state. (Ord. No. 05-05, §3, 9-6-2005)

§ 98-54 TAX CONSTITUTES DEBT.

Such taxes, penalty and interest due hereunder 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. (Ord. No. 05-05, §4, 9-6-2005)

§ 98-55 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 place of business outside this state for use in this municipality 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 therefore in the manner and from 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 operation in this municipality and location of any and all distribution or sales houses or offices or other places of business in this city. (Ord. No. 05-05, §5, 9-6-2005)

§ 98-56 COLLECTION OF TAX: BY RETAILER OR VENDOR NOT MAINTAINING A 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 herein levied 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 municipality 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 places of business for use in this municipality, 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 municipality. 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 municipality. Provided, however, that in all instances where such sales are made or completed by delivery to the purchaser within this municipality 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 municipality sales tax at the point of delivery and the tax shall be collected and reported under taxpayer's sales tax permit number accordingly. (Ord. No. 05-05, §6, 9-6-2005)

§ 98-57 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 herein levied, fails to comply with any of the provisions of this article or the state use tax code or any order, rules or regulations of the tax commission may, upon notice and hearing as provided for in 68 O.S. §1408, 1981, by order revoke the use tax permit, if any, issued to such retailer or vendor, and if 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 above provided, cancel said 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, the state use tax code, or any order, rules or regulations of the tax commission. (Ord. No. 05-05, §7, 9-6-2005)

§ 98-58 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 the state use tax code; and remittances of tax collected hereunder shall be subject to the same discount as may be allowed by said code for the collection of state use tax. (Ord. No. 05-05, §8, 9-6-2005)

§ 98-59 INTEREST AND PENALTIES - DELINQUENCY.

68 O.S. §217, 1981, is hereby adopted and made a part of this article, and 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 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 (5) days, the retailer of vendor shall forfeit his claim to any discount allowed under this article. (Ord. No. 05-05, §9, 9-6-2005)

§ 98-60 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 municipality tax herein levied 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. §227, 1981, and to accomplish the purposes of this section the applicable provisions of said section 220 are hereby adopted by reference and made a part of this article. (Ord. No. 05-05, §10, 9-6-2005)

§ 98-61 ERRONEOUS PAYMENTS – CLAIM FOR REFUND.

Refund of erroneous payment of the municipality use tax herein levied 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, 1981, and to accomplish the purpose of this section, the applicable provisions of said section 227 are hereby adopted by reference and made part of this article. (Ord. No. 05-05, §11, 9-6-2005)

§ 98-62 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 by a fine of not more than one-hundred dollars ($100.00) each day of noncompliance with this article shall constitute a separate offense. (Ord. No. 05-05, §12, 9-6-2005)

§ 98-63 RECORDS CONFIDENTIAL.

The confidential and privileged nature of the records and files concerning the administration of the municipality use tax is legislatively recognized and declared, and to protect the same the provisions of 68 O.S. §205, 1981, of the state use tax code, and each subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of the municipality use tax as is herein set forth in full (Ord. No. 05-05, §13, 9-6-2005)

§ 98-64 PROVISIONS CUMULATIVE.

The provisions hereof shall be cumulative, and in addition to any and all other taxing provisions of the municipality ordinances. (Ord. No. 05-05, §14, 9-6-2005)

§ 98-65 PROVISIONS SEVERABLE.

The provisions hereof are hereby declared to be severable, and if any section, paragraph, sentence or clause of this article is for any reason held invalid or inoperative by

any court of competent jurisdiction, such decision shall not affect any other section, paragraph, sentence or clause hereof. (Ord. No. 05-05, §15, 9-6-2005)

§ 98-66 DEFINITIONS.

The definitions of words, terms and phrases contained in the state use tax code, 68 O.S. §1401, 1981, 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:

1. *City* shall mean the City of Purcell, Oklahoma.

2. *Transaction* shall mean sale. (Ord. No. 05-05, §16, 9-6-2005)

§ 98-67 TAX COLLECTOR DEFINED.

The term "tax collector" as used herein means the department of the municipality 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 herein levied. (Ord. No. 05-05, §17, 9-6-2005)

§ 98-68 CLASSIFICATION OF TAXPAYERS.

For the purpose of this article, the classification of taxpayers hereunder shall be as prescribed by state law for purposes of the state use tax code. (Ord. No. 05-05, §18, 9-6-2005)

§ 98-69 PURPOSE OF REVENUES.

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 revenue derived hereunder may be expended by the city council for any purpose for which funds may be lawfully expended and authorized. (Ord. No. 05-05, §19, 9-6-2005)

§ 98-70 – 98-101 RESERVED.

CHAPTER 102

TELECOMMUNICATIONS'"

§ 102-1 Cable television ordinance.

ARTICLE 1

DEFINITIONS OF TERMS

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MISCELLANEOUS PROVISIONS

***Cross references*: Businesses, ch. 18; streets, sidewalks, and other public places, ch. 90; utilities, ch. 110; zoning, ch. 122.**

***State law references*: Municipal certificate, license or permit for the operation of a cable television system, 11 O.S. §22-107.1; cable television, delinquent accounts, fees, 11 O.S. §22-107.2; telecommunications, 17 O.S. §131 et seq.**

CHAPTER 102

TELECOMMUNICATIONS'''

§ 102-1 Cable television ordinance.

§ 102-1 <u>CABLE TELEVISION ORDINANCE</u>.

The city of Purcell, Oklahoma, having determined that the financial, legal, and technical ability of Classic Cable of Oklahoma, Inc., d/b/a Suddenlink Communications, is reasonably sufficient to provide services, facilities and equipment necessary to meet the future cable-related needs of the community, does hereby ordain as follows:

ARTICLE 1

DEFINITIONS OF TERMS

For the purpose of this ordinance (the "ordinance"), the following teams, phrases, words and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

1. "*Affiliate*" means as entity which owns or controls, is owned or controlled by, or is under common ownership or control with Grantee.

2. "*Basic Cable*" means the tier of cable service regularly provided to all subscribers that includes the retransmission of local broadcast television signals.

3. "*Cable service*" means (i) the one-way transmission to subscribers of video programming or other programming service, and (ii) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

4. "*Cable system*" means a facility, consistent of a set of closed transmission paths and associated signal generation, reception, and control equipment or other equipment that is designed to provide cable service or other service to subscriber.

5. "*FCC*" means Federal Communications Commission or successor government entity thereto.

6. "*Franchise*" means the initial authorization or renewal thereof, issued by franchising authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, or otherwise, which authorizes construction and operation of the cable system for the purpose of offering cable service or other service to subscribers.

7. "*Franchising authority*" means the city of Purcell, Oklahoma or the lawful

successor, transferee, or assignee thereof,

8. "*Grantee*" means Classic Cable of Oklahoma, Inc., d/b/a. Suddenlink Communications, or the lawful successor, transferee, or assignee thereof.

9. "*Gross revenues*" means the monthly revenues for the provision of cable service received by grantee from subscribers located within the service area. "Gross revenues" does not include" (i) any revenues received from any advertising carried on the cable system; (ii) any taxes or fees on cable service which are imposed directly or indirectly on any subscriber by any governmental unit or agency, and which are collected by grantee on behalf of such governmental unit or agency; (iii) any revenues derived from services sold on a per channel or per view basis; or (iv) any revenues derived from installation or repair charges,

10. "*Person*" means an individual, partnership, association, joint stock company, trust corporation, or governmental entity.

11. "*Public way*" means the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public rights-of-way; including, but not limited to public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixture or improvements located thereon now or hereafter held by franchising authority in the service area which shall entitle franchising authority and grantee to the use thereof for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use thereof be used for the purposes of installing or transmitting grantee's cable service or other service over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the cable system.

12. "*Service area*" means the present municipal boundaries of franchising authority if franchising authority is a city, and shall include any additions thereto by annexation or other legal means; and means the county boundaries of franchising authority if franchising authority is a county.

13. "*Subscriber*" means a user of the cable system who lawfully receives cable service or other there from with grantee's express permission.

14. "*Video programming*" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

ARTICLE 2

GRANT OF FRANCHISE

2.1 *Grant.* Franchising authority hereby grants to grantee a nonexclusive franchise which authorizes grantee to construct and operate a cable system and offer cable service and other service in, along, among, upon, across, above, over, under, or in any manner connected

with public ways within the service area, and, for that purpose, to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any public way and all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conditions, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the cable system.

2.2 *Term*. The Franchise granted pursuant to this ordinance shall be for an initial term of fifteen (15) years from the passed and adopted date of the franchise unless otherwise lawfully terminated in accordance with the terms of this ordinance.

2.3 *Acceptance*. Grantee shall accept the franchise granted pursuant hereto by signing this ordinance and filing same with the city clerk or other appropriate official or agency of franchising authority within sixty (60) days after the passage and final adoption of this ordinance,

2.4 *Favored nations*. In the event franchising authority enters into a franchise, permit, license, authorization, or other agreement of any kind with any person other than grantee to enter into franchising authority's streets and public ways for the purpose of constructing or operating a cable system or providing cable service to any part of the service area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.

2.5 *Renewal of Franchise*. By mutual consent, the grantee shall have the option to renew this franchise for an additional period not to exceed ten (10) years. Should grantee desire to exercise this option, it shall so notify the franchising authority in writing, not less than three (3) months prior to expiration of this franchise.

ARTICLE 3

STANDARDS OF SERVICE

3.1 Conditions of Street Occupancy. All transmission and distribution structures, pole, other lines, and equipment installed or erected by grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of public ways and with the rights and reasonable convenience of property owners who own property that adjoins any of such public ways.

3.2 *Restoration of Public Ways*. If during the course of grantee's construction, operation, or maintenance of the cable system there occurs a disturbance of any public way by grantee, it shall, at its expense, replace and. restore such public way to a condition reasonably comparable to the condition of the public way existing immediately prior to such disturbance.

3.3 *Relocation at Request of Franchising Authority*. Upon its receipt of reasonable advance notice, not to be less than thirty (30) days, grantee shall, at its own expense, protect,

support, temporarily disconnect, relocate in the public way, or remove from the public way, any property of grantee when lawfully required by franchising authority by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, or water pipes, or any other type of structures or improvement by franchising authority; but, grantee shall in all cases have the right of abandonment of its property. If public funds are available to any company using such street, easement, or right of way for the purpose of defraying the cost of any of the foregoing, such funds shall also be made available to grantee.

3.4 *Relocation at Request of Third Party*. Grantee shall, on the request of any person holding a building moving permit issued by franchising authority, temporarily raise or lower its wires to permit the moving of such building, provided: (a) the expense of such temporary raising or lowing of wires is paid by such person, including, if required by grantee, making such payment in advance; and (b) grantee is given not fewer than then (10) business days advance written, notice to arrange for such temporary wire changes.

3.5 *Trimming of Trees and Shrubbery*. Grantee shall have the authority to trim trees or other natural growth overhanging any of its cable system in the service area so as to prevent branches from coming in contact with grantee's wires, cables, or other equipment. Grantee shall be permitted to charge persons who own, or are responsible for, such trees or natural growth for the cost of such trimming, provided that similar charges are assessed, by and paid to the utilities of franchising authority for tree trimming. Grantee shall reasonably compensate franchising authority or property owner for any damages caused by such trimming, or shall, in its sole discretion and at its own cost and expense, reasonably replace all trees or shrubs damaged as a result of any construction of the system undertaken by Grantee. Such replacement shall satisfy any and all obligations grantee may have to franchising authority or property owner pursuant to the terms of this section.

3.6 *Safety Requirements*. Construction, installation, and maintenance of the cable system shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with applicable FCC or other federal, state, and local regulations. The cable system shall not unreasonably endanger or interfere with the safety of persons or property in the service area.

3.7 *Aerial and Underground Construction*. In those areas of the service area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, grantee likewise shall construct, operate, and maintain all of its transmission and distribution facilities underground; provided that such facilities are actually capable of receiving grantee's cable and other equipment without technical degradation of the cable system's signal quality, In those areas of the service area where the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are both aerial and underground, grantee shall have the sole discretion to construct, operate, and maintain all of its transmissions and distribution facilities, or any part thereof, aerial or underground. Nothing contained in this section 3.7 shall require grantee to construct, operate, and maintain underground any ground-mounted appurtenances such as subscriber taps, line extenders, system passive devices (splitters, directional couplers), amplifiers, power supplies, pedestals, or other related equipment. Notwithstanding anything to the contrary contained in this section 3.7, in the event that all of the

transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are placed underground after the effective date of this ordinance, grantee shall only be required to construct, operate, and maintain all of its transmission and distribution facilities underground if it is given reasonable notice and access to the public utilities' facilities at the time that such are placed underground.

3.8 *Required Extensions of Service*. The cable system, as constructed as of the date of the passage and final adoption of this ordinance, substantially complies with the material provisions hereof grantee is hereby authorized to extend the cable system as necessary, as desirable, or as required pursuant to the terms hereof within the service area. Whenever grantee shall receive a request for service from at least fifteen (15) subscribers within thirteen-hundred and twenty (1320) cable-bearing strand feet (one-quarter cable mile) of its trunk or distribution cable, it shall extend its cable system to such subscribers at no cost to such subscribers for system extension, other than the usual connection fees for all subscribers; provided that such extension is technically feasible, and if it will not adversely affect the operation, financial condition, or market development of the cable system, or as provided for under section 3.9 of this ordinance.

3.9 *Subscriber Charges for Extension of Service*. No subscriber shall be refused service arbitrarily. However, for unusual circumstances, such as a subscriber's request to locate his cable drop underground, existence of more than one-hundred fifty (150) feet of distance from distribution cable to connection of service to subscribers, or a density of fewer than fifteen (15) subscribers per thirteen-hundred and twenty (1,320) cable-bearing strand feet to trunk or distribution cable, cable service or other service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor, and easement. Potential subscribers shall bear the costs of the construction and other costs on pro rata basis. Grantee may require payment in advance of the capital contribution in aid of construction borne by such potential subscribers.

3.10 *Service to Public Buildings*. Grantee shall provide without charge one (1) outlet of basic cable to franchising authority's office building(s) and public school building(s) that are passed by its cable system. The outlets of basic cable shall not be used to distribute or sell cable service in or throughout such buildings; nor shall such outlets be located in common or public areas open to the public. Users of such outlets shall hold grantee harmless from any and all liability or claims arising out of their use of such outlets, including, but not limited to, those arising from copyright liability. Notwithstanding anything to the contrary set forth in this section 3.10, grantee shall not be required to provide an outlet to such buildings where the drop line from the feeder cable to such building or premises exceeds one-hundred fifty (150) cable feet, unless it is technically feasible and it will not adversely affect the operation, financial condition, or market development of the cable system to do so, or unless the appropriate governmental entity agrees to pay the incremental cost of such drop line in excess of one-hundred (150) cable feet. In the event that additional outlets of basic cable are provided to such buildings, the building owner shall pay the usual installation fees associated therewith, including, but not limited to, labor and materials. Upon request of grantee, the building owner may also be required to pay the service fees associated with the provision of basic cable and the additional outlets relating thereto.

ARTICLE 4

REGULATION BY FRANCHISING AUTHORITY

4.1 *Franchise Fee*.

A. Grantee shall pay the franchising authority a franchise fee equal to three p e r c e n t (3%) of gross revenue from the provision of cable services within the franchise area received by grantee on a quarterly basis; provided, however, that grantee may credit against any such payments: (i) any tax, fee, or assessment of any kind imposed by franchising authority or other governmental entity on a cable operator, or subscriber, or both, solely because of their status as such; (ii) any tax, fee or assessment of general applicability which is unduly discriminatory against cable operators or Subscribers (including any such tax, fee, or assessment imposed, both on utilities and cable operators and their services), and (iii) any other special tax, assessment, or fee such as a business, occupation, and entertainment tax. For the purpose of this section, the three (3) month period applicable under the franchise for the computation of the franchise fee shall be a calendar quarter, unless otherwise agreed to in writing by the franchising authority and grantee. The franchise fee payment shall be due and payable sixty (60) days after the close of the preceding calendar quarter. Each payment shall be accompanied by a letter from a representative of grantee showing the basis for the computation.

B. *Limitation on franchise fee actions*. The period of limitation for recovery of any franchise fee payable hereunder shall be three (3) years from the date on which payment by grantee is due. Unless within three (3) years from and after such payment due date franchising authority initiates a lawsuit for recovery of franchise fees in a court of competent jurisdiction, recovery shall be barred and franchising authority shall be stopped from asserting any claims whatsoever against grantee relating to alleged franchise fee deficiencies.

4.2. *Rates and Charges*. Franchising authority may not regulate the rates for the provision of cable service or other service, including, but not limited to, ancillary charges relating thereto, except as expressly provided herein and except as may be authorized pursuant to federal and state law. From time to time, and at any time, grantee has the right to modify its rates and charges, at its discretion and without consent of franchising authority, including, but not limited to, the implementation of additional charges and rates; provided, however, that grantee shall give notice to franchising authority of any such modifications or additional charges thirty (30) days prior to the effective date thereof.

4.3 *Conditions of Sale*. Except to the extent expressly required by federal or state law, if a renewal or extension of the franchise is denied or the franchise is lawfully terminated, and franchising authority either lawfully acquires ownership of the cable system or by its actions lawfully effects a transfer of ownership of the cable system to another party, any such acquisition or transfer shall be at a fair market value, determined on the basis of the cable system valued as a going concern.

Grantee and franchising authority agree that in case of a lawful revocation of the franchise, at grantee's request, which shall be made in its sole discretion, grantee shall be

given a reasonable opportunity to effectuate a transfer of its cable system to a qualified third party. Franchising authority further agrees that during such a period of time, it shall authorize grantee to continue to operate pursuant to the terms of its prior franchise; however, in no event shall such authorization exceed a period of time greater than six (6) months from the effective date of such revocation. If, at the end of that time grantee is unsuccessful in procuring a qualified transferee or assignee of its cable system which is reasonably acceptable to franchising authority, grantee and franchising authority may avail themselves of any rights they may have pursuant to federal or state law; it being further agreed that grantee's continued operation of its cable system during the six (6) month period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either franchising authority or grantee. Notwithstanding anything to the contrary set forth in this section 4.3, neither franchising authority nor grantee shall be required to violate federal or state law.

4.4 *Transfer of Franchise*. All of the rights and privileges and all of the obligations, duties and liabilities created by the franchise shall pass to and be binding upon the successors of the franchising authority and the successors and assigns of grantee; and the same shall not be assigned or transferred without the written approval of the city council, which approval shall not be unreasonably withheld; provided, however, that this section shall not prevent the assignment or hypothecation of the franchise by grantee as security for debt without such approval; and provided further that transfers or assignments of this franchise between any parent and subsidiary corporation or between entities of which at least fifty percent (50%) of the beneficial ownership is held by the same person, persons, or entities which are controlled or managed by the same person, persons, or entities, shall be permitted without the prior approval of the franchising authority ("intra-company transfer"). Grantee shall notify franchising authority in writing within thirty (30) days of the closing of such intra-company transfer.

ARTICLE 5

COMPLIANCE AND MONITORING

5.1 *Books and Records*. Grantee agrees that franchising authority may review such of grantee's books and records, during normal business hours and on a non-disruptive basis, as are reasonably necessary to monitor compliance with the terms hereof. Such records include, but are not limited to, any public records required to be kept by grantee pursuant to the rules and regulations of the FCC. Notwithstanding anything to the contrary set forth herein, grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. Franchising authority agrees to treat any information disclosed to it by grantee as confidential, and to disclose it only to employees, representatives, and agents of franchising authority that have a need to know, or in order to enforce the provisions hereof.

ARTICLE 6

INSURANCE, INDEMNIFICATION, AND BONDS OR OTHER SURETY

6.1 *Insurance Requirements*. Grantee shall maintain in full force and effect during the term of the franchise, at its own cost and expense, comprehensive general liability insurance in the amount of one-million dollars ($1,000,000). Such insurance shall designate franchising authority as an additional insured.

6.2 *Indemnification*. Grantee agrees to indemnify, save and hold harmless, and defend franchising authority, its officers, boards, and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death) which arise out of grantee's construction, operation or maintenance of its cable system, including, but not limited to, reasonable attorney's fees and costs.

6.3 *Bonds and Other Surety*. Except as expressly provided herein, grantee shall not be required to obtain or maintain bonds or other surety as a condition of being awarded the franchise or continuing its existence. Franchising authority acknowledges that the legal, financial, and technical qualifications of grantee are sufficient to afford compliance with the terms of the franchise and the enforcement thereof. Grantee and franchising authority recognize that the costs associated with bonds and other surety may ultimately be borne by the subscribers in the form of increased rates for cable service or other service. In order to minimize such costs, franchising authority agrees to require bonds and other surety only in such amounts and during such times as there is a reasonably demonstrated need thereof. Franchising authority agrees that in no event, however, shall it require a bond or other related surety in an aggregate amount greater than ten-thousand ($10,000), conditioned upon the substantial performance of the material terms, covenants, and conditions of the franchise. Initially, no bond or other surety shall he required. In the event that one is required in the future, franchising authority agrees to give grantee at least sixty (60) days prior written notice thereof stating the exact reason for the requirement. Such reason must demonstrate a change in grantee's legal, financial, or technical qualifications which would materially prohibit or impair its ability to comply with the terms of the franchise or afford compliance therewith.

ARTICLE 7

ENFORCEMENT AND TERMINATION OF FRANCHISE

7.1 *Notice of Violation*. In the event that franchising authority believes that grantee has not complied with the terms of the franchise, it shall notify grantee in writing of the exact nature of the alleged default.

7.2 *Grantee's Right to Cure or Respond*. Grantee shall have sixty (60) days from receipt of the notice described in section 7.1: (a) to respond to franchising authority contesting the assertion of default; (b) to cure such default; or (c) in the event that, by the nature of the default, such default cannot be cured within sixty (60) day period, to initiate

reasonable steps to remedy such default and to notify franchising authority of the steps being taken and the projected date that they will be completed.

7.3 *Public Hearing*. In the event that grantee fails to respond to the notice described in section 7.1 pursuant to the procedures set forth in section 7.2, or in the event that the alleged default is not remedied within one-hundred twenty (120) days after grantee is notified of the alleged default pursuant to section 7.1, franchising authority shall schedule a public meeting to investigate the default. Such public meeting shall be held at the next regularly scheduled meeting of franchising authority which is scheduled at a time which is no fewer than five (5) business days therefrom. Franchising authority shall notify grantee of the time and place of such meeting and provide grantee with an opportunity to be heard.

7.4 *Enforcement*. Subject to applicable federal and state law, in the event franchising authority determines, after such meeting, that grantee is in default of any provision of the franchise, franchising authority may:

A. Foreclose on all or any part of any security provided under the franchise, if any, including, without limitation, any bonds or other surety; provided, however, that the foreclosure shall only be in such a manner and in such amount as franchising authority reasonably determines is necessary to remedy the default;

B. Commence an action at law for monetary damages or seek other equitable relief;

C. In the ease of a substantial default of a material provision of the franchise, declare the franchise agreement to be revoked; or

D. Seek specific performance of any provision which reasonably lends itself to such remedy, as an alternative to damages.

Grantee shall not be relieved of any of its obligations to comply promptly with any provision of the franchise by reason of any failure of franchising authority to enforce prompt compliance.

7.5 *Acts of God*. Grantee shall not be held in default of the provisions of the franchise, nor suffer any enforcement or penalty relating thereto, where such alleged default is caused by strikes, acts of god, power outages, or other events reasonably beyond its ability to control.

ARTICLE 8

UNAUTHORIZED RECEPTION

8.1 *Misdemeanor*. In addition to those criminal and other remedies provided by state and federal law, it shall be a misdemeanor for any person to create or make use inductively, or otherwise, with any part of the cable system without the express consent of grantee. Further, without the express consent of grantee, it shall be a misdemeanor for any

person to tamper with, remove, or injure any property, equipment, or part of cable system or any means of receiving cable service or other service. Subject to applicable federal and state law, franchising authority shall incorporate into its criminal code, if not presently a part thereof, criminal misdemeanor law which shall enforce the intent of section 8.1.

ARTICLE 9

MISCELLANEOUS PROVISIONS

9.1 *Preemption*. If the FCC or any other federal or state body or agency shall now or hereafter exercise any paramount jurisdiction over the subject matter or the exercise of the like jurisdiction by franchising authority, the jurisdiction of franchising authority shall cease and no longer exist.

9.2 *Employee Requirements*. Grantee shall afford equal opportunity in employment to all qualified persons. No person shall be discriminated against in employment because of race, color, religion, national origin or sex. Grantee shall maintain and carry out a continuing program of specific practices designed to assure equal opportunity in every aspect of its employment policies and practices.

9.3 *Actions of Franchising Authority*. In any action by franchising authority or representative thereof mandated or permitted under the terns hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

9.4 *Notice*. Unless expressly otherwise agreed between the parties, every notice or response to be served upon franchising authority or grantee shall he in writing, and shall be deemed to have been duly given to the required party five (5) business days after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail, postage prepaid, at a post office or branch thereof regularly maintained by the U.S. Postal Service.

The notices or responses to franchising authority shall be addressed as follows:

Express Delivery or Packages Only
City of Purcell, Oklahoma
230 W. Main Street
Purcell, Oklahoma 73080

The notices or responses to grantee shall be addressed as follows:

Suddenlink Communications
Attention: Michael Zarrilli
12444 Powerscourt Drive
Suite 450

CC: Suddenlink Communications
Attention: Charles Hembree
2206 N. Green Ave
Purcell, Oklahoma 73080 St Louis, MO

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Franchising authority and grantee may designate such other address or addresses from time to time by giving written notice to the other party.

9.5 *Descriptive Heading*. The captions to sections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

***Ed. Note*: Cable Franchise extended for an additional six (6) months beginning 8/7/2010 and ending 2/7/2011, Ord. No. 10-11, 8/2/2010; Ord. No. 11-02 adopted 1/3/2011.**

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CHAPTER 106

TRAFFIC AND VEHICLES*

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§ 106-4 Persons working on streets, exceptions.
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***Cross references*: Courts, ch. 30; litter from motor vehicles, §46-197; law enforcement, ch. 54; offenses and miscellaneous provisions, ch. 70; streets, sidewalks, and other public places, ch. 90; water, mud from vehicles, §90-33.**

***State law references*: Municipal traffic regulations, 11 O.S. §22-117 et seq.; uniformity of motor vehicle law, 47 O.S. § 15-101; local powers as to traffic, etc., 47 O.S. §15-102.**

ARTICLE 1

IN GENERAL

§ 106-1 Definitions.
§ 106-2 Uniform Vehicle Code adopted.
§ 106-3 Coasters, roller skates, and similar devices.
§ 106-4 Persons working on streets, exceptions.
§ 106-5 Maintenance and construction zones.
§§ 106-6 – 106-30 Reserved.

§ 106-1 DEFINITIONS.

A. The definitions in 47 O.S. §§1-101-1-186 shall be applicable to this chapter.

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

1. *Alley* means any narrow highway ordinarily located in the interior portion of platted blocks and ordinarily used for service or delivery purposes at the rear of stores, dwellings, or buildings.

2. *Ambulance* means a motor vehicle constructed, reconstructed, or arranged for the purpose of transporting ill, sick, or injured persons.

3. *Center lane* means any clearly marked center lane. If the center lane is not marked and no cars are parked on the roadway, then the center lane is equally distanced between the curbs or travelled portion of the roadway. In the event a vehicle or vehicles are parked on one side of the roadway only, then the center lane is equally distanced from the side of the parked vehicle or vehicles toward the street and curb on the opposite roadway. If vehicles are parked on each side of the roadway, then the center lane is equally distanced from the edges of the parked vehicles.

4. *Commercial vehicles* means every vehicle designed, maintained, or used primarily for the transportation of property.

5. *Controlled access highway* means every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.

6. *Department* means the state department of public safety, acting directly or through its duly authorized officers and agents.

7. ***Double park*** **means parking or stopping a vehicle on the roadway side of another vehicle already parked adjacent to the edge or curbing of the roadway.**

8. ***Emergency*** **means an unforeseeable occurrence of temporary duration causing or resulting in an abnormal increase in traffic volume, cessation or stoppage of traffic movement, or creation of conditions hazardous to normal traffic movement, including fire, storm, accident, riot, or spontaneous assembly of large numbers of pedestrians in such a manner as to impede the flow of traffic.**

9. ***Emergency vehicle*** **means vehicles of the fire department, police vehicles, and ambulances.**

10. ***Limit lines*** **means boundaries of parking areas, loading zones, and non-traffic areas and lines indicating the proper place for stopping where stops are required.**

11. Limited access highway. See Controlled access highway.

12. ***Loading zone*** **means a space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or material. A freight curb loading zone is a loading zone for the exclusive use of vehicles during the loading or unloading of freight; a passenger curb loading zone is a loading zone for the exclusive use of vehicles during the loading or unloading of passengers.**

13. ***Official time*** **shall mean whenever certain hours are named in this chapter they shall mean Central Standard Time or daylight savings time, as may be in current use in the city.**

14. ***Public parking lot*** **means a parking lot or right-of-way dedicated to public use or owned by the state or a political subdivision thereof.**

15. ***School zone*** **means all streets or portions of streets immediately adjacent to a school or school ground where the same is adjacent and for a distance of 300 feet in each direction.**

16. ***U-turn*** **means a turn by which a vehicle reverses its course of travel on the same street. (Prior Code 1991, §15-103)**

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

State law reference**: Highway Safety Code, definitions, 47 O.S. §1-101 et seq.**

§ 106-2 UNIFORM VEHICLE CODE ADOPTED.

The provisions of the Uniform Vehicle Code (47 O.S. §1-101 et seq.), including, but not limited to, the Rules of the Road (47 O.S. §1-101 et seq.), are hereby adopted incorporated in this section by reference and are enforceable by the city within the city limits as fully as

if set out at length in this section. (Prior Code 1991, §15-104)

§ 106-3 COASTERS, ROLLER SKATES, AND SIMILAR DEVICES.

A. No person upon roller skates or riding in or by means of any skateboard, coaster, toy vehicle, or similar device shall go upon any roadway except while crossing a street on a crosswalk, and when so crossing, such person shall be subject to all of the duties applicable to pedestrians.

B. No person shall ride a skateboard upon a sidewalk within a business district.

C. The city council, by motion or resolution, is authorized to have erected signs on any sidewalk or roadway prohibiting the riding of skateboards thereon by any person, and when such signs are in place, no person shall disobey the same.

D. Whenever any person is riding a skateboard 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. (Prior Code 1991, §15-207)

§ 106-4 PERSONS WORKING ON STREETS, EXCEPTIONS.

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. All street or highway and public utility operations shall be protected by adequate warning signs, signals, devices, or flag persons. The provisions of this chapter shall apply to any of the persons and vehicles exempted by this section when traveling to and from such work. (Prior Code 1991, §15-209)

***State law reference*: Similar provisions, 47 O.S. §11-105.**

§ 106-5 MAINTENANCE AND CONSTRUCTION ZONES.

A. *Authority for closure.* City personnel or contractors, while repairing or improving the streets of the city, and city personnel and utility companies, when installing, improving, or repairing lines or other utility facilities in the streets, are hereby authorized as necessary, subject to control by the city manager, to close any street or section thereof to traffic during such repair, maintenance, or construction. In exercising this authority, the appropriate personnel, contractor, or utility company shall erect or cause to be erected proper control devices and barricades to warn and notify the public that the street has been closed to traffic.

B. *Driving onto closed streets prohibited; exceptions.* When any street has been closed to traffic under the provisions of subsection A of this section and traffic control devices or barricades have been erected, it is unlawful for any person to drive any vehicle

through, under, over, or around such traffic control devices or barricades or otherwise to enter the closed area. The provisions of this subsection shall not apply to persons entering the closed area or zone for the protection of lives or property. Persons having their places of residence or places of business within the closed area may travel, when possible to do so, through the area at their own risk.

C. ***Traffic control devices required; obedience.*** **Whenever construction, repair, or maintenance of any street or utility line or facility is being performed under traffic, the city personnel, contractor, or utility company concerned shall erect, or cause to be erected, traffic control devices to warn and guide the public. Every person using the street shall obey all signs, signals, markings, flag persons, or other traffic control devices which are placed to regulate, control, and guide traffic through the construction or maintenance area.**

D. ***Determination of speed.*** **Where any street in the city limits shall be under construction or repair or a detour shall have been designated by reason of construction or repairs in progress and the city shall have determined a maximum safe, careful, and prudent speed on the street or detour during the period of the construction or repairs and shall have plainly posted at each terminus thereof the determined maximum speed, no person shall drive any vehicle upon the portion of the street or upon the detour at a speed in excess of the speed so determined and posted.**

E. ***Doubling of fines.*** **Violation of the posted speed limit in the maintenance or construction zone may result in the doubling of the appropriate fine. For purposes of this section, "maintenance or construction zone" means any location where maintenance or construction work is actually in progress and workers present. (Prior Code 1991, §15-210; Ord. No. 01-08, §§1, 2, 8-6-2001)**

§§ 106-6 –106-30 RESERVED.

ARTICLE 2

ENFORCEMENT

§ 106-31 Penalties.
§ 106-32 Enforcement of traffic laws.
§ 106-33 Direction of traffic-by hand or voice.
§ 106-34 Same-by unauthorized persons.
§ 106-35 Obedience to police and fl1'e officials.
§ 106-36 Emergency and experimental regulations.
§ 106-37 Issuance of citation tags.
§ 106-38 Disposition and records of traffic citations and complaints.
§ 106-39 When copies of citations shall be deemed a lawful complaint.
§ 106-40 Failure to obey promise to appear.
§ 106-41 Compliance with citations attached to vehicle.
§ 106-42 Presumption in reference to illegal parking.
§ 106-43 Illegal cancellation of traffic citations.

§ 106-44 Violation by parent of child or by owner of vehicle.
§§ 106-45-106-70 Reserved.

§ 106-31 PENALTIES.

Except as otherwise provided in this chapter, any person violating any of the provisions of this chapter or who performs any unlawful act as defined in this chapter, or who fails to perform any act required by this chapter, shall be guilty of an offense and upon conviction thereof shall be punished as provided in Section 1-12 of this Code. (Prior Code 1991, §15-1402)

§ 106-32 ENFORCEMENT OF TRAFFIC LAWS.

It is the duty of the officers of the police department or any officers that are assigned by the chief of police to enforce all traffic laws of this city and all the state vehicle laws applicable to traffic in this city. Officers of the department shall make arrests for traffic violations, investigate accidents, and cooperate with other officers 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 this city. Officers may issue written notice to appear to any driver of a vehicle involved in an accident when, based on personal investigation, the officer has reasonable and probable grounds to believe that the person has committed an offense under the provisions of the traffic code in connection with the accident. (Prior Code 1991, §15-201)

§ 106-33 DIRECTION OF TRAFFICE – BY HAND OR VOICE.

A. Officers of the police department or any officers designated by the chief of police are hereby authorized to direct traffic by voice, hand, or signal in conformance with traffic laws and ordinances. 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.

B. Officers of the fire department, when at the scene of a fire, or other emergency, may direct or assist the police in directing traffic in the immediate vicinity. (Prior Code 1991, §15-202)

§ 106-34 SAME-BY UNAUTHORIZED PERSONS.

No unauthorized person shall direct or attempt to direct traffic, except in case of emergency where no officer is present. (Prior Code 1991, §15-203)

§ 106-35 OBEDIENCE TO POLICE AND FIRE OFFICIALS.

No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official. (Prior Code 1991, §15-204)

***State law reference*: Similar provisions, 47 O.S. §11-103.**

§ 106-36 EMERGENCY AND EXPERIMENTAL REGULATIONS.

A. The city manager, subject to any directions which the council may give by motion or resolution, is empowered to adopt regulations necessary to make effective the provisions of the traffic ordinances of this city and to make temporary or experimental regulations to cover emergencies or special conditions. No such temporary or experimental regulation shall remain in effect for more than ninety (90) days.

B. The city manager may have traffic control devices tested under actual conditions of traffic. (Prior Code 1991, §15-205)

§ 106-37 ISSUANCE OF CITATION TAGS.

A. Police officers are hereby authorized to give notice to persons violating provisions of this chapter by delivering citation tags to violators or, in cases where vehicles without drivers are parked or stopped in violation of this chapter, by affixing such tags to the vehicles by means of which the violation the occurred. Such citation tags, among other things, shall bear briefly the charge, shall bear the registration number of the vehicle, and shall direct the violator to present the tag at the police station or other designated place within the time as may be specified thereon.

B. Nothing in this section shall be construed to abridge the power of a police officer to arrest any violator and take him into custody.

C. The city manager may require that the police officers use citation tags furnished by the city clerk and that such tags are serially numbered, and may regulate the use and handling of the citation tags. (Prior Code 1991, §15-220)

§ 106-38 DISPOSITION AND RECORDS OF TRAFFIC CITATIONS AND COMPLAINTS.

A. *Delivery to superior officer, municipal court, and central records section; retention in citation book and delivery to city clerk.* Every police officer upon issuing a traffic citation to an alleged violator of any provision of this traffic ordinance, shall deposit the original and a duplicate copy of the citation to an immediate superior officer who, shall cause the original to be delivered to the municipal court of the city and the duplicate copy to the central records section of the police department.

B. *Disposition or dismissal.* Upon the filing of such original citation in the municipal court of this city, the citation may be disposed of by the city attorney, by trial in the court or by other official action by a judge of the court, including the settlement of bail or the payment of a fine, or may be dismissed by the judge, in his opinion the actions complained of do not constitute a violation of traffic ordinances.

C. ***Return to chief of police.*** **The chief of police shall require the return to him of each traffic citation and all copies thereof except that copy required to be retained in the book as provided in this section, which has been spoiled or upon which an entry has been made, and has not been issued to an alleged violator.**

D. ***Chief to maintain record of disposition.*** **The chief of police shall also maintain or cause to be maintained in connection with every traffic citation issued by a member of the police department a record of the disposition of the charge by the municipal court of the city.**

E. ***Chief to maintain record of warrants, traffic fines, and final disposition of warrant.*** **The chief of police shall also maintain or cause to be maintained a record of all warrants issued by the municipal court of the city, all the traffic fines which are delivered to the police department for service, and of the final disposition of the warrant.**

F. ***Inappropriate disposal deemed official misconduct.*** **It is unlawful and official misconduct for any member of the police department or other officer of public employ to dispose of, alter, or deface any traffic citation or any copy thereof or the record of issuance of any traffic citation, complaint, or warrant in any manner other than is required in this section. (Prior Code 1991, §15-221)**

§ 106-39 WHEN COPIES OF CITATIONS SHALL BE DEEMED A LAWFUL COMPLAINT.

In the event the form of citation provided in this section includes information and is sworn to, then such citation, when filed with the municipal court, shall be deemed to be a lawful complaint for the purpose of prosecution under this chapter. (Prior Code 1991, §15-222)

§ 106-40 FAILURE TO OBEY PROMISE TO APPEAR.

It is unlawful and an offense for any person to violate his written promise to appear given to an officer upon the issuance of a traffic citation regardless of the disposition of the charge for which citation was originally issued. (Prior Code 1991, §15-223)

§ 106-41 COMPLIANCE WITH CITATIONS ATTACHED TO VEHICLE.

If a violator of the restrictions on stopping, standing, or parking under the traffic laws or ordinances does not appear in response to a traffic citation affixed to such motor vehicle within a period of days as specified on the citation, the clerk of the municipal court may send to the owner of the motor vehicle to which the traffic citation was affixed a letter informing him of the violation and warning him that in the event such letter is disregarded for the specified period of days, a warrant of arrest may be issued. On any occasion where two or more such traffic citations have been affixed on the same motor vehicle and the traffic citations have been disregarded, a warrant of arrest may be issued without sending the letter provided in this section. (Prior Code 1991, §15-224)

§ 106-42 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING.

A. 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 law or regulation, together with proof that the defendant named in the complaint was at the time of the parking the registered owner of the vehicle, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who parked or placed the vehicle at the point where, and for the time during which, the violation occurred.

B. The presumption in subsection A of this section shall apply only when the procedure as prescribed in this chapter has been followed. (Prior Code 1991, §15-225)

§ 106-43 ILLEGAL CANCELLATION OF TRAFFIC CITATIONS.

It is unlawful for any person to cancel or solicit the cancellation of any traffic citation in any manner other than is provided by this chapter. (Prior Code 1991, §15-226)

§ 106-44 VIOLATION BY PARENT OF CHILD OR BY OWNER OF VEHICLE.

A. It is an offense against the city for the parent of any child or for the guardian of any ward to authorize or knowingly permit any such child or ward to violate any of the provisions of this chapter.

B. It is an offense for any person to authorize or knowingly to permit any vehicle registered in his name to be driven or to stand or to be parked in violation of any of the provisions of this chapter. (Prior Code 1991, §15-1401(B), (C))

§§ 106-45 –106-70 RESERVED.

ARTICLE 3

VEHICLE EQUIPMENT, SIZE*

§ 106-71 Vehicles or objects injurious to street.
§ 106-72 Obstructive and dangerous vehicles.
§§ 106-73-106-95 Reserved.

§ 106-71 VEHICLES OR OBJECTS INJURIOUS TO 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. (Prior Code 1991, §15-301)

§ 106-72 OBSTRUCTIVE AND DANGEROUS VEHICLES.

No person shall drive any vehicle in such 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 chief of police and in accordance with the terms of such permit. (Prior Code 1991, §15-302)

***State law reference*: Equipment of vehicles, 47 O.S. §12-101 et seq.**

§§ 106-73 – 106-95 RESERVED.

ARTICLE 4

TRAFFIC CONTROL DEVICES

§ 106-96 Authority of city manager.
§ 106-97 Uniform requirements.
§ 106-98 Obedience to official traffic control devices.
§ 106-99 When official traffic control devices required for enforcement purposes.
§ 106-100 Designation of crosswalks and safety zones.
§ 106-101 Traffic lanes.
§ 106-102 Corner cutting prohibited to avoid devices.
§§ 106-103 - 106-125 Reserved.

§ 106-96 AUTHORITY OF CITY MANAGER.

The city manager, subject to any directions given by the city council by motion or resolution, shall have placed and maintained traffic control signs, signals, and markings when and as required under the traffic ordinances of this city to make effective the provisions of such ordinances and may have placed and maintained such additional traffic control signs, signals, and markings as he may deem necessary to regulate traffic under the traffic ordinances of this city or under state law or to guide or warn traffic. (Prior Code 1991, §15-601)

***State law reference*: Traffic control devices, 47 O.S. §11-201 et seq.**

§ 106-97 UNIFORM REQUIREMENTS.

All traffic control signs, signals, and devices shall conform to the manual and specifications for a uniform system of traffic control device adopted by the state transportation commission. (Prior Code 1991, § 15-602)

§ 106-98 OBEDIENCE TO OFFICIAL TRAFFIC CONTROL DEVICES.

The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exemptions granted the driver of an authorized emergency vehicle in this chapter. (Prior Code 1991, §15-603)

***State law reference*: Drivers to obey traffic control devices, 47 O.S. §11-201.**

§ 106-99 WHEN OFFICIAL TRAFFIC CONTROL DEVICES REQUIRED FOR ENFORCEMENT PURPOSES.

No provision of this chapter for which official traffic control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official traffic control device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that official traffic control devices are required, such section shall be effective even though no official traffic control devices are erected or in place. (Prior Code 1991, §15-604)

§ 106-100 DESIGNATION OF CROSSWALKS AND SAFETY ZONES.

The city manager, subject to any direction given by the city council, may:

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; and

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. (Prior Code 1991, §15-613)

§ 106-101 TRAFFIC LANES.

The city manager, subject to any directions given by the city council, may be authorized to have traffic lanes marked upon the roadway of any street where a regular alignment of traffic is necessary. (Prior Code 1991, §15-614(A))

***State law reference*: Driving on roadways laned for traffic, 47 O.S. §11-309.**

§ 106-102 CORNER CUTTING PROHIBITED TO AVOID DEVICES.

No driver shall drive through a service station driveway or other driveway or private property so as to avoid the use of a street or traffic control device. (Prior Code 1991, §15-615)

§§ 106-103 – 106-125 RESERVED.

ARTICLE 5

DRIVING; OVERTAKING; PASSING

§ 106-126 Driving through funeral or other procession.

§ 106-127 Drivers in a procession.
§ 106-128 Overtaking and passing in school zones.
§ 106-129 Driving on sidewalk.
§ 106-130 Careless or negligent driving, stopping, or parking.
§ 106-131 Full time and attention.
§ 106-132 Driving in a careful and prudent manner.
§ 106-133 Speed contests prohibited.
§ 106-134 Permits required for parades and processions.
§ 106-135 Starting parked vehicle.
§ 106-136 Boarding or alighting from vehicles.
§ 106-137 Unlawful riding.
§ 106-138 Service drives.
§ 106-139 Truck driving and route restrictions.
§ 106-140 Through streets.
§ 106-141 Intersections where stop or yield required.
§ 106-142 Vehicles entering traffic from parking.
§ 106-143 Stop when traffic obstructed.
§ 106-144 Obedience to signal indicating approach of train.
§ 106-145 Seat belts and child passenger restraints required.
§§ 106-146 – 106-170 Reserved.

§ 106-126 DRIVING THROUGH FUNERAL OR OTHER PROCESSION.

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 identified as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic control signals or police officers. (Prior Code 1991, §15-510)

***State law reference*: Powers of local authorities to regulate processions, 47 O.S. §15-102.**

§ 106-127 DRIVERS IN A PROCESSION.

Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as close as is practical and safe. (Prior Code 1991, §15-511)

§ 106-128 OVERTAKING AND PASSING IN SCHOOL ZONES.

A. No driver of a vehicle shall pass any other vehicle which is in motion and being driven in the same direction in any school zone between the hours posted on all days when schools are in session.

B. Wherever a school zone is located on a multiple-lane street which is divided into three or more clearly marked lanes for traffic or where the right half of the roadway has been divided into two or more lanes or on one-way streets, vehicles shall be allowed to

pass slower moving vehicles being driven in the same direction where passing does not involve a change of lane movement. (Prior Code 1991, §15-513)

§ 106-129 DRIVING ON SIDEWALK.

No person shall drive any vehicle over or upon any sidewalk area except at a permanent or temporary driveway. (Prior Code 1991, §15-516)

***Cross reference*: Streets, sidewalks, and other public places, ch. 90.**

§ 106-130 CARELESS OR NEGLIGENT DRIVING, STOPPING, OR PARKING.

It is unlawful for any person to drive, use, operate, park, cause to be parked, or stop any vehicle:

1. In a careless manner;

2. In a negligent manner;

3. In such a manner as to endanger life, limb, person, or property; or

4. In such a manner or condition as to interfere with the lawful movement of traffic or use of the streets. (Prior Code 1991, §15-523)

§ 106-131 FULL TIME AND ATTENTION.

The operator of every vehicle while driving upon the streets and highways of the city shall devote full time and attention to such driving. (Prior Code 1991, §15-524)

§ 106-132 DRIVING IN A CAREFUL AND PRUDENT MANNER.

Any person driving a vehicle on a public road or way shall drive the same in a careful and prudent manner and at a careful and prudent speed not greater than nor less than is reasonable and proper, having due regard to the traffic, surface, and width of the public way and any other conditions then existing. (Prior Code 1991, §15-525)

§ 106-133 SPEED CONTESTS PROHIBITED.

A. No person shall engage in, aid, or abet any motor vehicle speed contest or exhibition of speed on any street or highway.

B. No person shall for the purpose of facilitating or aiding or as an incident to any motor vehicle speed contest upon any street or highway in any manner obstruct or place any barricade or obstruction upon any street or highway.

C. When three or more persons assemble to witness or participate in an

unlawful speed contest such assembly is an unlawful assembly and any person who participates in such unlawful assembly is guilty of an offense. (Prior Code 1991, §15-528)

§ 106-134 PERMITS REQUIRED FOR PARADES AND PROCESSIONS.

No procession or parade containing two-hundred (200) or more persons or fifty (50) or more vehicles, except the military forces of the United States and the military forces of this state, shall occupy, march, or proceed along any street except in accordance with a permit issued by the chief of police and such other regulations as are set forth in this chapter which may apply. (Prior Code 1991, §15-529)

***State law reference*: Power of local authorities to regulate processions, 47 O.S. §15-102.**

§ 106-135 STARTING PARKED VEHICLE.

No person shall start a vehicle which is stopped, standing, or parked unless and until such movement can be made with reasonable safety. (Prior Code 1991, §15-531)

§ 106-136 BOARDING OR ALIGHTING FROM VEHICLES.

No person shall board or alight from any vehicle while such vehicle is in motion. (Prior Code 1991, §15-534)

§ 106-137 UNLAWFUL RIDING.

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. (Prior Code 1991, §15-535)

§ 106-138 SERVICE DRIVES.

It is unlawful for any person to operate any vehicle through a service drive situated at a street intersection within the city unless the operator of such vehicle transacts business on the premises where such service drive is located. (Prior Code 1991, §15-537)

§ 106-139 TRUCK DRIVING AND ROUTE RESTRICTIONS.

The city manager, subject to such directions as the city council may give, may prescribe routes through the city for the use of trucks in general, trucks of particular kinds, or other vehicles which are not ordinary private passenger vehicles passing through the city. Appropriate and adequate signs shall be 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 prescribed, as provided in this section, 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. (Prior Code 1991, §15-538)

§ 106-140 THROUGH STREETS.

A. The city manager, subject to such direction as the city council may give, may designate any street or part of a street a through street.

B. Whenever the city manager designates and describes a through street, the stop sign, or yield sign if deemed more appropriate, shall be placed and maintained on every street intersecting a through street or intersecting that portion thereof, unless traffic at such intersection is controlled at all times by traffic control signals.

C. 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 signs shall be erected at the approaches of either of the street as may be determined by the city manager if deemed desirable. (Prior Code 1991, §15-545)

***Cross reference*: Streets, sidewalks, and other public places, ch. 90.**

§ 106-141 INTER§TIONS WHERE STOP OR YIELD REQUIRED.

The city manager, subject to any directions given by the city council by motion or resolution, is hereby authorized to determine and designate intersections upon other than through streets where particular hazards exist and to determine whether:

1. Vehicles shall stop at one or more entrances to any such stop intersection, in which event he shall cause to be erected a stop sign at every such place a stop is required; or

2. Vehicles shall yield the right-of-way to vehicles on a different street as provided in this chapter, in which event he shall cause to be erected a yield sign at every place where yield is required. (Prior Code 1991, §15-546)

§ 106-142 VEHICLES ENTERING TRAFFIC FROM PARKING.

Any vehicle attempting to reenter traffic while parked at the curb shall yield the right-of-way to oncoming traffic in the street approaching from the rear. The parked vehicle shall proceed into the line of traffic only after the driver has given the appropriate signal which indicates his intention of turning from the curb and into the line of traffic. The vehicle shall in no event enter the line of traffic until the driver has ascertained that no hazard exists. (Prior Code 1991, §15-551)

§ 106-143 STOP WHEN TRAFFIC OBSTRUCTED.

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 without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed. (Prior Code 1991, §15-553)

§ 106-144 OBEDIENCE TO SIGNAL INDICATING APPROACH OF TRAIN.

A. Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

1. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;

2. A crossing gate is lowered or when a human flag person gives or continues to give a signal of the approach or passage of a railroad train;

3. A railroad train approaching within approximately one-thousand five-hundred (1,500) feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; or

4. An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

B. No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. (Prior Code 1991, §15-554)

§ 106-145 SEAT BELTS AND CHILD PASSENGER RESTRAINTS REQUIRED.

A. Every operator and front seat passenger of a passenger car operated in this city shall wear a properly adjusted and fastened safety belt system, required to be installed in the motor vehicle when manufactured pursuant to Federal Motor Vehicle Safety Standard 208. For the purposes of this section, "passenger car" shall mean "vehicle" as defined in 47 O.S. § 1102, except that "passenger car" shall not include trucks, truck-tractors, recreational vehicles, motorcycles, motorized bicycles or vehicles used primarily for farm use and licensed pursuant to state law, 47 O.S. §1134. Violation of this subsection shall be considered in and of itself as grounds for stopping a vehicle if that is the only violation observed by the officer.

B. Subsection A shall not apply to an operator or passenger of a passenger car

in which either the operator or passenger possess written verification from a physician licensed in this state that he or she is unable to wear a safety belt system for medical reasons. The issuance of such a verification by a physician, in good faith, shall not give rise to, nor shall such physician thereby incur, any liability whatsoever in damages or otherwise, to any person injured by reason of such failure to wear a seat belt system. Subsection A shall not apply to an operator of a motor vehicle who is a route carrier of the U.S. Postal Service.

C. Every driver when transporting a child under four years of age in a motor vehicle operated on the roadways, streets, or highways of this city shall provide for the protection of the child by properly using a child passenger restraint system or a properly secured seat belt in the rear seat of the motor vehicle. For purposes of this subsection, "child passenger restraint system" means an infant or child passenger restraint system that meets the federal standards for crash-tested restraint systems as set by the United States Department of Transportation. Children four years of age and above shall be protected by the use of a child passenger restraint system or a seat belt.

The provisions of this subsection shall not apply to:

1. The driver of a school bus, taxicab, moped, motorcycle, or other motor vehicle not required to be equipped with safety belts pursuant to state or federal laws;

2. The driver of an ambulance or emergency vehicle;

3. A driver of a vehicle if all of the, seat belts in the vehicle are in use; and

4. The transportation of children who for medical reasons are unable to be placed in such devices.

A law enforcement officer is hereby authorized to stop a vehicle if it appears that the driver of the vehicle has violated the provisions of this subsection. The officer shall have the option of advising the driver of the possible danger to children resulting from the failure to install or use a child passenger restraint system or seat belts in the motor vehicle or issue a ticket for such violation. A violation of the provisions of this subsection shall not be admissible as evidence in any civil action or proceeding for damages. In any action brought by or on behalf of an infant for personal injuries or wrongful death sustained in a motor vehicle collision, the failure of any person to have the infant properly restrained in accordance with the provisions of this subsection shall not be used in aggravation or mitigation of damages.

D. Any person convicted of violating subsection A shall be punished by a fine and costs as allowed by state law.

E. Any person convicted of violating subsection C shall be punished by a fine and costs as allowed by state law. This fine shall be suspended in the case of the first offense upon proof of purchase or acquisition by loan of a child passenger restraint system. (Prior

Code 1991, §15-556; Ord. No. 91-2101, §2, 6-3-1991; Ord. No. 97-13, §1, 1-5-1998; Ord. No. 06-04, §1, 3-6-2006)

***Editor's Note*: Ord. No. 06-04, §1, adopted March 6, 2006, changed the title of §106-145 from "Seat belts" to "Seat belts and child passenger restraints required."**

§§ 106-146 –106-170 RESERVED.

ARTICLE 6

TURNING MOVEMENTS

§ 106-171 Turning markers or indicators.
§ 106-172 Designation of restricted turns.
§ 106-173 U-turns.
§§ 106-174 - 106-200 Reserved.

§ 106-171 TURNING MARKERS OR INDICATORS.

A. The city manager, subject to any directions given by the city council by motion or resolution, is authorized to place markers, buttons, or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections. The course to be traveled, as so indicated, may conform to or be other than as prescribed by law.

B. When authorized markers, buttons, or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications. (Prior Code 1991, §15-901)

§ 106-172 DESIGNATION OF RESTRICTED TURNS.

The city manager is hereby authorized to determine those street intersections at which drivers of vehicles shall not make right, left, or U-turns and shall have proper signs placed at the intersections. The making of the turns may be prohibited between certain hours of any day and permitted at other hours. Where turns are restricted during certain hours pursuant to this section, the same shall be plainly indicated on the signs or they may be removed when turns are permitted. (Prior Code 1991, §15-902)

§ 106-173 U-TURNS.

A. The driver of a vehicle shall not turn the vehicle so as to proceed in the opposite direction upon any street in the city at the following locations:

1. At intersections controlled by traffic control devices or signals unless such turns are specifically authorized;

2. Where a police officer is directing traffic except at the latter's direction; or

3. At any other location where an official "No U-turn" has been placed and is maintained.

B. A U-turn may be made only when it can be made in safety and without interfering with other traffic. No person shall make a U-turn except in the following manner:

1. By approaching the intersection as closely as practical to the right curb or edge of the roadway, the driver giving and continuing to give a signal for a left turn until the turn is completed, proceeding to make the turn across the intersection;

2. In one continuous movement without stopping or backing the vehicle;

3. By yielding the right-of-way at all times to all vehicles until such turn in completed; and

4. Without constituting a hazard to or interfering with any other vehicle. (Prior Code 1991, §15-904)

§§ 106-174 –106-200 RESERVED.

ARTICLE 7

SPEED*

§ 106-201 Speed limits generally; exceptions.
§ 106-202 School zones.
§ 106-203 Obedience to maximum and minimum speed limits.
§§ 106-204 - 106-225 Reserved.

§ 106-201 SPEED LIMITS GENERALLY; EXCEPTIONS.

A. No vehicle shall be driven at a greater speed than twenty-five (25) miles per hour upon any street or highway within the city except:

1. Emergency vehicles being lawfully driven as provided in this Code; or

2. When a different speed limit is otherwise designated and posted.

B. The city manager may reduce or increase the speed limits provided in this Code by the appropriate placement of signs on such streets or parts of streets indicating a lower or higher speed limit. (Prior Code 1991, §15-401)

§ 106-202 SCHOOL ZONES.

No vehicle shall be driven at a greater speed than that posted speed per hour between the hours posted on any street adjacent to any school in a designated school zone on days when school is in session unless a different speed limit or time is otherwise designated and posted. (Prior Code 1991, §15-402)

§ 106-203 OBEDIENCE TO MAXIMUM AND MINIMUM SPEED LIMITS.

Where official signs and markings give notice of both maximum and minimum speed limits in effect on any street, no vehicle shall be driven at rates in excess of the maximum nor slower than the minimum except as required by an authorized officer or in obedience to posted official signs. (Prior Code 1991, §15-405)

***State law references*: Speed restrictions, 47 O.S. §11801 et seq.; local authority to set speed limits, 47 O.S. §§11-803, 15-102.**

§§ 106-204 –106-225 RESERVED.

ARTICLE 8

STOPPING, STANDING, AND PARKING

DIVISION 1

GENERALLY

§ 106-226 Illegal parking declared public nuisance.
§ 106-227 Application of standing or parking regulations.
§ 106-228 Parking time limits may be established; signs.
§ 106-229 Parking more than seventy-two (72) hours.
§ 106-230 Brakes; motor not to be left running.
§ 106-231 Signs or markings indicating angle parking.
§ 106-232 Obedience to angle-parking signs or markings.
§ 106-233 Parking in spaces marked off.
§ 106-234 Permits for loading or unloading at an angle to the curb.
§ 106-235 Hazardous or congested places; stopping, standing, parking.
§ 106-236 Stopping, standing, or parking prohibited in specified places.
§ 106-237 Standing or parking-on one-way roadway.
§ 106-238 Same-on left side of one-way streets.
§ 106-239 Parking adjacent to schools.
§ 106-240 Parked vehicles not to extend too far into street.
§ 106-241 Parking prohibited on narrow streets.
§ 106-242 Parking in alleys, blocking driveways.
§ 106-243 Entry on private property; trespass; evidence; burden of proof.
§ 106-244 Truck parking prohibited in certain areas.

§ 106-245 Double parking.
§ 106-246 Parking prohibited for trucks transporting hazardous materials.
§ 106-247 Parking for certain purposes prohibited.
§ 106-248 Method of parking, standing or parking close to curb.
§ 106-249 Negligent parking.
§ 106-250 Right-of-way to parallel parking space.
§§ 106-251 - 106-275 Reserved.

§ 106-226 ILLEGAL PARKING DECLARED PUBLIC NUISANCE.

Any vehicle in violation of any regulation contained in this article governing, limiting, or prohibiting the parking or standing of a vehicle on any street or public thoroughfare is hereby declared to constitute a public nuisance, and each separate traffic citation issued as authorized in this division for such violation shall constitute a separate notice thereof to the owner or operator of such vehicle. (Prior Code 1991, §15-701)

§ 106-227 APPLICATION OF STANDING OR PARKING REGULATIONS.

The provisions of this article shall not be applicable when it is necessary for a vehicle to stop to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device. (Prior Code 1991, §15-702)

§ 106-228 PARKING TIME LIMITS MAY BE ESTABLISHED; SIGNS.

The city manager, subject to any directions given by the city council by motion or resolution, may establish parking time limits or prohibit parking on designated streets or parts of streets and have appropriate signs placed on the streets. When the signs are in place, it is unlawful for any person to park a vehicle in violation of such signs. (Prior Code 1991, §15-703)

§ 106-229 PARKING MORE THAN SEVENTY-TWO (72) HOURS.

No person shall park a vehicle on any street for a period of time longer than twenty-four (24) hours. The parking of a vehicle for more than seventy-two (72) hours shall constitute prima facie evidence of abandonment of the vehicle. (Prior Code 1991, §15-704)

§ 106-230 BRAKES; MOTOR NOT TO BE LEFT RUNNING.

Adequate brakes shall be set on all parked vehicles. No driver of a motor vehicle shall leave the vehicle with the motor running while parked. (Prior Code 1991, §15-705)

§ 106-231 SIGNS OR MARKING INDICATING ANGLE PARKING.

The city manager, subject to any directions given by the city council by motion or resolution, shall determine upon what streets and parts of streets angle parking shall be permitted and shall have such streets marked or signed. (Prior Code 1991, §15-706)

***State law reference*: Angle parking, 47 O.S. §11-1004(c).**

§ 106-232 OBEDIENCE TO ANGLE, PARKING SIGNS OR MARKINGS.

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. (Prior Code 1991, §15-707)

§ 106-233 PARKING IN SPACES MARKED OFF.

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. (Prior Code 1991, §15-708)

§ 106-234 PERMITS FOR LOADING OR UNLOADING AT AN ANGLE TO THE CURB.

A. The city manager is authorized to issue special permits to permit the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of such permit. Such permits may be issued to either the owner or the lessee of real property or to the owner of the vehicle and shall grant to such person the privilege as therein stated and authorized in this section. The city manager may revoke such permits at any time.

B. It is unlawful for any permittee or other person to violate any of the special terms or conditions of any such permit. (Prior Code 1991, §15-709)

§ 106-235 HAZARDOUS OR CONGESTED PLACES; STOPPING, STANDING, PARKING.

A. The city manager is hereby authorized to determine and regulate by proper signs the stopping, standing, or parking of vehicles when such stopping, standing, or parking would create an especially hazardous condition or would cause unusual delay to traffic.

B. When official signs are erected at hazard0us or congested places, as authorized in subsection A of this section, no person shall violate such signs. (Prior Code 1991, §15-710)

§ 106-236 STOPPING, STANDING, OR PARKING PROHIBITED IN SPECIFIED PLACES.

A. No person shall stop, stand, or park a vehicle, except in emergencies or when necessary to avoid conflict with other traffic or in compliance with the law or the directions of a police officer or traffic control device, in any of the following places:

1. On a sidewalk, sidewalk area, or between the sidewalk and the street;

2. In front of a public or private driveway;

3. Within an intersection;

4. Within fifteen (15) feet of a fire hydrant except in a parking space officially marked;

5. On a crosswalk;

6. Within twenty (20) feet of a crosswalk at an intersection;

7. Within thirty (30) feet upon the approach to any flashing beacon, stop sign, or traffic control signal located at the side of a roadway;

8. Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless a different length has been indicated by signs or markings;

9. Within fifty (50) feet of the nearest rail of a railroad crossing;

10. Within twenty (20) feet of the driveway entrance to any fire station and on the side of the street opposite the entrance to any fire station within seventy-five (75) feet of the entrance when properly sign-posted;

11. Alongside or opposite any street excavation or construction when stopping, standing, or parking would obstruct traffic;

12. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

13. Upon any bridge or other elevated structure upon a highway or within a highway tunnel; or

14. At any place where official signs prohibit stopping.

B. No person shall move a vehicle not lawfully under his control into any prohibited area or an unlawful distance away from a curb. (Prior Code 1991, §15-711)

***State law reference*: Similar provisions, 47 O.S. §11-1003.**

§ 106-237 STANDING OR PARKING-ON ONEWAY ROADWAY.

A. If a highway includes two or more separate roadways and traffic is restricted to one direction upon any such roadway, no person shall stand or park a vehicle upon the left-hand side of the one-way roadway unless signs are erected to permit such standing or parking.

B. The city council may determine when standing or parking may be permitted upon the left hand side of any such one-way roadway and to erect signs giving notice thereof. (Prior Code 1991, §15-713)

§ 106-238 SAME-ON LEFT SIDE OF ONE-WAY STREETS.

The city manager may have signs erected upon the left-hand side of anyone-way street to prohibit the standing or parking of vehicles. When the signs are in place, no person shall stand or park a vehicle in violation of any such signs. (Prior Code 1991, §15-714)

§ 106-239 PARKING ADJACENT TO SCHOOLS.

A. The city manager may have signs erected indicating no parking upon either or both sides of any street adjacent to any school property when such parking would, in his opinion, interfere with traffic or create a hazardous situation.

B. No person shall park a vehicle in violation of any such signs. (Prior Code 1991, §15-715)

§ 106-240 PARKED VEHICLES NOT TO EXTEND TOO FAR INTO STREET.

No vehicle shall be parked at an angle on a street so that it or its load will extend more than fifteen (15) feet from the curb or edge of the roadway towards the center of the roadway. No vehicle shall be parked parallel to the curb or edge of the roadway so that it or its load shall extend more than nine (9) feet from the curb or edge toward the center of the roadway. (Prior Code 1991, §15-716)

§ 106-241 PARKING PROHIBITED ON NARROW STREETS.

A. The city manager is hereby authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed twenty (20) feet, or upon one side of a street as indicated by such sins when the width of the roadway does not exceed thirty (30) feet.

B. When such signs are so erected and in place, no person shall park a vehicle upon any such street in violation of any such sign. (Prior Code 1991, §15-717)

§ 106-242 PARKING IN ALLEYS, BLOCKING DRIVEWAYS.

No person shall park a vehicle within a street or alley in such a manner or under such conditions as to leave available less than 20 feet of the width of the roadway for the free movement of vehicular traffic. No person shall stop, stand, or park a vehicle within a street or alley in such position as to block a driveway entrance to any abutting property. (Prior Code 1991, §15-718)

§ 106-243 ENTRY ON PRIVATE PROPERTY; TRESPASS; EVIDENCE; BURDEN OF PROOF.

A. No person shall make an entry with any vehicle upon real property owned or legally occupied by another without the owner's or occupant's consent except where such private property is provided as public parking and the general use of the property is not restricted by signs or proper markings.

B. Where entry is made upon real property owned or legally occupied by another without the owner's or occupant's consent, except on unrestricted public parking, and is complained of by the owner or legal occupant of the premises, the burden is put upon the person making the entry to show that permission for such entry was given. (Prior Code 1991, §15-719)

§ 106-244 TRUCK PARKING PROHIBITED IN CERTAIN AREAS.

It is unlawful for any person, firm, or corporation to park any commercial vehicle or trailer of all types, including travel, camping, and hauling, in excess of twenty-four (24) feet in length on any public street in a residential district. (Prior Code 1991, §15-720)

§ 106-245 DOUBLE PARKING.

A. No driver shall double park or double stop a vehicle under the following conditions:

1. Within fifty (50) feet of an intersection except alley intersections or within ten (10) feet of an alley intersection;

2. Opposite a double parked or double stopped vehicle across the street;

3. When such double parking or double stopping would or does block or interfere materially with the normal movement of traffic;

4. When parking space adjacent to the curb is available;

5. When directed by a police officer to move on; or

6. In any position other than parallel to the curb and within two feet of the

adjacent vehicle parked next to the curb.

B. A driver may double park or double stop a vehicle only as authorized in this section. There must be a licensed driver in any vehicle while it is double parked or double stopped.

C. A driver may double stop for the purpose of, but only while actually engaged in, the expeditious loading or unloading of passengers, subject, however, to all the general conditions set out in this division.

D. A driver may double park for the purpose of, but only while actually engaged in, the expeditious loading or unloading of merchandise, subject, however, to all the general conditions set out in this division. No such vehicle shall be double park longer than ten (10) minutes. (Prior Code 1991, §15-721)

§ 106-246 PARKING PROHIBITED FOR TRUCKS TRANSPORTING HAZARDOUS MATERIALS.

It is unlawful to park, store, or otherwise let stand a truck or other vehicle which is used for the purpose of transporting or delivering flammable and combustible liquids as defined by the city's fire prevention code and trucks or other vehicles which are used for the transportation and delivery of liquefied petroleum gases in any area within the city. However, the trucks and vehicles restricted in this section may be temporarily parked at locations otherwise zoned for the purpose of loading and unloading flammable and combustible liquids and liquefied petroleum gases for a period not to exceed one and one-half (1½) hours during any twenty-four (24) hour period. (Prior Code 1991, §15-722)

***Cross reference*: Environment, ch. 34.**

§ 106-247 PARKING FOR CERTAIN PURPOSES PROHIBITED.

No person shall park a vehicle upon any roadway for the purpose of:

1. Displaying the vehicle for sale;

2. Displaying advertising or displaying merchandise or other things for sale or selling merchandise or other things; or

3. Washing, cleaning, or repairing the vehicle, except for repairs necessitated by an emergency. (Prior Code 1991, §15-723)

§ 106-248 METHOD OF PARKING, STANDING OR PARKING CLOSE TO CURB.

Except as otherwise provided in this chapter, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right-hand wheels of the vehicle parallel to and within 18 inches of the right hand curb. Any

vehicle stopped or parked upon the left-hand side of a one-way street where there are adjacent curbs shall be parked or stopped with the left-hand wheels parallel to and within 18 inches of the left-hand curb. (Prior Code 1991, §15-724)

***State law reference*: Similar provisions, 47 O.S. §11-1004.**

§ 106-249 NEGLIGENT PARKING.

No person shall park, cause to be parked, stop, or leave unattended any vehicle as follows:

1. In a careless or negligent manner;

2. In such a manner as to endanger life, limb, person, or property; or

3. In such manner as to endanger or interfere with the lawful traffic or use of the streets. (Prior Code 1991, §15-725)

§ 106-250 RIGHT-OF-WAY TO PARALLEL PARKING SPACE.

A. The driver of any vehicle intending to occupy a parallel parking space where a backing movement is necessary and which is being vacated by another vehicle shall stop his vehicle to the rear of the parking space until the vacating vehicle has cleared and entered normal traffic. He then shall be deemed to have the right-of-way to such parking space over any other vehicle attempting to park therein.

B. The first of two or more vehicles to reach the rear boundary of an unoccupied parallel parking space, where a backing movement is necessary to occupy, shall be deemed to have the right-of-way to such parking space. (Prior Code 1991, §15-726)

§§ 106-251 – 106-275 RESERVED.

DIVISION 2

LOADING

§ 106-276 Definitions.
§ 106-277 Curb loading zones; designation.
§ 106-278 Loading zones to be used only for designated purpose.
§ 106-279 Stopping, standing, or parking-in passenger curb loading zone.
§ 106-280 Same-in commercial curb loading zone.
§ 106-281 Designation of public carrier stops and stands.
§ 106-282 Use of bus and taxicab stands restricted.
§ 106-283 Stopping, standing, and parking of buses and taxis.
§§ 106-284 – 106-305 Reserved.

§ 106-276 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:

1. *Commercial vehicle* means:

a. A truck designated for delivery purposes with the name of the owner or his business painted on both sides of the vehicle, regularly used during normal business hours for the delivery and handling of merchandise or freight and which bears a regular state commercial license tag; and

b. A passenger vehicle used regularly and actually engaged during normal business hours in the delivery and handling of merchandise or freight and which bears a special-numbered license plate issued by the city at the rear of the vehicle attached to the state license plate together with an identically numbered decal, issued for the vehicle;

2. *Freight loading zones* means all curb loading zones authorized and regularly used exclusively for the loading and unloading of merchandise for storage, trade, shipment or resale.

3. *Passenger loading zones* means all loading zones authorized and used regularly and exclusively for the loading and unloading of passengers except bus stops, taxicab stands, and stands for other passenger common carrier vehicles. (Prior Code 1991, §15-801)

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

§ 106-277 CURB LOADING ZONES; DESIGNATION.

A. The city manager, subject to any directions given by the city council by motion or resolution, may determine the location of passenger and freight curb loading zones and shall have placed and maintained appropriate signs indicating the zones and stating the hours during which the provisions of this section are applicable.

B. No person shall stand or park a vehicle in violation of signs erected in accordance with this section.

C. If any loading zone is established on request of any person, the signs shall not be placed until the applicant pays to the city an amount of money estimated by the city council to be adequate to reimburse the city for all costs of establishing and signing the same. (Prior Code 1991, §15-802)

§ 106-278 LOADING ZONES TO BE USED ONLY FOR DESIGNATED PURPOSE.

No curb loading zone authorized and established as a passenger loading zone shall be used as a freight loading zone, and no freight loading zone shall be used as a passenger loading zone except as may be specifically provided by law. (Prior Code 1991, §15-803)

§ 106-279 STOPPING, STANDING, OR PARKING–IN PASSENGER CURB LOADING ZONE.

No person shall stop, stand, or park a vehicle in a passenger curb loading zone for any purpose or period of time other than for the expeditious loading or unloading of passengers during the hours when the regulations applicable to such curb loading zones are effective and then only for a period not to exceed three (3) minutes. (Prior Code 1991, §15-804)

§ 106-280 SAME-IN COMMERCIAL CURB LOADING ZONE.

A. No person shall stop, stand, or park a vehicle in a commercial curb loading zone for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of materials exceed thirty (30) minutes. Vehicles using any commercial loading zone shall be subject to the licensing requirements and regulations provided by this chapter.

B. 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 commercial vehicle which is waiting to enter the zone. (Prior Code 1991, §15-805)

§ 106-281 DESIGNATION OF PUBLIC CARRIER STOPS AND STANDS.

The city manager may establish loading zones for common carriers including, but not limited to, 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 loading zone shall be designated by appropriate signs. (Prior Code 1991, §15-806)

§ 106-282 USE OF BUS AND TAXICAB STANDS RESTRICTED.

No person 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 the appropriate signs are in place. 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 the zone. (Prior Code 1991, §15-807)

§ 106-283 STOPPING, STANDING, AND PARKING OF BUSES AND TAXIS.

A. The operator of a bus shall not stand or park such vehicle upon any street at any place other than a bus stand so designated as provided in this section.

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 except in a bus stop, stand, or loading zone designated as provided in this section, 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 eighteen (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.

D. The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand so designated as provided in this section. 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. (Prior Code 1991, §15-808)

§§ 106-284 – 106-305 RESERVED.

ARTICLE 9

PEDESTRIANS*

§ 106-306 Pedestrians soliciting rides, business or donations.
§§ 106-307 – 106-330 Reserved.

§ 106-306 PEDESTRIANS SOLICITING RIDES, BUSINESS OR DONATIONS.

A. No person shall stand in a roadway for the purpose of soliciting a ride, donation, employment, or business from the occupant of any vehicle.

B. No person shall:

1. Stand in any street, roadway, or park and stop or attempt to stop and engage any person in any vehicle for the purpose of soliciting contributions or the watching or guarding of any vehicle while parked or about to be parked on a street;

2. Sell or attempt to sell anything to any person in any vehicle;

3. Hand or attempt to hand to any person in any vehicle any circular,

advertisement, handbill, any political campaign literature, any sample, souvenir, or gift; or

4. In any other manner, while standing in the street or roadway, attempt to interfere with the normal flow of traffic for any other similar purpose. (Prior Code 1991, §15-1007)

***State law reference*: Pedestrians' rights and duties, 47 O.S. §11-501 et seq.**

§§ 106-307 – 106-330 RESERVED.

ARTICLE 10

BICYCLES

§ 106-331 Speed of bicycle.
§ 106-332 Parking.
§ 106-333 Riding on sidewalks.
§§ 106-334 – 106-360 Reserved.

§ 106-331 SPEED OF BICYCLE.

No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing. (Prior Code 1991, §15-1106)

§ 106-332 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 the building or at the curb in such a manner as to afford the least obstruction to pedestrian traffic. (Prior Code 1991, §15-1109)

§ 106-333 RIDING ON SIDEWALKS.

A. No person shall ride a bicycle upon a sidewalk within a business district.

B. The city council, by motion or resolution, is authorized to have erected signs on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person, and when such signs are in place, no person shall disobey the same.

C. 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. (Prior Code 1991, §15-1110)

***Cross reference*: Streets, sidewalks, and other public places, ch. 90.**

***State law reference*: Operation of bicycles. 47 O.S. §11-1201 et seq.**

§§ 106-334 – 106-360 RESERVED.

ARTICLE 11

IMPOUNDMENT OF VEHICLES*

§ 106-361 Purpose and effect of impoundment provisions.
§ 106-362 Place of impoundment.
§ 106-363 Duration of impoundment.
§ 106-364 Police granted authority to impound vehicles.
§ 106-365 Disabled vehicles.
§ 106-366 Vehicles on bridge.
§ 106-367 Arrest and detention of driver of vehicle.
§ 106-368 Vehicle constitutes traffic hazard.
§ 106-369 Legal trespass by vehicle.
§ 106-370 Vehicles parked overtime.
§ 106-371 Vehicles blocking fire exits or hydrants.
§ 106-372 Vehicles parked in intersection.
§ 106-373 Stolen vehicles; recovery by police.
§ 106-374 Vehicles with outstanding traffic citations.
§ 106-375 Inventory prior to removal.
§§ 106-376 – 106-400 Reserved.

§ 106-361 PURPOSE AND EFFECT OF IMPOUNDMENT PROVISIONS.

The impoundment of vehicles under authority of the provisions of this chapter shall be construed as an enforcement procedure for protection of the public peace, safety, welfare, and the safeguarding of property and shall be used generally for the prevention and removal of traffic hazards, prevention and abatement of public nuisances arising from traffic law violations, protection of the public rights in the use of streets and thoroughfares from obstructions placed and left in derogation of those rights, and for safeguarding and protecting recovered stolen vehicles. (Prior Code 1991, §15-1301)

§ 106-362 PLACE OF IMPOUNDMENT.

Every vehicle that is impounded under the provisions of this chapter shall be removed to the nearest garage or place of safekeeping designated by the city. (Prior Code 1991, §15-1302)

***State law references*: Abandonment of vehicles, 47 §901 et seq.; wreckers and towing services, 47 O.S. §951 et seq.; removal of vehicles from real property or roadway, 47 §§954A, 955.**

§ 106-363 DURATION OF IMPOUNDMENT.

A. Except as otherwise provided, any vehicle impounded under the authority of

this chapter shall be stored and held safely until an order for its release is received from an officer of the traffic violations bureau or other authorized police department employee.

B. The order of release of an impounded vehicle shall be conditioned upon the payment by the person to whom the release issued of all impoundment costs and accrued storage charges assessed against the vehicle. (Prior Code 1991, §15-1302)

§ 106-364 POLICE GRANTED AUTHORITY TO IMPOUND VEHICLES.

Members of the police department are hereby authorized within the limits set forth in this chapter to impound vehicles under the circumstances enumerated in this article. No impoundment shall be valid unless made under order of an authorized police officer and in strict adherence with the procedures required in this chapter. (Prior Code 1991, §15-1304)

§ 106-365 DISABLED VEHICLES.

A disabled vehicle upon a street or highway may be impounded under the following circumstances:

1. If left unattended and improperly parked on street or highway and constitutes a definite hazard or obstruction to the normal movement of traffic; or

2. If the person in charge of the vehicle is physically incapacitated to such extent as to be unable to provide for its custody or removal and the vehicle is so disabled as to constitute an obstruction to traffic or a hazard. (Prior Code 1991, §15-1305)

§ 106-366 VEHICLES ON BRIDGE.

An unattended vehicle left upon any bridge, viaduct, or causeway or in any tube or tunnel, where the vehicle constitutes an obstruction to traffic or hazard, may be impounded. (Prior Code 1991, §15-1306)

§ 106-367 ARREST AND DETENTION OF DRIVER OF VEHICLE.

Whenever the driver or person in charge of any vehicle is placed under arrest and taken into custody and detained by police under circumstances which leaves or will leave a vehicle unattended on any city street, highway, or other parking area the vehicle was driven onto by the driver immediately upon leaving a city street or highway, the vehicle may be impounded. The vehicle shall not be impounded if the parking area is located on property owned or controlled by the driver or person in charge of the vehicle. (Prior Code 1991, § 15-1307; Ord. No. 02-11, §§1(15-1307), 7-15-2002)

§ 106-368 VEHICLE CONSTITUTES TRAFFIC HAZARD.

A vehicle left unattended upon any street, alley, or thoroughfare and so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic

shall be impounded. (Prior Code 1991, §15-1308)

§ 106-369 ILLEGAL TRESPASS BY VEHICLE.

A. An unattended vehicle found to be in violation of this chapter may be impounded when the required complaint has been properly made and filed as provided in this section.

B. If a violation of the provisions of this chapter occurs, the owner or legal occupant who complains shall sign a complaint against the person parking the vehicle on the owner's or legal occupant's property, or if the identity of the person parking the vehicle is unknown, then the complaint may be filed against the registered owner of the vehicle. The complaint shall be verified and shall allege that the complaining party is the owner or legal occupant of the property upon which the vehicle is parked or standing.

C. Upon filing of the complaint by the property owner or legal occupant, and if there appears to be proper cause to believe the provisions of this chapter have been violated, the police department shall cause the vehicle to be impounded from the property and placed in storage. (Prior Code 1991, §15-1309)

§ 106-370 VEHCILES PARKED OVERTIME.

Any unattended vehicle which has been parked for more than one hour in excess of the time allowed for parking in any place shall be impounded, and any vehicle parked in violation of this chapter regarding more than forty-eight (48) hours shall be impounded. (Prior Code 1991, §15-1310)

§ 106-371 VEHICLES BLOCKING FIRE EXITS OR HYDRANTS.

Any vehicle illegally parked in such a manner that it blocks a fire escape ladder, device, or exit or blocks ready access to a fire hydrant shall be impounded. (Prior Code 1991, §15-1311)

***Cross reference*: Fire prevention and protection, ch. 38.**

§ 106-372 VEHICLES PARKED IN INTERSECTION.

Any unattended vehicle illegally parked in any street intersection shall be impounded. A disabled vehicle in an intersection with the person in charge of the vehicle being present shall be moved out of the intersection and to the nearest available legal parking space at the street curbing. (Prior Code 1991, §15-1312)

§ 106-373 STOLEN VEHICLES; RECOVERY BY POLICE.

A. Whenever a stolen vehicle is located by police and the registered owner cannot be found within a reasonable time not exceeding one (1) hour or cannot be

determined from the registration papers or other identifying media in the vehicle or from records or information available from reports of stolen cars, the vehicle may be removed to the nearest authorized place of impoundment and the registered owner of the vehicle shall be notified of the location of the place of impoundment as soon as possible by the police department.

B. If the registered owner is identified, located, and notified of the recovery of the stolen vehicle, the owner shall be given the right to make his own arrangement for the removal of the vehicle within the period of one hour from the time he is actually notified of its recovery, and if the owner is unable or unwilling to effect the removal within the time specified the vehicle may be impounded. (Prior Code 1991, §15-1313)

§ 106-374 VEHICLES WITH OUTSTANDING TRAFFIC CITATIONS.

Any vehicle for which two or more citations have been issued for violation of an ordinance and have not been presented as required may be impounded if parked in violation of any provision of this chapter. (Prior Code 1991, §15-1314)

§ 106-375 INVENTORY PRIOR TO REMOVAL.

Prior to removal for impoundment of any vehicle, a member of the police department will inventory all items in the vehicle. (Prior Code 1991, §15-1315)

§§ 106-376 – 106-400 RESERVED.

ARTICLE 12

JUNKED, WRECKED VEHICLES*

§ 106-401 Definitions.
§ 106-402 Penalty.
§ 106-403 Nuisance.
§ 106-404 Automobile wrecking or salvage yards.
§ 106-405 Junk vehicle on private property prohibited.
§ 106-406 Impoundment; release.
§ 106-407 Leaving junked vehicle on street.
§ 106-408 Junk vehicles nuisance; removal.
§ 106-409 Notice.
§ 106-410 Removal
§ 106-411 Recovery by owner.
§ 106-412 Sale.
§§ 106-413 –106-435 Reserved.

§ 106-401 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. *Automobile wrecking or salvage yard* means an area outside of a building where motor vehicles are disassembled, dismantled, junked, or wrecked, or where motor vehicles not in operable conditions, or used parts of motor vehicles, are stored.

2. *Junked motor vehicle* means any motor vehicle, which does not have lawfully affixed thereto an unexpired license plate or plates and the condition of which is wrecked, dismantled, partially dismantled, inoperative, unserviceable, abandoned, or discarded.

3. *Motor vehicle* means any vehicle that is self propelled and designed to travel along the ground and shall include, but not be limited to, automobiles, buses, motor bikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, campers and trailers.

4. *Private property* means any real property within the city which is privately owned and which is not public property as defined in this section.

5. *Public property* means any street, alley, or highway which shall include the entire width between the boundary lines of every way publicly owned or maintained for the purposes of vehicular travel and shall also mean any other publicly owned property or facility. (Prior Code 1991, §8-302(1), (2), (4), (5))

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

***State law references*: Junk dealers, 21 O.S. §1041 et seq. and 59 O.S. §1401 et seq.; storage or accumulation of wrecked or abandoned motor vehicle or parts thereof within view of preexisting residence or adjoining property, 21 O.S. §1048; abandonment of vehicles, 47 O.S. §901 et seq.; removal of abandoned motor vehicle from real property, 47 O.S. § 954A; vehicle on highway, ground for removal, 47 O.S. §955; Oklahoma Junkyard and Scrap Metal Processing Facility Control Act, 69 O.S. §1251 et seq.**

§ 106-402 PENALTY.

Any person who violates any provision of this article shall be punished as provided in Section 1-12 of this Code. Each day upon which any such violation continues shall constitute a separate offense. (Prior Code 1991, §8-312)

§ 106-403 NUISANCE.

Motor vehicles which are abandoned, dismantled, partially dismantled, wrecked, junked, inoperative, discarded, or left about the city in places other than authorized junkyards or other areas authorized by the city council and which tend to do anyone or more of the following are hereby declared to be a nuisance:

1. Impede traffic in the streets;

2. Reduce the value of private property;

3. Create fire hazards;

4. Extend and aggravate urban blight; or

5. Result in a serious hazard to the public health, safety, comfort, convenience, and welfare of the residents of the city. (Prior Code 1991, §8-301)

***Cross reference*: Nuisances, §34-56 et seq.**

§ 106-404 AUTOMOBILE WRECKING OR SALVAGE YARDS.

A. The operation and maintenance of automobile wrecking or salvage yards within the city limits would tend to cause the conditions enumerated in Section 106-403, and in addition, would tend to attract person seeking outlets for stolen goods.

B. In order to protect the public interest for reasons that include, but are not limited to, those referred to in subsection A of this section, the operation and maintenance of automobile wrecking or salvage yards within the city limits are hereby declared to be a public nuisance and are hereby prohibited, except as may be allowed under chapter 122. (Prior Code 1991, §8-303)

§ 106-405 JUNK VEHICLE ON PRIVATE PROPERTY PROHIBITED.

No person in charge or control of any property within the city, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, non-operating, wrecked, junked, or unlicensed vehicle to remain on such property longer than seven days and no person shall leave any such vehicle on any property within the city for a longer time than seven days. This section shall not apply with regard to a vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise, or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city. (Prior Code 1991, §8-304)

§ 106-406 IMPOUNDMENT; RELEASE.

A. Members of the police department are hereby authorized to remove and impound vehicles in violation of this article and under any of the circumstances enumerated in this article.

B. Prior to removal for impoundment of any vehicle, a member of the police department will inventory all items in the vehicle. (Prior Code 1991, §8-305)

§ 106-407 LEAVING JUNKED VEHICLE ON STREET.

No person shall leave any junked motor vehicle on any street, highway, or alley within the city limits of the city. (Prior Code 1991, §8-306)

***Cross reference*: Streets, sidewalks, and other public places, ch. 90.**

§ 106-408 JUNK VEHICLES NUISANCE; REMOVAL.

The accumulation or storage of one or more junked motor vehicles or parts thereof shall constitute a nuisance detrimental to the health, safety, and welfare of the inhabitants of the city. It is the duty of the owner or person in control of such vehicle, or the parts thereof, or the owner of the private property, lessee, or person in possession or control of the property upon which such vehicle is located, to cause to be removed or remove the vehicle from such property or have the vehicle housed in a building where it will not be visible from the street or other private property. Such removal or enclosure shall be made within seven calendar days after notice is given to the owner or person in control of the vehicle or the owner, lessee, or person in control of the property upon which such vehicle is located. The time limit may be extended by the city manager or his designee in the case of obvious hardship. (Prior Code 1991, §8-307)

§ 106-409 NOTICE.

The chief of police, the health officer, or any officer of the health department he may assign, upon complaint of any citizen or on the officer's own volition, shall cause notice to be posted on such junked motor vehicle that the vehicle is a nuisance and shall be removed within the time limit as required in section 106-405. (Prior Code 1991, §8-308)

§ 106-410 REMOVAL.

Upon any failure of the owner or person in control of the junked motor vehicle or the owner, lessee, or person in control of the property upon which the junked motor vehicle may be located to remove the vehicle or place it in an enclosed building within the time limit after notice has been placed on the vehicle, the health officer, the police department, or any officer of that department the health officer may assign, shall notify, in writing, to the police department of the city which shall promptly cause the vehicle and its parts to be removed and stored in a proper place. (Prior Code 1991, §8-309)

§ 106-411 RECOVERY BY OWNER.

The owner or person in control of any vehicle so removed may regain possession thereof by making application to the chief of police within sixty (60) days after its removal and upon payment to the city of all reasonable costs of removal and storage which shall have accrued to such vehicle. (Prior Code 1991, §8-310)

§ 106-412 SALE.

If no claim for the junked motor vehicle is made within sixty (60) days after removal by the city, the vehicle may be sold for the best price obtainable as junk or otherwise and the proceeds shall be used first to pay all reasonable removal or storage fees against the vehicle. (Prior Code 1991, §8-311)

§§ 106-413 – 106-435 RESERVED.

ARTICLE 13

RAILROADS*

§ 106-436 Duties as to paving, street improvements.
§ 106-437 Sidewalks to be constructed by railroads.
§ 106-438 Trespassing on trains.
§§ 106-439 – 106-450 Reserved.

§ 106-436 DUTIES AS TO PAVING, STREET IMPROVEMENTS.

A. When a railway occupies any portion of a street with its tracks running in the general direction of the street, either on or adjacent thereto, the railway company shall improve the space between its tracks and two feet on either side thereof in the same manner that the remainder of the street is to be improved or with such other material as the council by motion or resolution may approve. Where any railway company occupies an alley with its track or tracks, the company shall be required to improve, gutter, drain, and grade such alley and shall surface or pave it with the same material that is to be, or has been, used on the alley or with such other satisfactory material as the council by motion or resolution may approve. Where any railway company crosses any street that is being or has been paved, the railway company shall pave so much of the street as may be occupied by its track or tracks and two feet on each side, and when more than one track crosses the street within a distance of one-hundred (100) feet, measuring from inside rail to inside rail, the railway company shall grade, gutter, drain, curb, pave, chat, gravel, or improve between its tracks in the same manner as the city may be improving or has improved the other portion of the street. Provided, however, any council may, at the time of the construction of the tracks, the granting of any street railway franchise, or at the time of the publication of the resolution waive any or all of the requirements of this subsection if it deems it to be in the best interests of the city to do so.

B. Railroad companies shall keep all such improvements made by them in a good state of repair at all times. (Prior Code 1991, §16-101)

***Editor's Note*: §§16-104 and 16-105 of the former city Code have been deleted. The subject of such sections are controlled by the Federal Railroad Safety Act (45 USC 421 et seq.). As to former §16-105, see CSX Transportation, Inc., v. City of Plymouth, Michigan, 86 F.3d 626 (6th Cir. 1996).**

***State law reference*: Similar provisions, 11 O.S. §36-116.**

§ 106-437 SIDEWALKS TO BE CONSTRUCTED BY RAILROADS.

Railway companies shall construct sidewalks crossing their rights-of-way using the same material as is used in adjacent sidewalks insofar as this is practicable under the circumstances. They shall construct sidewalks on both sides of the streets when both sides are used by pedestrians. The company shall keep such sidewalks in a good state of repair at all times. (Prior Code 1991, §16-102)

§ 106-438 TRESPASSING ON TRAINS.

Any person, other than a railway employee in the discharge of his duty, who, without authority from the conductor of the train, rides or attempts to ride on top of any car, coach, engine, or tender on any railroad in this city, or on the draw heads between the cars, or under cars or truss-rods or trucks, or in any freight car, or on the platform of any baggage car, express car, or mail car, or any train in this city, shall be guilty of a misdemeanor. (Prior Code 1991, §16-103)

***State law reference*: Similar provisions, 21 O.S. §1365.**

§§ 106-439 –106-450 RESERVED.

ARTICLE 14

USED MOTOR VEHICLE DEALERS; AUTOMOTIVE DISMANTLERS; PARTS RECYCLERS*

§ 106-451 Used motor vehicle dealers and automotive dismantlers and parts recyclers.

§ 106-451 USED MOTOR VEHICLE DEALERS AND AUTOMOTIVE DISMANTLERS AND PARTS RECYCLERS.

A. It shall be unlawful and an offense for any person, firm, association, corporation or trust to sell, offer for sale, or display for sale one or more used motor vehicles within the city, without first obtaining a license therefore from the appropriate state authorities as set forth in 47 O.S. § 581 et seq., or amendments thereto. It shall be unlawful and an offense for any owner of real property, lessee of real property, or person having an interest in real property to allow the sale, or display for sale, of one or more used motor vehicles within the city unless said property is zoned for such use. Provided that this section shall not apply to any person making such use of their own personal residence, and involving no more than one vehicle licensed in their own name as owner.

B. It shall be unlawful and constitute an offense for any person, firm, association, corporation or trust to fail to show a valid state license under Title 47, upon the request of any properly identified officer or employee of the city.

C. It shall be unlawful and an offense for any person, firm, association, corporation or trust to violate any of the provisions of the Automotive Dismantlers and Parts Recycler Act, also known as 47 O.S. §591.1 et seq., within the city limits.

D. Each day during which any of the above business operations are conducted in violation of this section shall be considered a separate offense; each successfully consummated transaction during which the provisions of this section are violated shall constitute a separate offense.

E. Members of the police department or code enforcement officers are hereby authorized to remove a vehicle from any property to a garage or other place of safety when such vehicle has been parked on more than one occasion for the principle purpose of displaying such vehicle for sale in violation of this chapter or the city zoning code. City personnel shall be required to show that an official notice, warning, citation, or warrant has been issued by the city for the vehicle involved prior to the incident for which the vehicle is to be towed.

F. The prohibition contained in subsection A shall not apply to mortgagees or secured parties who are selling motor vehicles which were collateral on a mortgage or security agreement if:

1. Such mortgages or secured parties do not realize for their own account from such sales any monies in excess of the outstanding balance secured by such mortgage or security agreement, plus costs of collection; and

2. The sale is conducted as a lawful secondary use on such mortgagees' or secured parties' business property. (Ord. No. 03-04, §1, 8-4-2003)

******Editor's Note*****: Ord. No. 03-04, §1, adopted August 4, 2003, enacted provisions intended for use as Section 7-10. To preserve the style of this Code, and at the discretion of the editor, said provisions have been re-designated as article XIV, §106-451.**

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CHAPTER 110

UTILITIES *

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IN GENERAL

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ARTICLE 2

PURCELL PUBLIC WORKS AUTHORITY RULES AND REGULATIONS

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§ 110-27 Definitions.
§ 110-28 Utility fees and billings.
§ 110-29 Utility taps and connections; fees; utility deposits.
§ 110-30 Failure to pay utility bills; penalty; disconnection of service.
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***Editor's note*: The city has leased the operation of its water, sewer, electric, and refuse systems to the Purcell Public Works Authority, including setting rates for use of the systems and all regulations governing them. The city has adopted such regulations by reference in §17-102 of the former city Code. Pursuant to instructions from the city, the regulations are to be formatted, edited. etc. and included at length in the new Code book. See also the Purcell Public Works Authority Trust Indenture in a separate volume entitled "The PPWA."**

***Cross references*: Administration, ch. 2; electricity, §14-266 et seq.; businesses, ch. 18; environment, ch. 34; floods, ch. 42; health and sanitation, ch. 46; manufactured homes and trailers, ch. 62; natural resources, ch. 66; tampering with or damage public utilities, §70-36; planning, ch. 82; streets, sidewalks, and other public places, ch. 90; subdivisions, ch. 94; water and sewerage improvements in subdivisions, §94-241 et seq.; drainage improvements in subdivisions, §94-276 et seq.; utilities tax, §98-26 et seq.; telecommunications, ch. 102.**

***State Constitution reference*: Franchises, OK Const. Art 18, §5 et seq.**

***State law references*: Utilities, 11 O.S. §22-104; utility relocations, 11 O.S. §32-104; public utilities, 11 O.S. §35-101 et seq.; sewer and water systems. 11 O.S. §37-101 et seq.; solid waste disposal site near highway, 21 O.S. §1205; local solid waste management systems. 27A DB. §§2-10-901, 2-10-1001; waters and water rights. 82 O.S. Supp. No.2**

ARTICLE 1

IN GENERAL

§§ 110-1 – 110-25 Reserved.

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§ 110-32 Personnel may inspect private premises.
§ 110-33 Liability for service.
§ 110-34 Penalty.
§§ 110-35 – 110-60 Reserved.

§ 110-26 DECLARATION OF PUBLIC UTILITY.

The water system, sanitary sewer system, electric utility system, broadband wireless system and the refuse and garbage collection system of the city are hereby declared public utilities and a proper source of revenues and expenditures for the upkeep and maintenance of such systems and for other purposes, under the direct supervision, control, and responsibility of the city public works authority.

§ 110-27 DEFINITIONS.

The following terms, when used in this article, shall have the meanings respectively ascribed to them in this section unless the context clearly requires otherwise:

1. *Ashes* means and includes the residue from substances used for fuel in connection with ordinary conduct of heating and cooking and also such refuse as broken crockery, glass, metal other than tin cans, and other similar items which may not be suitable for burning in an incinerator, but which may be dumped with ashes.

2. *Authority* means the Purcell Public Works Authority.

3. *Biochemical oxygen demand (BOD)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure five days

at twenty (20) degrees centigrade expressed in terms of weight and concentration (milligrams per liter *(mg/l).*

4. *Broadband wireless* means direct high speed internet service and will adhere to and be subject to, all policies and procedures for all city public works authorities as set forth in this article.

5. *Building drain* means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

6. *Building sewer* means the extension from the building drain to the public sewer or other place of disposal.

7. *City* means the corporate limits of the City of Purcell, Oklahoma.

8. *Combined sewer* means a sewer receiving both surface runoff and sewage.

9. *Commercial unit* means all premises other than those defined as "residential units".

10. *Council* means the city council of the City of Purcell, Oklahoma.

11. *Garbage* means and includes kitchen and table refuse, offal, and every accumulation of animal and vegetable matter that attends the preparation, decay of, dealing in, or storage of, meats, fruits, vegetables, and other provisions for human subsistence.

12. *Industrial waste* means the liquid wastes from industrial processes, as distinct from sanitary sewage.

13. *Natural outlet* means any outlet into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.

14. *Person* extends and is applied to an actual person or persons and to associations, clubs, societies, firms, partnerships, and bodies politic and corporate or the manager, lessee, agent, servant, officer or employee of any of them, unless a contrary intention plainly appears.

15. *pH* means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expresses in grams per liter of solution.

16. *Properly shredded garbage* means the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be

carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch in dimension.

17. ***Public sewer*** **means a sewer in which all owners of abutting properties have equal rights and is controlled by public authority.**

18. ***Refuse*** **includes garbage, trash, rubbish, and solid wastes.**

19. ***Residential unit*** **means any single-family dwelling or any single-family unit, whether located in a separate structure, apartment, group of rooms or residences, having a single kitchen, which is connected with a city water meter and which is not using such water meter in connection with, or in conjunction with, another family dwelling or unit. Included in this definition are churches, schools, and government consumers.**

20. ***Sanitary sewer*** **means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.**

21. ***Sewage*** **means a combination of the water carried wastes from residences, business buildings, institutions, and industrial establishments, together with such groundwater, surface water and stormwater as may be present.**

22. ***Sewage treatment plant*** **means any arrangement of devices and structures used for treating sewage.**

23. ***Sewage works*** **means all facilities for collecting, pumping, treating, and disposing of sewage.**

24. ***Sewer*** **means a pipe or conduit for carrying sewage.**

25. ***Storm sewer*** **and** ***storm drain*** **mean a sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.**

26. ***Superintendent*** **means the person designated by the authority to supervise the operation of publicly owned treatment works (POTW) and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.**

27. ***Suspended solids*** **means solids that either float on the surface of or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering.**

28. ***Trash*** **means and includes paper, rags, containers of paper, wood or tin, tin cans, yard and house sweepings, and all other household wastes except tree trimmings, building and manufacturing wastes, sewage, garbage and ashes as defined in this section, grasses, weeds, leaves, and rocks.**

29. ***User*** **means any person who contributes, causes, or permits the contribution of wastewater into the authority's POTW.**

30. ***Wastewater*** **means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions together with such groundwater, surface water and stormwater which may be present, whether treated or untreated which is contributed into or permitted to enter the POTW.**

31. ***Watercourse*** **means a channel in which a flow of water occurs, either continuously or intermittently.**

32. ***Waters of the state*** **means all streams, 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.**

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

§ 110-28 UTILITY FEES AND BILLINGS.

All fees and charges in connection with any customer's use of the sanitary sewer system, the water facility system, the collection and disposal of refuse and garbage, or the electrical service system are billed in accordance with applicable rates set by resolution of the authority. A copy of the current fees and charges shall be kept on file in the authority's office. All fees and charges owing for any of these utility services shall be billed monthly. The utility bill submitted under the terms of this section are payable on or before the past due date which is printed on the bill.

§ 110-29 UTILITY TAPS AND CONNECTIONS; FEES; UTILITY DEPOSITS.

A. ***Water taps.*** **A water tap is essentially the right to receive water from the public works authority and is a physical connection between the authority's main and the private line which includes installation of meters and hardware. All water taps are to be made by the authority or an authorized developer or a licensed plumber, and to ensure proper installation and health standards are met a final inspection by a city inspector is required. All work is to be in accordance to city Code and state health standards.**

B. ***Sewer taps.*** **A sewer tap is essentially the right to discharge wastewater into the authority's wastewater system and is a physical connection between the authority's main and the private line which includes installation of fittings and hardware. All sewer taps are to be made by the authority, an authorized developer, or a licensed plumber, and to ensure that proper installation and health standards are met a final inspection by a city inspector. All work is to be in accordance to City code and state health standards.**

C. ***Requests for connection.*** **The authority shall approve any request for water tap and connection, a sewer tap on an existing line or a sewer tap on a new line, and any electrical service connection. Prior to granting this approval, the customer shall have paid the deposit and connection or tap charge as applicable. Taps must be physically completed and, as appropriate, the meter installed within one year of the purchase date or fees will be forfeited. Applicable minimum monthly billing will commence once the tap is completed.**

D. ***Reconnection.*** **A fee for reconnection of utility service due to turn-off or a meter disconnected by the authority for any reason shall be set by resolution by the authority.**

E. ***Deposit.*** **Any person desiring to secure utility services from the authority shall make application therefor, accompanied by the required deposit, to the authority on an application form to be provided. The applicant shall give such reasonable information as the authority may request. The applicant agrees, by making such application, that he will abide by all ordinances, rules, and regulations governing the utility systems. The deposit shall serve as a guarantee for the payment of charges for utility service and other amounts owed in connection with the utility service. Deposit amounts shall be set by resolution of the authority. The deposit shall be held in trust by the authority. When a customer's utility service is disconnected, the deposit or any part of such amount deposited which remains after all such charges and amounts due the authority have been satisfied shall be returned to the customer or to the authority if unclaimed by the customer after notice as required by law.**

1. ***Letter of credit.*** **The authority will accept a letter of credit for residential and commercial customers with twelve (12) months consecutive service with another electrical utility indicating no more than one late payment and no return checks during the twelve (12) month period. If the new account becomes delinquent to the point of disconnection of service or has checks for payment returned, the authority will require the appropriate deposit posted to maintain utility services with the authority.**

2. ***Return of deposits.*** **The authority will refund deposits to customers with twenty-four (24) consecutive months of service if no late charges, deferrals, or returned checks have been incurred during the twenty-four (24) month period ending December 1. Any person receiving a security deposit refund and is delinquent to the point of disconnection within a twelve (12) month period shall be required to post the appropriate deposit to maintain utility services with the authority.**

F. ***Discontinue services.*** **If at any time the person making the deposit should desire to discontinue the use of utility services, he shall notify the authority secretary-treasurer in writing and shall accompany his application with all arrears, if any, in excess of the deposit amount.**

§ 110-30 FAILURE TO PAY UTILITY BILLS; PENALTY; DISCONNECTION OF SERVICE.

A. Failure of any customer to pay any part of a utility bill for any utility services pursuant to this section by the past due date which is printed on the bill will result in the following actions and penalties:

1. A penalty on all amounts owing on a utility bill may be added to any utility bill which is not paid by the past due date printed on the bill;

2. Within seven days from receipt of the penalty notice, the authorized agents of the authority may disconnect or discontinue any or all utility services to the customer after mailing or posting written notice to the customer of the intent to disconnect or discontinue any or all of the utility services.

B. If any utility service is discontinued or disconnected pursuant to this section, the authority, or its agents, shall not reconnect or reestablish the service until the full amount of any outstanding utility service bill is paid, plus the penalty provided in this section, plus any applicable charges or expenses in reconnecting or reestablishing the service.

C. All utility bills for water, sewer, garbage, or electricity shall be due and payable on or before the due date set out in the statement furnished to the customer.

1. *Deferral of payment.* One deferral arrangement is allowed in a twelve (12) month period. The deferral must be completed prior to disconnect date and is in effect for five (5) days thereafter.

2. *Denial of service.* The authority may refuse service to a customer when there remains an unpaid account balance for services previously provided. Also, the unpaid account balance will be transferred to any open account, if applicable. The authority shall not be required to provide service to an applicant who uses an alias, trade name, business name, or the name of a relative or other person as a devise to escape payment of an unpaid obligation. The authority may require, to maintain service, payment of unpaid utility bills of another person when a previous customer with an unpaid account remains an occupant or user of the authority at the same utility address. Further, the authority may refuse service to any renter when the property owner has an outstanding balance for utilities, until such time as the unpaid obligation is paid. The authority may require photo identification of any customer receiving service from the authority. The authority may request a renter to provide a copy of the signed lease, rental agreement, or letter from the landlord. The property owner or landlord may guarantee in writing a portion of, or all of the required deposit. If the account is disconnected for nonpayment, the property owner or landlord becomes personally responsible for the unpaid account. No additional service will be provided on the property until the delinquent account is satisfied.

3. ***Returned checks.*** **If the authority receives three (3) returned checks on any utility customer during a twelve (12) month period, all payment transactions for that customer will be required to be made by cash or money order only.**

4. ***Delinquency cutoff.*** **All accounts shall be subject to disconnection of service for nonpayment five days after penalty assessment. Penalties are assessed the first working day after the tenth day following mailing of the utility bills. Accounts with a deferral arrangement are subject to disconnection of services ten days after penalty assessment. If a landlord becomes delinquent on an account and is subject to disconnect, or final bills are not paid by the due date, the appropriate deposit and connect fee will be required until the account has a favorable twelve (12) month credit history without penalties, disconnects or returned checks.**

5. ***Theft of service or meter tampering.*** **A deposit for an amount, at the discretion of the authority, above the stated deposit may be required for service to be connected at any address, active or inactive, if theft of utility service or meter tampering has occurred. Requests for deviations from the policies stated in this section will be considered based upon demonstrated verifiable need at the discretion of the secretary of the authority or designee.**

§ 110-31 OTHER UTILITY FEES AND CHARGES.

The authority from time to time, by motion or resolution, has the power to establish rates and charges governing all aspects of the utility services, including monthly service fees, connection fees and charges, and deposits. All payments and/or fees due to the authority shall be satisfied before service from the authority is provided.

§ 110-32 PERSONNEL MAY INSPECT PRIVATE PREMISES.

All authorized employees or agents of the authority shall, upon presentation of proper credentials, have free access at all reasonable hours to any premises supplied with water services, sewer services, or electrical current from the authority utility systems for the purpose of making inspections, observations, measurements, sampling, and testing in accordance with the provisions of these rules and regulations. Failure to provide free access could result in the authority requiring, at the customer's expense, to move services to an accessible location.

§ 110-33 LIABILITY FOR SERVICE.

A. Each person receiving utility service shall be liable to the authority for all utilities used according to rates and charges established by the authority.

B. All water and electric current used for building or construction purposes shall be charged against the property upon which it is used and the owner thereof, and all delinquent and unpaid charges therefor shall become a lien upon the premises supplied and be collected in the manner as other delinquent and unpaid charges for such service.

§ 110-34 PENALTY.

Any person violating the regulations in this article shall, upon conviction in municipal court, be punished as provided in section 1-12 of this Code, in addition to any other actions and remedies available.

§§ 110-35 – 110-60 RESERVED.

DIVISION 2

WATER DEPARTMENT AND SERVICES

§ 110-61 Application for water service.
§ 110-62 One premises to a tap; subsidiary connection and cross connection prohibited.
§ 110-63 Turning on water; permit.
§ 110-64 Water may be cut off.
§ 110-65 Water to be turned back on only by authority.
§ 110-66 Customers to keep service pipes in good repair.
§ 110-67 Discontinuance of service, notice.
§ 110-68 Accounts against the number of property and premises described; exception.
§ 110-69 Right reserved to shut off water.
§ 110-70 Waste of water prohibited.
§ 110-71 Meters; estimate of bill.
§ 110-72 Testing meters.
§ 110-73 Water shortages, declaration of emergency.
§ 110-74 Restriction on water use in emergency.
§ 110-75 Proclamation and notice of emergency.
§ 110-76 Grievances with water restrictions.
§ 110-77 Rural water.
§§ 110-78 – l10-100 Reserved.

§ 110-61 APPLICATION FOR WATER SERVICE.

Any person making application for water service or posting a deposit with the authority, as set forth in section 110-29 of these rules and regulations shall be deemed to have applied also for sewer and garbage service and shall be considered a customer of the authority until such time as water service to such customer has been discontinued.

§ 110-62 ONE PREMISES TO A TAP; SUBSIDIARY CONNECTION AND CROSS CONNECTION PROHIBITED.

Not more than one premises may be connected to anyone tap. No customer shall make or permit to be made a subsidiary connection of another premise with his water service. A cross connection with another water supply shall not be permitted. The authority may require separate service for separate premises, buildings, or houses.

§ 110-63 TURNING ON WATER; PERMIT.

It is unlawful for any person to turn the water on to any premises from the city water system except by permission of the authority. Water shall not be turned on until the plumbing has been installed and is in operation as provided by ordinance and until any and all deposits and charges have been paid. No person may connect with the water system until all fees are paid and the application is filed and a permit is issued to the applicant. All tapping shall be done by the authority. Any such connection shall meet the requirements of the city's plumbing code and other applicable requirements.

§ 110-64 WATER MAY BE CUT OFF.

Water may be cut off and service discontinued for any user of water from the city water system for any of the following reasons:

1. Violation of any ordinance provision relating to the water system or violation of any ordinance provision or any provision of any code adopted by reference relating to water and sanitary plumbing;

2. Any act or omission in regard to the water system or sanitary sewer system, the use of water, or the disposal of liquid wastes, which jeopardizes the public health and safety, creates a public nuisance, or interferes with the rights of others; or

3. Failure to pay a utility bill or other proper charge in connection with the utilities by the time the bill becomes delinquent.

§ 110-65 WATER TO BE TURNED BACK ON ONLY BY AUTHORITY.

When the water of any customer has been turned off by authority personnel, it shall not again be turned on except by permission of the authority.

§ 110-66 CUSTOMERS TO KEEP SERVICE PIPES IN GOOD REPAIR.

A. All customers using water shall keep their service pipes, stop cocks, and other water apparatus in good repair and in proper operation.

B. Adjustments to accounts for water leaks will only be made after investigation and consideration by the general manager of the Purcell Public Works Authority and must meet the following criteria:

1. The consumption of a leak must be at least three (3) times the customer's average gallons of usage for a single month, based on the previous twelve (12) months of records.

2. Adjustments will only be considered for unforeseen leaks due to broken water lines.

3. Proof of repair with a receipt for materials and any plumbing labor must be provided.

4. The Purcell Public Works Authority water department supervisor will inspect the completed repair work to determine qualification for an adjustment.

5. Adjustments will only be made to a single month's billing in a seven (7) year period.

6. Customers will be required to pay the amount of the average billing of water and sewer for the previous twelve (12) months plus fifty (50%) percent of the overage caused by the water leak. (Ord. No. 12-02, 3-5-2012)

§ 110-67 DISCONTINUANCE OF SERVICE, NOTICE.

A. Whenever the owner or occupant of any premises connected with the water system desires to discontinue the use of water, he shall notify the authority in writing, unless otherwise approved by the authority, and thereupon the authority shall disconnect the premises concerning which notice of discontinuance has been given.

B. It is unlawful for any owner of any premises connected with the water supply system to disconnect the water on the premises unless he shall have first filed a written request that the service of water to the premises be discontinued and shall pay all arrearages on water rates on the premises.

C. When the water has been shut off from any premises upon application of the owner or occupant of the premises or for the nonpayment of water charges, or for any other cause, it is unlawful for any person to again connect such premises with water except upon application to and by the authority.

§ 110-68 ACCOUNTS AGAINST THE NUMBER OF PROPERTY AND PREMISES DESCRIBED; EXCEPTION.

All accounts for water shall be kept against the number of the premises and property described for which the service was installed. However, any tenant and any person holding under lease may be supplied with water on their own account when proper application is made, and in such cases, the authority shall require such deposit of money with the authority as shall be necessary to protect the authority against any and all delinquent or unpaid charges for water or for other delinquent and unpaid charges for such service.

§ 110-69 RIGHT RESERVED TO SHUT OFF WATER.

The authority reserves the right, at all times, without notice, to shut off the water supply for repairs, extensions, nonpayment of rates, or any other reason; and the authority shall not be responsible for any stoppages or interruptions of water supply or for any other damage resulting from the shutting off of water. The authority is not liable for damage due to the failure of the water system, whether caused by accidental, natural or other causes.

§ 110-70 WASTE OF WATER PROHIBITED.

It is unlawful for any person to waste water or allow it to be wasted from imperfect or leaking stops, valves, pipes, closets, faucets or other fixtures or to use water closets without self-closing valves, or to use water for purposes other than those named in the original application upon which water rates are based, or to use it in violation of any provision of this chapter.

§ 110-71 METERS; ESTIMATE OF BILL.

A. *Installation of meters.* The authority shall install a meter on the service of every person using water.

B. *Ownership of meters.* All meters put in by the authority shall be owned and remain the property of the authority and shall not be removed unless the use of water on the premises be entirely stopped or service connections discontinued or abandoned.

C. *Water* to pass *through meter.* No person shall obtain any water from the water system except when the same shall pass through a properly installed meter.

D. *Placement.* Water meters shall be placed as near as possible and convenient to the curb or the property line of the property served thereby. Residential and commercial property meters may be placed between the curb and the sidewalk or between the sidewalk and the property line. All locations shall be approved by the authority.

E. *Protection.* Every water meter shall be protected at all times from freezing or other injury. In case an injury : occurs, the authority will make repairs at its own cost, except in cases of neglect of the owner or occupant, in which case the authority will make the repair at the cost of the owner or occupant of the premises served. A failure to keep the water box covered shall not be the neglect of the authority, but of the user, and freezing repairs due to the same shall be at the cost of the owner or occupant.

F. *Placement of yard hydrants.* No yard hydrant shall be placed nearer than ten (10) feet of any water meter. In no case shall a yard hydrant be placed so that the drainage therefrom will run toward or into the meter pit.

G. *Repair and replacement.* By all cases where meters are lost, injured, or broken by carelessness of negligence of the owners or occupants of premises, they shall be

repaired or replaced by the authority, and the cost shall be charged against the owner or occupant.

H. ***Improper registration of meter.*** **In the event of the meter getting out of order or failing to register properly, the consumer shall be charged on an estimate based on the average monthly consumption during the last three months the same was in good order, or from what may be the most reliable data at the command of the authority.**

I. ***Multiple meters.*** **In all cases where the consumer's piping or plumbing is divided, necessitating the use of two or more meters, each meter shall be handled and regarded as for separate and distinct consumer, to each of which shall apply the regular water rates and minimum charges until such time as such plumbing or piping is so arranged as to permit the use of but one meter. Under no circumstance shall consumption shown by two or more meters in use by the same consumer be added or lumped together in order to reduce the net sum due the authority.**

§ 110-72 TESTING METERS.

A. When the accuracy of the record of the water meter is questioned by the consumer, it shall be removed and tested.

B. If the test discloses an error against the consumer of more than two percent the authority may bear the entire expense of the test; on the other hand, where no such error is found, the person who requested the test shall pay the charge fixed by the authority, based on the actual time required to make such test.

C. Before making a test of any meter the person requesting such test shall make a deposit to the authority of the amount charged for such test, same to be fixed by the authority, based on the actual time required to make such test.

D. No meter shall be removed nor in any way disturbed or the seal broken except in the presence or under the control and direction of the authority.

§ 110-73 WATER SHORTAGES, DECLARATION OF EMERGENCY.

A. Whenever an emergency exists by reason of a shortage of water due to inadequate supply, limited treatment or distribution capacity, or failure of equipment or material, the city manager is hereby authorized to restrict or prohibit the use of water from the water system.

B. An emergency exists whenever the city manager reasonably determines that the water system is unable or will within sixty (60) days become unable to supply the full commercial and domestic needs of the users thereof, including adequate fire protection.

§ 110-74 RESTRICTION ON WATER USE IN EMERGENCY.

A. Upon the determination that such an emergency exists, the city manager shall issue a proclamation declaring the emergency and setting out with particularity an order restricting use of water from the system. The order may:

1. Restrict water usage during certain periods of the day or week or according to any orderly and nondiscriminatory scheme; and

2. Prohibit usage not essential to public health and safety. The order may be revised from time to time as the city: manager deems necessary.

B. A duly proclaimed emergency shall continue and the terms of the proclamation shall be in force for thirty (30) days or until such time as the city manager shall cause to be published a proclamation that the emergency has ended, whichever is shorter, unless the authority by resolution approved by a majority of all its members votes to terminate the emergency and proclamation upon a different date.

§ 110-75 PROCLAMATION AND NOTICE OF EMERGENCY.

A. The proclamation required by the preceding section shall be published in a newspaper of general circulation in the city or, if there is no such newspaper in which the proclamation may be published within twenty-four (24) hours after the emergency arises, publication shall be by posting a copy of the proclamation in ten (10) prominent places in the city. The emergency shall be in full force and effect upon publication. Substantial compliance with this section is sufficient to effect the emergency.

B. Whenever a sudden or unexpected event so reduces the availability of water or water pressure as to create an immediate threat to public health or safety, the notice of the proclamation may be given by any reasonable means, including electronic means. The emergency shall be in full force and effect upon such notice. However, if any means other than that required in subsection (a) of this section is used, the proclamation shall be republished in accordance with subsection (a) within twenty-four (24) hours of the first notice.

§ 110-76 GRIEVANCES WITH WATER RESTRICTIONS.

Any person feeling aggrieved by a proclamation of the city manager shall have the right to present the matter to the next regular or special meeting of the authority board of trustees or to any emergency session called to discuss the water emergency. The authority may exempt such aggrieved person, wholly or in part, from compliance with the proclamation order upon showing that compliance creates an immediate threat to the person's health or safety. The ruling of the authority by a majority vote of all its members shall be final and binding as to the continuance of any terms of the proclamation. Until and unless the action of the city manager is modified or revoked by action of the authority all water users shall be bound by the proclamation.

§ 110-77 RURAL WATER.

A. The water lines and system outside the city limits represent an extension of the core public water system designed to serve property located within the city limits. Neither the authority nor the city is obligated or required to supply water and/or extend the system to any further customer and/or development beyond the city's corporate boundaries if such action could be detrimental to other customers connected to the system.

B. *Authority's responsibility regarding service fine.* Authority shall establish an annual budgeted plan that sets forth the committed projects for each fiscal year. Developers and individuals shall pay for all costs associated to construct line extensions. Should the PPWA's committed projects for the fiscal year be the same as the developers and individuals submitted project, the developers and individuals shall not pay for the extension. Developers and individuals extension request shall be submitted to PPWAICITY staff for review. Each Commercial and Industrial extension shall be submitted to PPWAICITY staff. Staff will formulate recommendations and submit to PPWA Trustees for review. Trustees shall determine, as funds become available the cost and economic benefit, so as to determine PPWA's potential funding to extend service. Water meters will be installed by the Authority at the end of the service line. This is in accordance with adopted water extension policies and procedures.

C. *Denial of service.*

1. If an existing rural main is not accessible, available, and.lor of insufficient capacity, as judged by the authority's general manager, a request for water service shall be denied.

2. The general manager may cause a proposal to be formulated allowing for a new requesting water customer to financially participate with the authority in causing the water system to be enlarged and/or expanded so as to provide water service to the new customer. The proposal shall be submitted by the general manager to the authority trustees for final approval.

3. Each proposal submitted and approved shall be based on individual merits and is not required to conform to any other proposal.

4. Any such improvement to the water system shall become the property of the authority.

§§ 110-78 – 110-100 RESERVED.

DIVISION 3

SEWER SYSTEM AND SERVICES

§ 110-101 Tapping, connection charges.

§ 110-102 Use of public sewers.
§ 110-103 Separate sewers required.
§ 110-104 Permits required for new sewer constructions.
§ 110-105 Specifications for sewer construction.
§ 110-106 Connection to public sewer.
§ 110-107 Measurements, tests, and analysis.
§ 110-108 Special agreements.
§§ 110-109 – 110-135 Reserved.

§ 110-101 TAPPING, CONNECTION CHARGES.

Taps to the sewer may be made only by authorized authority personnel:

1. The owner or his agent shall make application on a form provided by the authority.

2. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the authority.

3. A permit and inspection fee for taps on sewer lines shall be paid to the authority at the time the application is filed.

4. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner.

5. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

§ 110-102 USE OF PUBLIC SEWERS.

A. *Installation of toilet facilities.* The owner or occupant of all buildings used for human occupancy, employment, recreation, or other purpose situated in the city and abutting any street, alley, or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer of the authority, is hereby required, at his expense, to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer within ninety (90) days after date of official notice to do so whenever the sewer is within three-hundred (300) feet of the property line.

B. *Prohibited facilities.* Except as otherwise provided, it is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

C. *Discharges to natural outlets prohibited.* It is unlawful to discharge to any natural outlet within the city or in any area under the jurisdiction of the city any sanitary sewage, industrial wastes, or other polluted waters except where suitable treatment has been provided in accordance with this chapter.

D. ***Unsanitary deposits.*** **It is unlawful for any person to place, deposit, or permit to be deposited in an unsanitary manner upon public or private property in the city or under its jurisdiction human or animal excrement, garbage, or other objectionable waste.**

E. ***Permit required for opening etc.*** **No unauthorized person shall uncover, make any connection with or opening into, alter, use, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the authority.**

F. **Use** ***of old building sewers.*** **Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the authority, to meet all requirements of this chapter.**

§ 110-103 SEPARATE SEWERS REQUIRED.

A separate and independent building sewer shall be provided for every building. However, where one building stands at the rear of another or an interior lot and no private sewer is available or can be constructed to the rear of the building through an adjoining alley, court, yard or driveway, the building sewer from the front of the building may be extended to the rear of the rear of the building and the whole considered one building.

§ 110-104 PERMITS REQUIRED FOR NEW SEWER CONSTRUCTION.

A. ***Permit required.*** **No person shall let a contract for, or commence the construction of, any sanitary sewage system, extensions, or sewage facilities, either whole or in part, or place or permit to be placed or discharged, or permit to flow into the existing authority sanitary sewer system, any sewage unless the person has first obtained a written permit signed by the authority.**

B. ***Application and supplementation.*** **The application for permission to connect to the sewage facilities shall be made by written request and shall be supplemented by complete plans, specifications, engineering reports, and other pertinent information shall be forwarded by the authority to the appropriate state agency for review, approval, and the issuance of a permit for construction as required by state law.**

C. ***Execution by authority; signature of responsible party.*** **Plans and specifications forwarded to the state shall be accompanied by an application for permit to construct, properly executed and signed by the responsible authority official, where the authority plans to accept the new sewerage facilities upon completion of construction. In the event the authority does not plan to accept responsibility for the facilities after construction has been completed, the application for permit to construct must be signed by the party who will be responsible for the upkeep and maintenance of the proposed sewerage facilities.**

D. ***Inspection by authority.*** **A permit to connect any new sanitary sewerage system extensions or sewerage facilities to existing authority sewerage facilities shall not become effective until the new installation is completed to the satisfaction of the authority and is in accordance with the requirements of the state. The authority shall be allowed to**

inspect the work at any state of construction and the applicant for the permit shall notify the authority when the work is ready for final inspection and before any underground portions are covered.

E. ***Notification for inspection.*** **The applicant for the building sewer permit shall notify the authority when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made by or under the supervision of the authority.**

§ 110-105 SPECIFICATIONS FOR SEWER CONSTRUCTION.

A. ***Material.*** **The building sewer line shall be of such material as may be required by the authority or the city in its subdivision regulations or other requirements.**

B. ***Size and slope.*** **Size and slope of the building sewer shall be subject to the approval of the authority, but in no event shall the diameter be less than four (4) inches; slope of such pipe shall be not less than one eighth (1/8) of an inch per foot.**

C. ***Joints and connections.*** **All joints and connections shall be made according to the specifications established by the authority or the city.**

D. ***Excavations, pipe laying, and backfill.*** **All excavations required for the installation of the building sewer shall be open trench work unless otherwise approved by the authority. Pipe laying and backfill shall be performed in accordance with city specifications except that no backfill shall be placed until the work has been inspected.**

E. ***Building sewers.*** **Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to, or within three (3) feet of, any bearing wall which thereby might be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings.**

F. ***Lifts.*** **In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.**

§ 110-106 CONNECTION TO PUBLIC SEWER.

A. The connection of the building sewer into the public sewer shall be made at the "Y" branch, if such is available at the suitable location. Where no properly located "Y" branch is available, a neat hole may be cut into the public sewer to receive the building sewer, with entry in the downstream direction at an angle of about forty-five (45°) degrees. A forty-five (45°) degree "L" may be used to make such a connection, with the spigot end cut so as not to extend past the inner surface of the public sewer. The invert of the building sewer at the point of connection shall be at the same or higher elevation than the invert of the public sewer. A smooth, neat joint shall be made and the connection made secure and

watertight by encasement in concrete. Special fittings may be used for the connection only when approved by the authority.

B. Manholes, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the authority.

C. Such manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

§ 110-107 MEASUREMENTS, TESTS, AND ANALYSIS.

A. All measurements, tests, and analysis of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with standards adopted by the authority and shall be determined at the control manhole provided for in this chapter.

B. If no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

§ 110-108 SPECIAL AGREEMENTS.

No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the authority and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor by the industrial concern.

§§ 110-109 – 110-135 RESERVED.

DIVISION 4

ELECTRIC SYSTEM

SUBDIVISION I

IN GENERAL

§ 110-136 Applications and permits.
§ 110-137 Connections.
§ 110-138 Connection with lines.
§ 110-139 Accounts against number of property and premises.
§ 110-140 Unlawful to furnish additional persons or premises.
§ 110-141 Unlawful to use current through defective fixtures.
§ 110-142 Meters.
§ 110-143 Meter ownership; requirements, estimates.
§ 110-144 Discontinuance of service, notice.

§ 110-145 Right to shut off current.
§§ 110-146 – 110-170 Reserved.

§ 110-136 APPLICATIONS AND PERMITS.

All applications and permits for connection with and use of electric facilities shall be made in conformity with authority requirements and standards for wiring and construction prescribed by the city and on forms as required by the authority.

§ 110-137 CONNECTIONS.

Upon presentation to the authority of proper application and deposit, a permit shall be issued to connect the electric lines with the property described in the application, and such connections shall be made from the electric lines to the premises or building described in the application as shall be necessary to furnish electric power to the occupant of the premises described.

§ 110-138 CONNECTION WITH LINES.

It is unlawful for any person to make any connection with any wire or fixtures of any character belonging to the electric system of the authority without first having obtained permission to do so from the authority.

§ 110-139 ACCOUNTS AGAINST NUMBER OF PROPERTY AND PREMISES.

All accounts for the use of electricity shall be kept against the number of the premises and property described for which the service is installed. A tenant or person holding under lease may be supplied with electrical current on his own account when proper application is made.

§ 110-140 UNLAWFUL TO FURNISH ADDITIONAL PERSONS OR PREMISES.

It is unlawful for any person whose premises are supplied with electrical current from the authority lines to install additional fixtures on a premises or to use current for purposes other than those stated in the application or to furnish current to additional residential units, persons, or premises unless he shall first make application and receive permission in the same manner as provided in the original application and permit.

§ 110-141 UNLAWFUL TO USE CURRENT THROUGH DEFECTIVE FIXTURES.

It is unlawful for any person to use any current from the electrical system or allow it to be used on any premises where the wiring or fixtures are not in good repair or where the machinery is in bad repair, or does not comply with the standards required by city ordinances or authority rules.

§ 110-142 METERS.

The authority is authorized and directed to install meters on the service of each and every person using electrical service provided by the authority. The user is liable for any damage and costs of making repairs arising from neglect or wrongful use of the meter or electric service.

§ 110-143 METER OWNERSHIP; REQUIREMENTS, ESTIMATES.

All meters put in by the authority shall be and remain the property of the authority and are not to be removed unless the use of current on the premises is entirely stopped and the service connection discontinued or abandoned. In all cases where meters are lost, injured or broken by carelessness or negligence on the part of the owners or occupants of the premises, they shall be replaced by the authority and the costs charged against the owners or occupants. In the event of the meter getting out of order or failing to register properly, the consumer shall be charged on an estimate based on average monthly consumption during the last three (3) months the same was in good order or from what may be the most reliable at the command of the authority.

§ 110-144 DISCONTINUANCE OF SERVICE, NOTICE.

It is unlawful for any owner or person connected with the electrical system to disconnect from the system unless he shall have first made a request, in writing if so required by the authority, that the service of electrical current to the premises be discontinued and shall pay all arrearages in excess of the deposit amount due for the use of electrical current on the premises. When current has been cut off from any premises upon application of the owner or occupant of the premises, or for nonpayment of charges, or for any other cause, it is unlawful to again connect such premises except upon application to and by the authority.

§ 110-145 RIGHT TO SHUT OFF CURRENT.

A. The authority reserves the right, at all times, without notice, to shut off current for light and power in the event it is found necessary on account of repairs, extensions, nonpayment of rates, noncompliance with applicable codes, or any other reason, and the authority shall not be responsible for any stoppages or interruptions in the supply or current or for any other damages resulting from the shutting off.

B. Electrical service may be cut off and service discontinued for any user of electricity from the city electric system for any of the following reason:

1. Violation of any ordinance provision relating to the electric system or violation of any ordinance provision or any provision of any code adopted by reference relating to electricity and electrical fixtures;

2. Any act or omission in regard to the electrical system or the use of electricity which jeopardizes the public health or safety, creates a public nuisance, or interferes with the rights of others; or

3. Failure to pay a utility bill or other proper charge in connection with the utilities by the time the bill becomes delinquent.

§§ 110-146 – 110-170 RESERVED.

SUBDIVISION II

EXTENSION*

§ 110-171 City policy established.
§ 110-172 Electric line construction.
§ 110-173 Rebate for subdivisions.
§ 110-174 Annexation.
§ 110-175 Meter boxes.
§ 110-176 Administration.
§ 110-177 Repealer.
§ 110-178 Electrical trench detail.
§ 110-179 Transformer pad detail.
§§ 110-180 – 110-189 Reserved.

§ 110-171 CITY POLICY ESTABLISHED.

It shall be the policy of the authority, on behalf of its beneficiary, the city, to furnish and sell electric power at volumes commensurate with the needs and demands of its customers to the greatest extent possible but no volumes are guaranteed or assured. Minimum and maximum volumes shall be determined by the authority from time to time as needs and circumstances change. (Res. No. 99-P04, § 1, 3-1-1999)

§ 110-172 ELECTRIC LINE CONSTRUCTION.

A. ***Installation according to policy; control; connection with authority's approval only; payment of costs.*** **It shall be the policy of the authority, on behalf of its beneficiary, the city, to require electric distribution lines and transformers to be installed according to the city's and the authority's specifications. The authority shall control and inspect the installation of all lines and transformers from the commencement of the project. No connections shall be made to authority electric lines without prior written approval of the authority. All connections shall be made by city and/or authority personnel or their designees. The initial cost of construction including the cost of transformers shall be paid by owner/developer when the distribution system is being extended to new subdivisions or to areas not now included in the system.**

B. ***Connection by developers/ owners.*** **Except in instances listed in subsection (c) of this section, where an individual, partnership, corporation, or other legal entity, hereinafter called the developer/owner, desires to connect to the authority electric distribution system, such developer/owner shall design all electric lines and transformers within the boundaries of developer/owner's property to meet city and authority specifications. The design shall be approved by the appropriate representatives of the city and authority prior to installation.**

C. ***Connection of service lines.***

1. Where the developer/owner desires to connect a single residence, commercial building, or other building located within three-hundred (300) feet of an authority distribution line, the authority will install a service line from the transformer to an approved and inspected weatherhead provided by the developer/owner.

2. If the developer/owner desires underground electrical service from the authority's overhead distribution line within such three-hundred (300) feet, such developer/owner shall pay the difference in the increased cost of labor and materials required for installing underground service verses the cost of providing overhead service.

3. Where a single residence, commercial building, or other building is more than three-hundred (300) feet from an authority distribution line, the developer/owner must, at its own expense, provide the additional distribution line and the necessary transformers beyond three-hundred (300) feet.

4. The authority and/or the city, as the case may be, shall have the authority to view each individual case for the purpose of determining whether or not it is feasible, and under what conditions it is feasible, for the authority to extend its lines. The authority reserves the right to determine that an extension is not feasible and therefore not extend its lines and further reserves the right to modify this policy by a majority vote of the entire council or trustees.

D. ***Acceptance of easements.*** **All utility easements shall be in order, accepted, and taken in the name of the authority and/or the city in advance of installation. If it becomes necessary, the city and/or authority may exercise its right of eminent domain, but is not required to do so. All expenses related to obtaining such easements, including, but not limited to, legal fees, court costs, filing fees, and the purchasing of easements shall be paid by the developer/owner. The costs and fees associated with obtaining such easements shall not be a part of the rebate costs described in section 110-173.**

E. ***Conveyance of title.*** **Upon completion by developer/owner of such lines and installation of transformers within its property at its cost, the developer/owner shall convey title to the lines and transformers to the authority after final inspection and approval by the authority and/or city personnel. (Res. No. 99-P04, § 2, 3-1-1999)**

***Editor's note*: This subdivision is from Purcell Public Works Authority Resolution No. 99-P04, adopted on March 1, 1999.**

§ 110-173 REBATE FOR SUBDIVISIONS.

A. *Determination of cost per lot.* Prior to installation, the authority shall determine the costs to the authority of materials, equipment, and personnel to provide service including street lighting on the property of the developer/owner. This cost will be divided by the number of building lots shown on the final plat of the subdivision to determine the cost per lot for electrical service. The cost per lot as so determined shall be the basis for the rebate set forth in subsection (c) of this subsection.

B. *Issuance of vouchers.* Upon completion and acceptance of the electric lines and transformers by the authority and/or city, the authority shall issue one voucher to the developer/owner for each building lot shown on the final plat of the subdivision. The value of each voucher will be the cost determined in subsection (a) of this section. Vouchers will be redeemable only within five (5) years from the date of issuance after which time the voucher will be null and void.

C. *Rebate of vouchers.* Upon connection of authority electric service to a building site, the authority/city shall pay the developer/owner or the holder of the voucher a rebate for the amount of the voucher. Rebates shall only be paid based upon permanent connection to authority lines; i.e., if one house sets on more than one lot, the authority/city will rebate only one voucher for the connection. If more than one house sits on a lot, the authority/city will only rebate for the one lot.

D. *Installation of underground utilities.* If underground utilities are desired and or required by the owner/developer, all underground cables shall be installed in conduit in accordance with authority standards. Underground system transformers shall be installed on the front property lot lines so as to be directly accessible from a public street in the event an alley way is not platted, unless instructed otherwise by the authority's general manager.

E. *Review of rebates.* The rebates provided for in subsections (a), (b), (c), and (d) of this section shall apply only to subdivisions. However, the authority and/or the city reserves the right to review an application for rebate concerning a single residence, commercial, or other building from the standpoint of feasibility as well as being in the best interest of the city and its residents. The authority and/or city reserves the power to modify and deviate from the provisions contained in this section based upon a vote of a majority of the councilmembers or trustees. (Res. No. 99-P04, §3, 3-1-1999)

§ 110-174 ANNEXATION.

The developer/owner shall petition the city for annexation of any properties to be served by such electric system. In the event a plat is to be filed of the area involved, the developer/owner agrees that immediately upon the filing of such plat, annexation may be

effected at the city's option. Electric usage shall determine, but not limit, the area served. (Res. No. 99-P04, §4, 3-1-1999)

§ 110-175 METER BOXES.

The authority shall provide without charge the required meter base for installation in accordance with applicable codes and state law. If a meter base greater than two-hundred (200) amps is requested or required, the owner/developer or customer shall be assessed any additional costs incurred by the authority. (Res. No. 99-P04, §5, 3-1-1999)

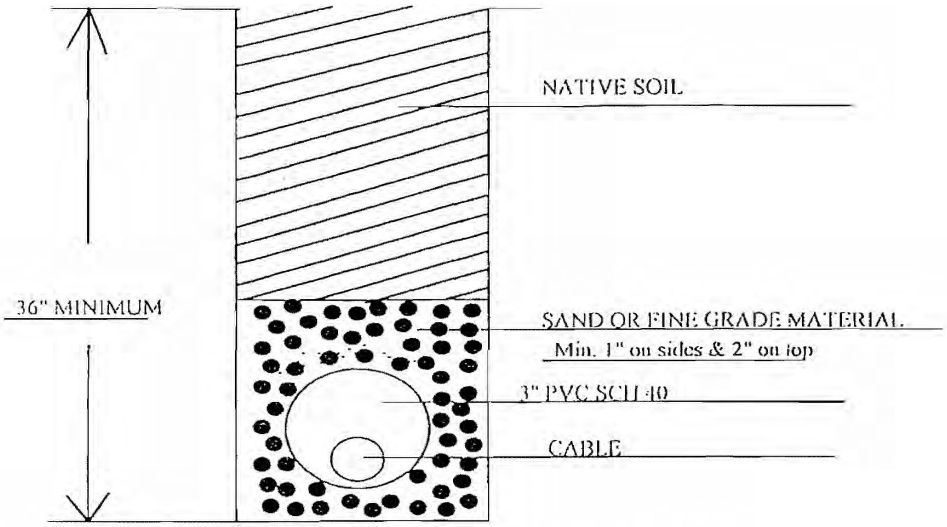
§ 110-176 ADMINISTRATION.

It shall be the duty of the secretary-treasurer of the authority to keep records of electric improvements to the distribution system. It shall be the duty of the general manager and the electric department superintendent to advise the authority secretary-treasurer of any extensions to be made. (Res. No. 99-P04, §6, 3-1-1999)

§ 110-177 REPEALER.

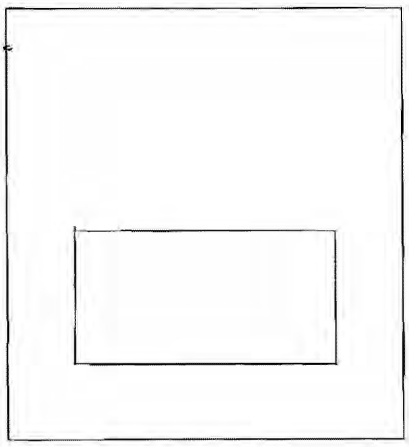
This resolution shall repeal any prior resolution, ordinance, or parts of prior resolutions or ordinances in conflict with it. (Res. No. 99-P04, §7, 3-1-1999)

§ 110-178 ELECTRICAL TRENCH DETAIL.



Note: Sweeps and 90's will be steel or aluminum.

§ 110-179 TRANSFORMER PAD DETAIL.



PAD SHOULD BE OF SUFFICENT SIZE
TO ALLOW 4" APRON AROUND
TRANSFORMER

HOLE IN PAD SHOULD BE
ABOUT THE SAME AS TRANSFORMER
BOTTOM OPENING

4" THICK CONCREAT

4" thick concreat up to 100 KVA
all others will be determined on an individual bases

FACTORY MADE PADS WILL
BE ACCEPTED

SUBDIVISION III

POWER LINE SITING AND DESIGN BOARD

§ 110-190 Power line siting and design board established; duties; powers.
§ 110-191 Approval; process.
§ 110-192 Safety hazard; underground requirements.
§ 110-193 Board; membership.
§ 110-194 Application when not applicable.
§§ 110-195 – 110-205 Reserved.

§ 110-190 POWER LINE SITING AND DESIGN BOARD ESTABLISHED; DUTIES; POWERS.

There is hereby created a Power Line Siting and Design Board. The board is hereby established to develop valid construction standards and safety rules for the use of public ways in the city by all utilities including the Purcell Public Works Authority's Electric Utility. The board is directed to establish methods to encourage the orderly development of electric services, conserve natural resources, minimize unnecessary use of the public rights-of-way, avoid needless and wasteful duplication of electric facilities within the state, and provide safe, economical and cost effective electric service to retail customers. It shall be the duty of the Power Line Siting and Design Board to insure that the purposes of state law

are achieved by reviewing all applications and will approve the application or amend the application by providing the methods that shall be used to accomplish the construction so that the construction meets the goals of the Retail Electric Consumer Cost Reduction, Safety, and Service Efficiency Act of 2008. (Ord. No. 09-02, § 1, 4-6-2009)

***State law* reference: HB 1739 passed by the Oklahoma State Legislature in 2008.**

§ 110-191 APPROVAL; PROCESS.

Construction of all power lines within the city shall be constructed only after submission of plans for such construction to the Power Line Siting and Design Board. Such plans may be carried out by a utility only after approval of the construction by the board with final approval to be provided by the PWA or city council of the city of Purcell. The city council or PWA may approve or disapprove a recommendation of the board, but it may not amend any recommendation. It may send an application back to the Board for further review. (Res. No. 09-02, §2, 4-6-2009)

§110-192 SAFETY HAZARD; UNDERGROUND REQUIREMENTS.

HB 1739 found that duplicate overhead power lines are a safety and should not be permitted. It is therefore the goal of the governing body of the city of Purcell that power lines constructed in the future should be underground wherever possible, and the Power Line Siting and Design Board should take all measures needed to insure the use of underground facilities by utilities. The board shall insure that the use of the rights of way are used in such a manner as to insure the public safety and the best use of limited rights-of-way area as mandated by HB 1739. (Ord. No. 09-02, § 3, 4-6-2009)

§ 110-193 BOARD MEMBERSHIP.

The members of the Power Line Siting and Design Board shall include the chief administrative officer of the city, the chief finance officer of the city, and the superintendent of the electric utility. The members will appoint a chairman, vice chairman, and treasurer among themselves. The board will meet from time to time at the call of the chair. (Ord. No. 09-02, § 4, 4-6-2009)

§ 110-194 APPLICATION WHEN NOT APPLICABLE.

The provisions of this act shall not apply to electric utilities that hold a valid franchise for operations in the city of Purcell. (Ord. No. 09-02, § 5, 4-6-2009)

§§ 110-180 – 110-205 RESERVED.

DIVISION 5

GARBAGE AND OTHER REFUSE

§ 110-206 Garbage to be collected.
§ 110-207 Containers and refuse regulations.
§ 110-208 Garbage and trash in container, cans.
§ 110-209 Reserved.
§ 110-210 Tree trimmings.
§ 110-211 Sewage to be drained off.
§ 110-212 Dead animals.
§ 110-213 Garbage, trash, and ashes collected by authority; placement of containers.
§ 110-214 Garbage, how disposed of.
§ 110-215 Tampering, scavenging prohibited.
§ 110-216 Convenience Center policies.
§§ 110-217 – 110-250 Reserved.

§ 110-206 GARBAGE TO BE COLLECTED.

Every person using or occupying any building, house, or structure within the city shall be required to collect, separate, and dispose of all garbage, trash, ashes, and sewage as provided in this chapter. It is unlawful for any such person, firm, or corporation to collect, separate, or dispose of garbage, trash, ashes, or sewage in any manner except as is provided in this division. It is unlawful for any person other than the city or its designated agents to collect, transport, or dispose of refuse without written approval of the authority, except for private hauling of items to a dump site.

§ 110-207 CONTAINERS AND REFUSE REGULATIONS.

Every occupant or owner of a residential unit to which refuse collection service is made available from the authority, or any business or industrial establishment, including any building, house, or structure, within the city shall comply with the following:

1. Placement and use of trash cans in alleys where city containers are located is expressly prohibited. The placement or parking of vehicles in alleys where containers are located or in the city right-of-way, so as to deny access to the container, is expressly prohibited. The authority reserves the right to refuse to collect refuse in containers which are not accessible by reason of parked vehicles or other obstructions. All refuse from residential units may be stored in such containers for the storage of refuse; however, the following items shall not be stored in city containers: tires, furniture, appliances, bath fixtures, steel, dirt, masonry products or any volume of materials which because of weight would preclude the authority or its designated contractor from dumping the container. These prohibited items may be picked up by service as set forth in this chapter. The placement of any items on the ground beside the container, which normally would be placed in the container, and thereby causing litter, is prohibited.

2. Commercial units, including, but not limited to, businesses and industrial establishments, shall place refuse in the container and the opening shall be immediately closed and securely fastened. Cardboard boxes which are placed in the containers must be nested or broken down. The same restrictions and prohibitions that apply to residential units shall also apply to commercial units, businesses, and industrial establishments.

3. It is the responsibility of each contractor, builder, commercial landscaping contractor, and appliance or furniture dealer to dispose of their respective items.

4. Storage of all refuse shall be in a manner as is approved by the city authority and health officers.

§ 110-208 GARBAGE AND TRASH IN CONTAINER, CANS.

A. All garbage as defined in this chapter shall be placed in the containers provided, plastic bags, or, where permitted, garbage cans maintained for that purpose. Before placing the garbage in the containers provided, plastic bags, or garbage cans, all liquid portion of the garbage shall be drained into the sanitary sewer. The lid or cover on the containers or on the garbage cans must be kept closed and fastened so that flies and other insects or animals may not have access to the contents therein and shall be removed only while depositing additional garbage or trash or while the collectors removing and unloading the contents of the containers or the garbage cans for disposal.

B. All trash as defined in this chapter shall be placed in the containers provided or garbage cans where permitted with the garbage but only to such extent as will permit the cover or lid of the container or can to be properly placed thereon.

C. Containers or cans containing other than garbage and trash as defined in this section will not be collected until such prohibited materials have been removed by the person responsible for placing them in the container or can and the collector shall promptly report such person to the authority.

§ 110-209 RESERVED.

§ 110-210 TREE TRIMMINGS.

A. Tree cuttings or trimmings shall be bundled in lengths not to exceed three feet in length and one and one-half (1½) feet in diameter and not exceed fifty (50) pounds in weight.

B. Tree trimmings, building and manufacturing wastes, grasses, leaves, weeds, and rocks shall not be allowed to accumulate upon any premises in the city so as to create a menace to health, a fire hazard or an unsightly appearance and shall be removed at the expense of the person responsible for the accumulation. Under no condition may tree trimmings, grasses, weeds, leaves, or building and manufacturing wastes be burned within the city unless they are burned by city or authority personnel acting in line of duty.

***Cross reference*: Vegetation, ch. 114.**

§ 110-211 SEWAGE TO BE DRAINED OFF.

All sewage shall be drained off and disposed of through the proper receptacles into the sanitary sewer.

§ 110-212 DEAD ANIMALS.

A. The carcass of a dead animal in the container or garbage can is prohibited. The carcass of a dead animal must be disposed of by the owner or at his expense.

B. It is unlawful for any person to bury, or cause to be buried, the carcass of any dead animal in any street, park, private premises, or any other public or private place within the city.

***Cross reference*: Animals, ch. 10.**

§ 110-213 GARBAGE, TRASH, AND ASHES COLLECTED BY AUTHORITY; PLACEMENT OF CONTAINERS.

A. No person may deposit, or cause to be deposited, in or on any street, alley, sidewalk area, or public right-of-way any refuse or other waste materials. Bulky items designated for pickup may be placed curbside.

B. It is unlawful to place upon the sidewalk area, alleys, or streets any sweepings or trash from stores or other buildings or any leaves, yard cleanings, debris from pruning, or other refuse materials.

§ 110-214 GARBAGE, HOW DISPOSED OF.

All refuse and ashes collected shall be disposed of in such manner as the authority may provide.

§ 110-215 TAMPERING, SCAVENGING PROHIBITED.

A. The term "scavenging," as used in this section, means the collecting, hauling, transporting, or removal of any material or any residue or part thereof of any kind of whatsoever nature from any dump ground, sanitary landfill, garbage or trash disposal facility, or sewage disposal facility provided or maintained by the city or authority for such purposes or to molest or interfere with the contents of any receptacle containing refuse, garbage, or trash which belongs to another without permission.

B. It is unlawful for any person, unless expressly licensed or permitted by the city or authority, to enter upon any dump ground, sanitary landfill, garbage or trash

disposal facility, or sewage disposal facility maintained by the city or authority for such purposes and engage in scavenging as defined in this section.

§ 110-216 CONVENIENCE CENTER POLICIES.

A. ***Normal hours of operations:***

Monday-Friday	**1:00 p.m.— 4:00 p.m.**
Saturday	**10:00 a.m.— 4:00p.m.**

The center will not be available on established holidays. The center may also be closed anytime if the center is not available to process/store items and/or due to weather conditions.

B. ***Residential and commercial trash service; service fees.*** **The convenience center is provided and operated for residential and commercial trash customers in accordance with the policy document entitled "Department: Solid Waste Management Procedures, Administration of the Purcell Convenience Center," pages 1 through and including page 4 under revision date of August 7, 2006.**

C. ***Deposits.*** **Items are to be deposited into appropriately designated convenience containers as marked and/or directed by the city's representative. For example, only brush-tree limbs will be accepted at the "grinder" and only metal products at the designated "metal" container. Failure to deposit items at designated location may result in a special assessment being imposed.**

D. ***Accepted items.***

1. Furniture and miscellaneous household item.

2. Appliances; however, refrigeration and air condition units must have compressors removed.

3. Items which will not fit into polycarts or dumpters which are otherwise prohibited.

E. ***Unacceptable items.***

1. Any item too large to fit within designated containers and/or restricted by ODEQ or EPA.

2. Hazardous items, including toxic chemicals or materials, asbestos, acids, and batteries.

3. Paint, lacquer, thinner, solvents, motor oil, antifreeze, etc.

4. Rubber products including tires and tubes.

5. Household trash or garbage.

6. Construction debris, shingles, bricks, sheetrock, dirt, rocks, concrete, etc. (Ord. No. 06-12, §§1, 2, 8-22-2006)

***Editor's note*: The above section was adopted separately from the other provisions of this article.**

§§ 110-217 – 110-250 RESERVED.

ARTICLE 3

DRAINAGE STANDARDS*

§ 110-251 Application.
§ 110-252 Definitions.
§ 110-253 Purpose and intent.
§ 110-254 Required documentation and procedure.
§ 110-255 Design method standards.
§ 110-256 Construction of drainage systems.
§ 110-257 Enforcement and penalty.

§ 110-251 APPLICATION.

All subdivisions of land, developments, or improvements to any land in the corporate limits of the city as now and as may be hereafter established shall be subject to all provisions of this article. (Ord. No. 02-08, §1, 5-6-2002)

§ 110-252 DEFINITIONS.

The definition of terms set forth in this article shall be given the meaning indicated unless the content clearly requires a different meaning.

1. *Applicant* means a person, partnership, corporation, or public agency requesting permission to engage in construction.

2. *Construction* means any alteration of land for the purpose achieving its development or changed use, including particularly any preparation for, building of, or erection of a structure;

3. *Detention* means a temporary storage of determined quantity of water for a specified period of time with a release rate, that is either fixed or variable for releasing storm water into a downstream drainage system during the storm.

4. ***Developer*** **means any person, persons, corporation, or other entity who in his or her own behalf, or as an agent of another, engages in development, subdivision, construction of structures, or alteration of land in preparation therefor.**

5. ***Drainage system*** **means the surface and subsurface system for the removal of water from the land, including both the natural elements of streams, marshes, swales, and, ponds, whether of an intermittent or; continuous nature, and the man-made element which includes culverts, ditches, channels, retention facilities, detention facilities, gutters, streets, and storm sewer systems.**

6. ***Minor maintenance*** **means any maintenance activity for the maintenance of a drainage system specifically excluding repair or replacement of paved channel liners, replacement of revetments or rip-rap, or replacement of soil lost due to meandering of a channel. Minor maintenance includes, but is not limited to, mowing, replacement of vegetation, filling of erosion gullies and removal of restrictions (debris, trees, etc.).**

7. ***Natural drainage*** **means the dispersal of surface waters through ground absorption and by drainage channels formed by the existing surface topography which exist at the time adoption of this article or formed by any natural or approved man-made changes in the surface topography.**

8. ***Retention*** **means long-term storage of storm water runoff and controlled release of this runoff during and/or after a flood or storm. (Ord. No. 02-08, §2, 5-6-2002)**

******Editor's note*****: Ord. No. 02-08, §§1-7, adopted May 6, 2002, did not specify manner of inclusion; hence, inclusion as article 3, §§110-251-110-256 is at the discretion of the editor.**

§ 110-253 PURPOSE AND INTENT.

It is the purpose this article to set forth the minimum requirements necessary to provide and maintain a safe, efficient, and effective storm water management system within the city and to establish the various public and private responsibilities for the provision thereof with the least possible disruption of the natural drainage system and of the environment.

1. It shall be the responsibility of any applicant engaged in the activity of land subdivision, development, or improvement to:

a. Control and manage all drainage from the subdivision resulting from the development including the control and management of any determined, approved increase in runoff or runoff rate.

b. Prepare all drawings, plans specifications, statements, studies, justifications, and other data required by this article in form that permits an orderly and

comprehensive review and approval to assure that all assigned responsibilities have, sufficiently and correctly incorporated.

c. Control and manage all storm water runoff and drainage from points and surfaces within the subdivision.

d. Provide detention or retention facilities or storm sewer, or improved or natural channels, or a combination thereof to provide control and management of increased discharge.

e. Prevent soil dispersal, sedimentation, erosion, or other similar forms of pollution:

1) From any surface of the site into drainage channels provided or created within the development.

2) From the site into drainage channels adjacent to and remote from the site.

f. Prevent any and all drainage interferences, obstructions, or other adverse effects upon drainage into, through, or adjacent to the development from upstream or higher elevation source by the use of temporary or permanent by-pass channels, channel improvements, or other facilities as may be required.

g. Improve or modify all drainage systems and channels lying within or adjacent to the subdivision to a level that meets all requirements of this article.

h. Improve or modify drainage systems downstream from the subdivision to a level that will accommodate all allowable, significant increases in storm water quantity or rate without adverse effect and in accordance with the requirements of this article.

i. Fully consider and provide natural drainage in the design of drainage systems and classifications applicable to the development.

j. Prepare and submit a professional evaluation of the impacts of proposed development.

k. Maintain all installed drainage facilities in a clean, fully functioning manner, from installation through final acceptance by the city.

l. Prevent any contribution to existing flooding, drainage, erosion, runoff, pollution. Or other storm water management problems within an area already under a high level of development.

m. Prevent drainage, runoff, flooding, or problems associated with any adverse contribution to any such potential problems.

2. It shall be the responsibility of all owners of property, whether undeveloped, developed, or undergoing development, to:

a. Mow and provide minor maintenance of drainage channels and their slopes for that portion of the channel lying within their property line.

b. Keep clear all drainage channels within the boundaries of their properties in accordance with the requirements of this article.

c. Control all storm water runoff and drainage from points and surfaces on the property.

d. Prevent any and all drainage interferences, obstructions, blockages, or any other adverse effects upon drainage, into, through, or out of the property.

3. It shall be the responsibility of the city to:

a. Repair and maintain drainage channels and their slopes when located within or upon rights-of-way dedicated to and accepted by the city.

b. Develop and implement standards and specifications required to clearly and accurately interpret the physical requirements of this article.

c. Make such necessary improvements of primary and secondary drainage channels that cannot or will not be improved through private development.

d. Improve and maintain floodway and flood fringe areas that are dedicated and accepted-public areas, rights-of-way, park lands, or public-owned buildings or developments.

e. Improve and maintain all public owned drainage channels or systems outside the flood fringe area.

4. It is the intent of this article that the following principles shall be used in the design of modifications to or the improvement of the storm water management system.

a. Natural drainage channels and techniques shall be given priority consideration in preparation of drainage system designs and shall be designed or improved as an integral part of the landscape of the area and shall be kept in good repair.

1) **The design of any development shall provide for the maximum use of open channels and natural streams for flows and detention or retention storage of volumes and flows in excess of those present prior to development.**

2) **Drainage channel improvement shall be developed and designed that preserve and protect large trees and other worthy botanical and geological features to the greatest possible extent.**

3) **Wherever channel improvements are required to accommodate calculated flows in a specified manner, the designs shall provide maximum utilization of turf, sodding, and other natural drainage techniques.**

b. **Closed, underground drainage conduits shall be employed only when there is no viable alternative to fit site or geographic conditions or to meet the requirements of this article and all specifications and performance standards pertaining thereto.**

c. **The rate of runoff after development shall not exceed that rate experienced before development.**

1) **In no case shall the release rate of storm water runoff from all developments in a drainage area, controlled or uncontrolled, exceed the "safe" storm drainage capacity of the downstream outlet channel(s) or storm drainage system as determined by the city engineer or other designated representatives by the city manager.**

2) **Within already developing or developed areas where "safe" storm drainage capacity of downstream outlet channel(s) or storm drainage system has been exceeded, the developer shall add no increased runoff unless the downstream outlet capacity has been increased to accommodate all flows.**

3) **Improvements may be required in channels or sewers flowing into, through, or from the subdivision or development, or in channels or sewers located upstream or downstream that are affected by the flow of water from the subdivision; development, or change thereto. The following types of improvements, among others not specifically listed, may be required.**

A) **Enlargement or replacement of undersized structures.**

B) **Removal of obstructions.**

C) **Straightening, widening, and/or deepening of channels.**

D) Construction of erosion and sedimentation facilities.

E) Construction of closed- or open-paved or natural drains for the purpose of closing gaps or maintaining the continuation of the overall storm water drainage system.

F) Detention or retention facilities.

G) Improvements as otherwise required by this article to assure efficient and safe storm water management.

4) When subdivision development or property improvements will result in an increased runoff beyond the boundaries of the development or improvement which cannot be accommodated through channel improvements without flooding or potential flooding upstream or downstream, the city through its duly designated representative and/or board shall require the construction of one or more detention or retention facilities on the subdivision or property being improved and/or required detention or retention techniques to be used off site which will result in flows, during construction and thereafter, from the property at a rate and volume no greater than the discharge from the undeveloped site.

d. All those engaged, in land improvements or modifications shall prevent the erosion of soil and movement of sedimentation into, unto, or through streets, gutters, catch basins, culverts, or other drainage channels and shall prevent erosion as a result of flows from streets, gutters, culverts, or other drainage channels.

1) Where it can be demonstrated that there is no alternative to rapid runoff water because of identifiable restrictions, the developer shall be required to provide measures to prevent erosion, damage, flooding, or other adverse effects.

2) The city engineer or the duly appointed city representative shall require the cleaning, straightening, and/or repair of any natural drainage channel or natural features of other drainage channels when necessary to provide for the free flow of water or to eliminate and/or prevent erosion upstream and downstream.

e. The city engineer or the duly appointed city representative may approve storm water runoff into a street or alley provided the developer fully and adequately demonstrates that the street or alley or an improvement thereof will provide drainage in full conformance with all other provisions of this article and which will prevent runoff or overflow onto adjacent or nearby residential property.

5. It is the further intent of this article that the following requirements be met to insure the least possible disruption to the existing drainage system.

a. Detention and retention, separately, or in combination, shall be considered and incorporated, where possible, in all drainage systems design consistent with safety, convenience, and restrictions place upon storm water runoff rates and velocities for the developments, property, and drainage channels through or therefrom.

b. The city may require improvements, provision of drainage easements; and for provision of improvements, agreements, and/or easements beyond the boundaries of the subdivision, development, or property improvement to facilitate flow of storm water from or through the property, to avoid damage from changed runoff conditions, to provide continuous improvement of the overall storm drainage system, and to accommodate all drainage conditions or requirements, where storm water runoff flows require the logical extension of any street and its associated drainage in order to prevent flooding, ponding, or uncontrolled runoff, the extension shall be provided by the developer.

c. Improvements provided by the developer shall be fully and properly maintained from initial approval of installation(s) through final acceptance of the development improvements by the city. The continuing maintenance of detention or retention facilities shall be assured by the developer in the manner described for other drainage facilities.

d. No action shall be taken in any land improvement by any developer, contractor, or lot owner that will alter or otherwise change designed and installed storm water management control, nor shall any action be taken on existing property that shall adversely affect storm water runoff in any manner contrary to the provisions of this article, whether temporary in nature to service, only the construction phase of development, or whether a combination of temporary and permanent serving a dual purpose, the first techniques to be employed in the development of a site shall be the management of storm water and drainage in manner consistent with the requirements of this article.

6. If any determination based upon the provision of this subsection is felt to be unreasonable or inapplicable, a developer or lot owner may appeal that determination to the board of adjustment. Upon the written request for the appeal which shall include all justifications and reasons for that appeal, the question will be heard at the next available meeting of the board of adjustment. If not satisfied with the decision of the board of adjustment, a developer or, lot owner may appeal the decision of the board of adjustment to district court. (Ord. No. 02-08, §3, 5-6-2002)

§ 110-254 REQUIRED DOCUMENTATION AND PROCEDURE.

A. Preliminary plats submitted for review and approval shall be accompanied by the following documents, which shall be submitted to the city engineer or the duly appointed city representative:

1. Five (5) copies of predevelopment report accurately describing:

a. Dimensions, size and location;

b. Existing topography;

c. Soil types;

d. Vegetation;

e. Flood hazard areas;

f. Other significant surface features;

g. Existing land use;

h. Existing runoff volume;

i. Existing runoff rates;

j. Existing runoff routing.

2. Five (5) copies of a plan for the control of erosion and sedimentation which shall contain:

a. Data showing the nature and extent of the proposed clearing, grading and development or improvement operations;

b. An estimate of soil loss during and after development;

c. Proposal for the control of erosion and sedimentation during and after development including a statement of actions proposed to assure erosion control for all areas of the site that will be unprotected for long periods or during peak rainy periods and for natural drainage ways prior to and during construction; and

d. Proposed topography of the site after development or improvement including the method of handling runoff and storm water.

3. A written statement of the impact on upstream and downstream drainage prepared by an Oklahoma registered professional engineer and approved by the city engineer or the duly appointed city representative. The accuracy and validity of any drainage impact statement and attachments shall be capable of withstanding serious challenge at any stage in the review and approval process in order to be accepted as a part of the project. Accordingly, the alleviation of adverse impacts by onsite and offsite improvements relating to the -drainage are of important concern and shall be satisfactorily provided as required by this article.

4. A description of proposed easements and/or rights-of-way, and the provision of binding agreements between cooperating developers, for drainage improvements required outside of subdivision development boundaries. Public easements and right-of-way dedications shall be initiated by the developer, property owner planning property improvement, or legal agent thereof, shall be prepared in the manner prescribed by law, and shall be submitted in accordance with the timing and routing requirements of this or other applicable article.

B. Final plats submitted for review and approval shall be accompanied by the following documents, which shall be submitted to the city engineer or the duly appointed city representative.

1. All documentation required by this section; and

2. Improvement plans meeting the requirements of this section.

C. Any person applying for a building permit or who otherwise intends to make changes in the contour of any land shall first submit the following documents to the city engineer or the duly appointed city representative.

1. All documentation required by this section, allowing that, at the direction of the city engineer, or others the documentation need not be prepared by a professional engineer; and

2. Plans for improvement or changes proposed, including site plans, plot plans, and building drawings for buildings and structures, clearly showing the method of handling rainfall runoff and storm water.

3. The following activities are specifically exempted from the requirements of this section:

a. Bona fide agricultural or forestry operations.

b. Home gardening or other minor clearing or excavation work not incident to a change in the residential use of the land.

c. Emergency repairs necessary for the preservation of life, health, or property.

d. Routine maintenance or repair work on public or private roads an rights-of-way or utility line easements and rights-of-way.

e. Changes that would occur on single-family residential lots or property of less than two (2) acres, unless the proposed action(s) conflict with previously approved reports required by subsection (4).

D. All plans and documentation required by this section must comply with all city standards, regulations, ordinances, and with the approved drainage master plan or drainage studies.

E. All documentation and plans required by this section must be approved by the city engineer or other authorized city representative prior to their implementation. The city engineer or other authorized city representative may submit any documents to the following agencies for their review and comment prior to his approval:

1. The city public works authority; and

2. The United States Soil Conservation Service; and

3. Any other local, federal or state agency involved in floodwater detention or retention waters.

F. Appeals of the decision or requirements made as a result of this review, other than for improvement plans requirements, may be made first to the city board of adjustment and if still dissatisfied to district court.

G. Projects and tasks proposed in the plans and documents required by this section shall be implemented as proposed. Any changes or amendments to the plans or documentation must be approved by the city engineer or other authorized city representative in accordance with the established review procedures. (Ord. No. 02-08, §4, 5-6-2002)

§ 110-255 DESIGN METHOD STANDARDS.

A. This section shall define the methods, performance, standards, and design criteria which shall be used in the preparation and evaluation of the reports and plans required as documentation in section 110-254.

B. Drainage calculations.

1. *Flow rates.* The calculation of runoff rates shall be calculated by the rational formula using antecedent precipitation factors

Q=CCaIA

where C = runoff coefficient
I = Intensity of rainfall in inch per hour
A = Drainage area-
Ca = antecedent precipitation factor

Acceptable Ca coefficients are as follows:
Storm recurrence interval Ca 2 to 10
25
The product of C x Ca must not exceed 1.0.

"C" Coefficients According to Description of Drainage Area

Description of Area	*Runoff Coefficients*
Business	
Downtown	**0.70 to 0.95**
Neighborhood	**0.50 to 0.70**
Residential	
Single-Family	**0.30 to 0.50**
Multi-units, detached	**0.40 to 0.60**
Multi-units, attached	**0.60 to 0.75**
Residential (suburban)	
Apartment	
Industrial	
Light	**0.50 to 0.80**
Heavy	**0.60 to 0.90**
Parks, cemeteries	**0.10 to 0.25**
Playgrounds	**0.20 to 0.35**
Railroad Yard	**0.20 to 0.35**
Unimproved	**0.10 to 0.30**

"C" Coefficients According to Character of Surface

Character of Surface	*Runoff Coefficients*
Pavement	
Asphaltic and Concrete	**0.70 to 0.95**
Brick	**0.70 to 0.85**
Roofs	**0.70 to 0.95**
Lawns, sandy soil	
Flat, 2 percent slope	**0.05 to 0.10**
Average, 2 to 7 percent slope	**0.10 to 0.15**
Steep, 7 percent slope	**0.25 to 0.35**

Acceptable formulas for determining time of concentration are as follows:
Time = K(L.37/S.2)

L = Length of flow in feet

S = Average slope in feet/foot

K = Constant for character of surface

Values of K:		*Values of K:*	
Pavement	**.372**	**Commercial**	**0.445**
Bare soil	**.604**	**Residential**	**0.511**
Poor Grass	**.90**	**Cultivated Soil**	
0.775			
Average Grass	**1.00**	**Timber; thin grass**	**0.942**
Dense Crass	**1.13**	**Pasture**	**1.040**

An acceptable formula for channel flow is:

Time = K (L 2/S).385

Values of K:		*Values of K:*	
Curbed Street	**.0035**	**Straight; clean stream**	**0.00592**
Concrete Lined Chan-nel	**.006**	**Average Stream**	**0.00835**
Sodded Swale	**.008**	**Meandering; pooling stream**	**0.01020**
Bar Ditch	**.012**		

An acceptable formula for intensity is as follows:

$$I=\frac{a}{(t+b)c}$$
d

I average rainfall intensity, inches per hour
T = rainfall duration (or time of concentration), minutes
d

STORM RETURN

	2YR	*5YR*	*10 YR*	*25YR*	*50YR*	*100 YR*
a=	**56.43**	**72**	**82**	**95**	**108**	**120**
	11.5					
c=	**0.810**	**b=15**	**c=0.80**			

WHERE T = TIME OF CONCENTRATION - d

a. Rational method analysis -- Practices in Detention of Urban Stormwater Runoff, American Public Works Association. Special Report No. 43

b. Storm water flood routing techniques.

2. Flow volumes-The calculation of runoff flow volumes used in the sizing of detention or retention facilities or other flood routing analysis shall be done by the use of accepted stormwater routing principals and the method shall be approved by the city engineer or other authorized city representative.

3. Structure sizing-The sizing of all drainage facilities or structures shall be done by the use of established available engineering principles and practice and the methods shall be acceptable to the city engineer or other authorized city representative.

a. The structure sizing shall include an analysis of the existence of inlet or outlet control design, freeboard; spillway design, and a backwater analysis where applicable.

b. Where Manning's Equation is used, the value for coefficients will be taken from the following references:

1) ***Open channels.***

A) Open Channel Hydraulics. Chow. Ven T., McGraw-Hill Book Co., New York, N.Y. 1959.

B) U.S.D.A. Handbook SCSTP-61, W.O. Ree.

C) Roughness Characteristics of Natural Channels. U.S.G.S. Water Supply Paper No. 1849, Washington, D.C. 1967.

2) ***Closed conduits.***

A) Seelye's Handbook.

B) Handbook of Hydraulics, King. H.W.

C) USBR Hydraulic Tables.

D) Modem Sewer Design, American iron and Steel Institute.

c. Natural open channels with vegetative linings shall be designed considering infrequent mowing unless other conditions are demonstrated and justified, guaranteed maintenance for exceptions must be established.

d. Cover vegetation for channel linings must be selected according to Standards established by The Soil Conservation Service of McClain County and shall be approved by the city engineer or other authorized city representative.

4. When storm water is conveyed via streets, flumes, swales, or open channels, consideration will be given to pedestrian and traffic convenience and safety. Special

provisions may be required by the city engineer or other authorized city representative to avoid sheeting of water across arterial intersections, inundation of crosswalks or sidewalks, inundation of driving lanes, and other safety or nuisance problems. These special provisions may include additional easements or rights-of-way, structures, flumes, or pavement width.

C. Performance criteria.

1. Detention or retention facilities shall have the following performance criteria:

a. Detention or retention facilities shall be sized by hydraulic storm water routing through the detention basin and to accommodate or contain any changed drainage conditions due to the proposed development because of increases in the runoff volume or rate.

b. Detention or retention facilities shall have a release rate which does not exceed:

1) The pre-development of runoff conditions for all return storms or

2) The "safe" capacity of the downstream drainage channel or system if any increase in runoff volume rate is approved.

2. Open channels, flumes, or swales shall have the following performance criteria:

a. All channels, flumes, or swales shall be designed to carry the fifty (50) year return frequency rainfall event.

b. The performance of all channels, flumes, or swales during the one-hundred (100) year return frequency rainfall event must be indicated.

3. Storm sewers and appurtenances shall have the following performance criteria:

a. The combination of storm sewer and its overflow outlet shall have the capacity to convey the ten (10) year return frequency rainfall event within the drainage easement(s) or right(s)-of-way.

b. The performance of the overflow outlet(s) for the storm sewer system during the one-hundred (100) year return frequency rainfall event shall be indicated under the condition that the storm sewer is, plugged or inoperative.

c. The minimum velocity is a storm sewer flowing full shall be three (3) feet per second. Velocities less than three (3) feet per second may be approved if

properly designed sediment traps which are accessible for maintenance are provided at the upstream end of the sections where the velocity is to be less than three (3) feet per second.

4. Streets with curb and gutters shall have the following performance criteria:

a. Arterial streets shall maintain two (2) clear, ten (10) foot lanes of traffic during the twenty-five (25) year return frequency rainfall event.

b. Drainage on collector streets shall not exceed two (2) inches in depth at the crown of the street during the twenty-five (25) year return frequency rainfall event.

c. Drainage on residential streets shall not exceed three and one-half (3½) inches in depth at the crown of the street during the twenty-five (25) year return frequency rainfall event.

5. Streets without curb and gutters shall have the following performance criteria:

a. Arterial streets shall maintain two (2) clear, ten (10) foot lanes of traffic during the twenty-five (25) year return frequency rainfall event.

b. Residential or collector streets shall maintain two (2) clear, eight (8) foot lanes of traffic during the twenty-five (25) year return frequency rainfall event. (Ord. No. 02-08, §5, 5-6-2002)

§ 110-256 CONSTRUCTION OF DRAINAGE SYSTEMS.

Drainage systems shall be constructed in full accordance with approved designs and specifications, without variation, except as may be authorized by a change order or field change approved by the city engineer or other authorized city representative.

1. The developer, land improver, land owner, or legal agent thereof engaging in any land improvement or change covered by this article shall be responsible for any and all construction activity as covered by approved designs, plans, and data.

2. This section shall not be construed to exclude the contractor or his responsible supervisor from providing installations in conformance with the requirements and constraints of this article whether a part of the design documents, or inadvertently excluded.

3. Upon determination and notification by the city engineer or other responsible city authority that construction or any part thereof is in violation of this article. Such work shall be immediately discontinued and shall not be restarted until corrected.

4. All facilities, structures, and installations made under the provisions of this article shall be constructed in a workmanlike manner and using methods and procedures that shall assure a quality installation. The construction of any drainage system shall conform to the "Oklahoma Department of Transportation Specifications for the Construction of Drainage systems" as approved by the city engineer or other authorized city representative, unless specifically approved otherwise by the city engineer or other authorized city representative. Materials, installations, and facilities that are not of the required quality or conformance shall be repaired or replaced as determined by the city engineer or other authorized city representative.

5. The contractor shall provide barricades, guardrails, walkways, shoring, warning signs and flashers, and such other measures as deemed necessary to protect workmen; traffic, pedestrians, and any other person near or adjacent to a hazard from injury or damage. Such protection shall be provided upon start of a hazard area operation and shall be fully maintained until there is no longer a hazard and approval has been given for removal of the protection, signing shall be in accordance with Part VI-Traffic Controls for Street and Highway Construction and Maintenance Operations of the current Manual. On Uniform Traffic Control Devices. The contractor shall, at his own expense, provide and maintain the appropriate traffic control devices.

6. The structural integrity of all drainage structures shall be maintained during all phases of construction.

7. A construction permit must be obtained from the city according to this section prior to the start of construction any drainage system or improvement which is owned or to be dedicated to the city, is to be constructed on a city right-of-way or easement, is a required "offsite" improvement of the platting process, or is otherwise required by the city. Construction inspections shall be made during and after construction by the city and shall serve as the basis of all approvals or disapprovals.

8. The erosion and sedimentation control plan shall be implemented using the "Best Management Practices" as adopted by the U.S. Soil Conservation Service of McClain County and any subsequent revisions to that document.

9. A flood plan permit is required to be obtained prior to any construction activity within the 100-year flood plain as required by the flood hazard zoning ordinance. (Ord. No. 02-08, §6, 5-6-2002)

§ 110-257 ENFORCEMENT AND PENALTY.

A. Any person, firm, or corporation violation any provision of this article shall be fined not less than twenty ($20.00) dollars nor more than one-hundred ($100.00) dollars for each offense, a separate offense shall be deemed committed for each day a violation continues.

B. During all construction activity, developers, property owners, and contractors shall be required to keep streets, gutters, inlets, drainage pipes, swales, ditches, drainage channels, and all drainage devices and structures clean and free from debris, sedimentation, soil, and any materials. Any failure to meet this requirement shall, upon notice and failure to immediately correct the notified condition, constitute sufficient ground for stopping all work until correction is completed.

C. Developers, land owners, or their legal agents, upon receipt of notice by the city that repair or maintenance is required within a channel lying within their property, shall be responsible for effecting such repair or maintenance within the time specified, or the city shall have repair and maintenance performed at the expense of the property owner. (Ord. No. 02-08, §7, 5-6-2002)

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CHAPTER 114

VEGETATION*

§ 114-1 Penalty.
§ 114-2 Trees and shrubbery to be trimmed.
§ 114-3 Injuring trees, shrubbery generally.
§ 114-4 Cutting trees to string wires.
§ 114-5 Diseased trees.

***Cross reference*: Environment, ch. 34; weeds; trash, §46-111 et seq.; manufactured homes and trailers, ch. 62; natural resources, ch. 66; injury to plants and trees, §70-39; public streets and trees, §70-40; parks and recreation, ch. 74; planning, ch. 82; streets, sidewalks, and other public places. ch. 90; subdivisions, ch. 94; subdivision improvements for landscaping and natural features, §94-217; tree trimmings, §110-210; zoning, ch. 122.**

***State law references*: Trees, 11 O.S. §22-122; injuring or destroying shade tree or ornamental plant, 21 O.S. §1784.**

VEGETATION*

§ 114-1 Penalty.
§ 114-2 Trees and shrubbery to be trimmed.
§ 114-3 Injuring trees, shrubbery generally.
§ 114-4 Cutting trees to string wires.
§ 114-5 Diseased trees.

§ 114-1 PENALTY.

Any person, firm, or corporation who violates any provision of this chapter shall be guilty of an offense and, upon conviction thereof, shall be punished as provided in section 1-12 of this Code. (Prior Code 1991, §14-119)

§ 114-2 TREES AND SHRUBBERY TO BE TRIMMED.

A. The owner of any premises abutting on any street of this city shall trim all trees and shrubbery growing in the parking between the sidewalks and the roadway of any such street and all trees and shrubbery growing on any part of the premises adjacent to the sidewalks or any street or alley in such manner that the boughs or limbs thereof shall not obstruct free and convenient passage and travel along the streets, sidewalks, and alleys. When such premises are occupied by some person other than the owner, such occupant shall trim the trees and shrubbery in the same manner as required in this chapter of the owner. Such trees and shrubbery shall be trimmed so that the lowest branches or foliage shall not be lower than eight (8) feet above the roadway of a street or alley, nor lower than seven (7) feet above the sidewalk.

B. Any owner or occupant who shall fail, refuse, or neglect to trim trees and shrubbery as provided in this section, after receiving five (5) days' notice from the head of the department in charge of streets to do so, shall be guilty of an offense against the city. Every day that the owner or occupant shall fail, refuse, or neglect to trim the trees or shrubbery, after the expiration of the five (5) days' notice, shall be a separate offense. (Prior Code 1991, §14-101)

§ 114-3 INJURING TREES, SHRUBBERY GENERALLY.

It is unlawful for any person to injure any tree or shrubbery on a street or alley in the city, provided that this shall not prohibit the lawful and proper care and removal of such trees and shrubbery. (Prior Code 1991, §14-102)

§ 114-4 CUTTING TREES TO STRING WIRES.

A. It is unlawful for any person to cut, trim, or otherwise mutilate any shade or ornamental tree on any street, parking, or other public place in the city for the purpose of stringing wires or cables along or across the street, parking, or other public place without first obtaining a permit from the city clerk, which shall be approved by the city manager or

his designee. The trimming shall be under the control and supervision of the city manager or his designee.

B. Any employee of a telephone, telegraph, or other telecommunications company or electric company operating in this city and using any of the streets and alleys of this city for the erection and maintenance of their lines, poles, and wires who shall willfully, negligently, unnecessarily, or without due regard to the rights of owners of abutting property injure, destroy, maim, cut the branches from, climb with climbing irons or otherwise, or in any manner disfigure or debark any shade or ornamental tree growing upon or along any of the streets or alleys of this city shall be deemed guilty of an offense.

C. Any manager, owner, supervisor, or other person having the control or management of any such telephone, telegraph, telecommunications company, or electric company who shall order, advise, or counsel any person in the employ or under the control and authority of such company to violate any of the provisions of this section shall be deemed guilty of an offense.

D. It shall be a sufficient defense, in any prosecution under this section, for the person accused to prove that it was necessary to climb, cut branches from, or otherwise injure such tree in order to prevent great injury to the tree, to disentangle wire, or to perform any other imperative duty, and that he did only so much as was necessary, in as careful a manner and causing as little injury as was possible under the circumstances; provided, however, that such necessity arose by reason of the presence of the trees. It shall be no defense to show that the trees were used as a matter of convenience or expediency, where, were the trees not present, other methods would have to be provided to attain the same end. (Prior Code 1991, §14-116)

§ 114-5 DISEASED TREES.

Upon determining that any tree is infected with any plant disease which is contagious or infectious to trees or other plant life, the city manager or his designee shall at once notify the owner of the premises on which the tree is situated to treat, disinfect, and remove such condition on such tree. In the event the tree is suffering or has suffered from such disease to the extent that its recovery from such disease cannot be effected, then such tree shall be cut down and removed and all parts burned. Ten days' notice, in writing, shall be sufficient notice for the requirements of this section. (Prior Code 1991, §14-118)

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CHAPTER 118

VEHICLES FOR HIRE*

ARTICLE 1

IN GENERAL

§§ 118-1 – 118-25 Reserved.

ARTICLE 2

TAXICABS

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§ 118-27 Penalty.
§ 118-28 License required.
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§ 118-30 Form of license.
§ 118-31 License fee.
§ 118-32 Proof of liability insurance.
§ 118-33 Revocation of license.
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§ 118-36 Regular place of business; telephone.
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ARTICLE 3

AMBULANCES

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GENERALLY

§§ 118-61 – 118-85 Reserved.

DIVISION 2

OPERATOR'S LICENSE

§ 118-86 Definitions.
§ 118-87 Required.
§ 118-88 License provisions.
§ 118-89 Health officials' duties.
§ 118-90 Insurance.

***Cross references*: Businesses, ch. 18; streets, sidewalks, and other public places, ch. 90.**

***State law references*: Municipal authority as to taxicabs, hacks, 11 O.S. §§22-106, 22-118; financial responsibilities of taxicab operators, 47 O.S. §8-104.**

ARTICLE 1

IN GENERAL

§§ 118-1 – 118-25 Reserved.

ARTICLE 2

TAXICABS

§ 118-26 Definitions.
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§ 118-33 Revocation of license.
§ 118-34 License to be visible.
§ 118-35 Taxicab stands.
§ 118-36 Regular place of business; telephone.
§§ 118-37 – 118-60 Reserved.

§ 118-26 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:

1. *Passenger* means and includes a person merely riding in an automobile or vehicle as distinguished from one operating the same.

2. *Person* means and includes a natural person, corporation, limited liability company, partnership or limited partnership.

3. *Street* means and includes any street, alley, avenue, lane, court, or public place in the city.

4. *Taxicab* includes any and all motor vehicles used for the transportation or carrying of passengers for hire within the corporate limits of the city, except vehicles engaged in interstate commerce and vehicles properly and legally licensed by the Corporation Commission of Oklahoma to do a carrying business between established towns and cities within the state. (Prior Code 1991, §9-401; Ord. No. 01-10, §1, 8-6-2001)

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

§ 118-27 PENALTY.

Any person who violates any provision of this article is guilty of a misdemeanor and, upon conviction, shall be punished as provided in section 1-12 of this Code. Each day's continuation of any such violation shall be a separate offense. (Prior Code 1991, §9-414)

§ 118-28 LICENSE REQUIRED.

No person, firm, or corporation shall within the city operate a taxicab in intra-city business without first having obtained from the city clerk a license therefor and without having complied with all other provisions of this article and the provisions of 47 O.S. (Prior Code 1991, §9-402)

§ 118-29 APPLICATION FOR LICENSE.

Any person desiring a license for a taxicab shall make written application to the city clerk on a blank form to be provided by the city clerk which shall contain the following information and any other necessary and appropriate information as may be required by the city council:

1. Full name, address, and age of the applicant and permanent business location; if a partnership, the name and addresses of all partners; if a corporation, the names and addresses of all the officers and directors.

2. A complete description of each vehicle to be used, including the model, vehicle identification number, state license number, and a statement of ownership for each vehicle.

3. The trade name under which the applicant does or proposes to do business.

4. The property damage insurance and public liability insurance secured to cover each vehicle.

5. A schedule of passenger fares to be charged (also required to be posted in the vehicle) and if it is intended to operate on zone rate or with meters. If on zone rate, the distance and charge for each respective zone; if by meter, the distance of the first charge and rate per mile or fraction thereof.

6. The names, addresses, and state driver's license numbers of all drivers to be used in the operation of the business.

7. Any additional information as the city council may require. (Prior Code 1991, §9-406; Ord. No. 01-10, §1, 8-6-2001)

§ 118-30 FORM OF LICENSE.

The license issued shall be of a form prescribed by the city clerk. The license shall contain, at the least, the driver's name, license number, and the expiration date of the license. The license shall be signed by the city manager and shall not be transferable except that a license may be transferred from one taxicab to another of the same ownership, with the approval of the city manager. (Prior Code 1991, §9-407; Ord. No. 01-10, §1, 8-6-2001)

§ 118-31 LICENSE FEE.

The fee for such license shall be set by the council by motion or resolution for each taxicab and for each licensed driver. Licenses shall extend from July 1 to June 30, and the full license fee must be paid for any part of such year. (Prior Code 1991, §9-403; Ord. No. 01-10, §1, 8-6-2001)

§ 118-32 PROOF OF LIABILITY INSURANCE.

A. Before any license is issued to a taxicab owner or operator thereof, such person shall file with the city clerk, to be approved by the city attorney, an insurance policy specified as follows: An insurance policy issued by an insurance company licensed and authorized to do business in the state, providing liability insurance coverage for each and every taxicab owned, operated, or leased by the applicant, with liability coverage not less than the amount required under 47 O.S. §8-104 for an injury or death, for each accident, and for property damage. The insurance coverage shall be effective whether the taxicab was at the time of any accident driven by the owner, his agent, employee, lessee or licensee, and endorsed thereon on a form approved by the city attorney. The policy shall further provide that it cannot be cancelled until written notice of the proposed cancellation has been filed with the city clerk.

B. Such policy must be approved by the city attorney, and if approved, shall remain in full force and effect during the period of the license issued. If the policy is allowed to lapse after the issuance of the license, the license will be revoked. (Prior Code 1991, §9-404; Ord. No. 01-10, §1, 8-6-2001)

§ 118-33 REVOCATION OF LICENSE.

A license may be revoked by the city manager upon conviction of the licensee of a violation of any federal or state law, or whenever a violation of any provision of this Code or any ordinance of the city is shown. The driver shall have the right of appeal to the city council by notifying the city clerk within ten (10) days from the date of the notice of the denial, revocation, or suspension, and thereafter presenting the matter at the next regular meeting of the city council (Prior Code 1991, §9-411; Ord. No. 01-10, §1, 8-6-2001)

§ 118-34 LICENSE TO BE VISIBLE.

The license card referred to in section 118-30 shall be affixed in a place in the taxicab so that same is visible to any passenger. (Prior Code 1991, §9-408)

§ 118-35 TAXICAB STANDS.

Any person obtaining a taxicab license shall be entitled to have set off two parking stands or spaces where the taxicabs may stand while waiting calls or passengers. Such parking spaces shall be assigned by the city manager; subject, however, to the person first obtaining written permission from the primary tenant of the land immediately adjacent to the space so desired. The permission so obtained shall be renewed and re-filed with the city manager at the time of renewal of any taxicab license. (Prior Code 1991, §9-409)

§ 118-36 REGULAR PLACE OF BUSINESS; TELEPHONE.

Any person obtaining a taxicab license as herein provided for and doing intra-city business with the city shall be required to have a regular place of business and to maintain a telephone at the place of business. (Prior Code 1991, §9-413)

§§ 118-37 – 118-60 RESERVED.

ARTICLE 3

AMBULANCES

DIVISION 1

GENERALLY

§§ 118-61 – 118-85 Reserved.

§§ 118-61 – 118-85 RESERVED.

DIVISION 2

OPERATOR'S LICENSE

§ 118-86 Definitions.
§ 118-87 Required.
§ 118-88 License provisions.
§ 118-89 Health officials' duties.
§ 118-90 Insurance.

§ 118-86 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:

1. *Ambulance* means any ground, air, or water vehicle which is or should be approved by the state commissioner of health, designed and equipped to transport a patient or patients and to provide appropriate on-scene and en route patient stabilization and care.

2. *Department* means the state department of health.

3. *Emergency medical technician/basic* means an individual licensed by the state department of health following completion of a standard basic emergency medical technician training program approved by the department, who has met such other standards of competence and character as may be required, and who has passed a standard licensing examination of knowledge and skill, administered by the department. The licensed emergency medical technician/basic is allowed to perform such skills as may be designated by the department.

4. *Emergency medical technician/intermediate* means an individual licensed as an emergency medical technician/basic, who has completed an intermediate training program approved by the department, who has met such other standards of competence and character as may be required, and who has passed a standard licensing examination of knowledge and skill administered by the department. The emergency medical technician/intermediate is allowed to perform such skills as may be designated by the department.

5. *Emergency medical technician/paramedic* means an individual licensed as an emergency medical technician, who has completed a standard paramedic training program, who has met such other standards of competence and character as may be required, and who has passed a standard licensing examination of knowledge and skill administered by the department. (Prior Code 1991, §9-301(A), 9-302(D)(2), (4))

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

***State law reference*: Similar provisions, 63 O.S. §1-2505.**

§ 118-87 REQUIRED.

No person shall operate ambulances within the corporate limits of the city without first obtaining an ambulance operator's license, as provided in this article, from the city clerk. (Prior Code 1991, §9-301(B))

§ 118-88 LICENSE PROVISIONS.

A. ***Required information.*** **Applications for licenses under this article shall be made upon forms prepared by the city clerk and shall contain:**

1. The name and address of the owner of the ambulance;

2. A description of the ambulance, including the:

a. Make;

b. Model;

c. Year of manufacture;

d. State license number for the current year;

e. Motor and chassis numbers; and

f. Length of time the ambulance has been in use;

3. The location and description of the place or places from which it is intended to operate; and

4. Such other information as the city clerk shall find reasonably necessary to develop a fair determination of whether the terms of this Code have been complied with.

B. ***License fee.*** **Application for a license issued under the provisions of this article shall be accompanied by a license fee in an amount as set by the city council by motion or resolution.**

C. ***Investigation.*** **Upon receipt of an application, as provided for in this article, the city clerk shall cause an investigation to be made of the applicant and his proposed operation.**

D. ***Issuance.*** **The city clerk shall issue a license under the provisions contained in this article, when it is determined that:**

1. The public convenience and necessity require the proposed ambulance service for which the application has been submitted. In determining whether public convenience and necessity require the licensing of the proposed ambulance service, the city clerk shall consider the following:

a. Whether the public is adequately served at the current time;

b. The financial responsibility of the applicant;

c. The number, kind, and type of equipment;

d. The schedule of rates proposed to be charged;

e. The increased traffic congestion upon the streets of the city;

f. The demand which will result for increased parking space;

g. The preservation of the streets for safe use by vehicles and pedestrians; and

h. Such other facts as the city clerk, the city manager, or the city council shall consider important.

2. The personnel have been licensed as provided in subsection (e) of this section and premises have been certified by the appropriate health department officials.

3. Insurance policies, as required by this Code, have been procured.

4. The applicant and all personnel are fit and proper persons to conduct or work in the proposed business, as provided in part in subsection (e) of this section.

5. All the requirements of the chapter and all other state laws and ordinances have been met.

E. *Personnel.* Personnel licensed in the following levels of care may perform such skills as may be designated by the department under their classification:

1. Emergency medical technician/basic.

2. Emergency medical technician/intermediate.

3. Emergency medical technician/paramedic. (Prior Code 1991, §9-302)

***State law reference*: Similar provisions, 63 O.S. §1-2505.**

§ 118-89 HEALTH OFFICIALS' DUTIES.

The proper health department officials shall inspect the vehicles and premises designated in an application under this article and shall certify their approval to the city clerk when it is found that such vehicles and premises are suitable, from the standpoint of health and sanitation, for the conduct of an ambulance business and that all state laws and local ordinances relating to health, safety and sanitation have been complied with. (Prior Code 1991, §9-303)

§ 118-90 INSURANCE.

An applicant under this article shall file with the city clerk an insurance policy, to be approved by the city clerk, providing insurance coverage for each and every ambulance owned, operated, or leased by the applicant for injury of or death to persons in accidents resulting from any cause for which the owner of the vehicle would be liable on account of any liability imposed upon him by law, regardless of whether the ambulance was being driven by the owner, his agent, or his lessee, and as against damage to the property of another, including personal property under like circumstances, in addition to any insurance required to obtain a state ambulance service license, in amounts to be determined by the city council. (Prior Code 1991, §9-304)

CHAPTER 122

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streets, sidewalks, and other public places, ch. 90; subdivisions, ch. 94; telecommunications, ch. 102; vegetation, ch. 114.

***State Law References*: Buildings and zoning, 11 O.S. §43-101 et seq.; board of adjustment, 11 O.S. §44-101 et seq.**

ZONING*

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§ 122-1 AUTHORITY.

The zoning standards contained in this chapter, together with all subsequent amendments, have been prepared, adopted, and enacted pursuant to the authority granted the city by the city Charter and by 11 O.S. §§43-101-43 – 109, 44-101 – 44-110, and 45-101 – 45-104. (Prior Code 1991, §12-201(B))

§ 122-2 PURPOSE.

The zoning regulations and the districts established in this chapter have been made in accordance with the city's comprehensive plan for the purpose of promoting the health, safety, and general welfare of the residents of the city. They have been designed to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes in order to encourage the most appropriate uses of land, maintain and stabilize property values, reduce fire hazards, improve public safety,

prevent undue concentrations of population, promote the preservation of identified historic structures and districts, lessen traffic congestion, provide adequate light and air, facilitate the adequate provision of public utilities and facilities, encourage redevelopment in existing neighborhoods and create a comprehensive and stable pattern of land uses throughout the city. (Prior Code 1991, §12-202)

***State law reference*: Similar provisions, 11 O.S. §43-101.**

§ 122-3 JURISDICTION.

The provisions of these zoning regulations shall be in effect within the jurisdictional area of the municipal planning commission of the city. (Prior Code 1991, §12-203)

§ 122-4 ZONING DISTRICTS ESTABLISHED.

Twenty-two (22) zoning districts are hereby established for current and future use within the corporate limits of the city. Zoning districts currently in use shall be as shown on the official zoning district map of the city. The use, height, and area regulations as set out herein shall be uniform within each district. The districts established in this section shall be known as:

1. **A-1, Agricultural residential district;**
2. **R-l, Residential estates district;**
3. **R-2, Single-family residential district;**
4. **R-3, Two-family residential district;**
5. **R-4, Multifamily residential district;**
6. **R-5, Mobile home residential district;**
7. **R-6, Planned residential development district;**
8. **C-l, Central business district;**
9. **C-2, Office commercial district;**
10. **C-3, General commercial district;**
11. **C-4, Planned commercial district;**
12. **I-1, Restricted light industrial district;**

13. I-2, Light industrial district;

14. I-3, Heavy industrial district;

15. IR-l, Institutional/residential 1;

16. IR-2, Institutional/residential 2;

17. IR-3, Institutional/residential 3;

18. IR-4, Institutional/residential 4;

19. F-l, Floodway district;

20. F-2, Floodway fringe (overlay) district;

21. S-1, Special development conditions (overlay) district; and

22. H-l, Historic (overlay) district. (Prior Code 1991, §12-204; Ord. No. 96-11, §2(12-331), (12-332), 02-333), 8-5-1996; Ord. No. 02-12, §1(12-206), 8-5-2002)

§ 122-5 USE OF LAND, BUILDING, AND STRUCTURES REGULATED.

A. Land, buildings, and structures within the city may be used for any of the purposes, functions, or uses specifically permitted in the zoning district in which the land, building, or structure is located; no land shall be used after September 11, 1978, nor shall any building or structure be erected, altered, or converted after September 11, 1978, which is designed or arranged for uses other than those specified for the zoning district in which the land, building, or structure is located, as set forth in the regulations for each zoning district, which follow in article II of these zoning regulations.

B. All land, buildings, structures, or appurtenances located thereon within the city which are used, erected, altered, removed, demolished, converted, or occupied after September 11, 1978, shall be used, erected, altered, removed, demolished, converted, or occupied in conformance with the provisions prescribed for the zoning district in which such land, building, structure, or appurtenance is located. (Prior Code 1991, §12-205)

§ 122-6 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. *Abutting* means having property or district lines in common; e.g., two (2) lots are abutting if they have property lines in common.

2. ***Access*** **means a way of approaching or entering property.**

3. ***Accessory building or structure*** **means a subordinate building or portion of the main building, the use of which is incidental to that of the dominant use of the building or premises.**

4. ***Accessory use*** **means a use customarily incidental, appropriate, and subordinate to the main use of land or buildings located upon the same premises.**

5. ***Addition*** **means any construction which increases the size of a building; an addition is a form of alteration.**

6. ***Adult day care center*** **means a facility which period. The term "adult day care center" does not include facilities whose purpose is primarily educational, recreational or medical treatment.**

7. ***Adult day care home*** **means a single-family dwelling, which is the permanent residence of the operator, that provides care and protection for seven or less adults, eighteen (18) years of age or older, for part of a twenty-four (24) hour period.**

8. ***Advertising sign or structure*** **means any cloth, card, paper, metal, painted, glass, wooden, plastic, plaster, stone, or other sign, device, or structure of any character whatsoever, including statuary, placed for outdoor advertising purposes on the ground or on any tree, wall, bush, rock, post, fence, building, or structure. The term "placed," as used in this definition, includes erecting, constructing, posting, painting, printing, tacking, nailing, gluing, sticking, carving, 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 directional, warning, nor other signs posted by public officials in the course of their public duties shall be construed as advertising signs for the purpose of this definition.

9. ***Agriculture*** **means the use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, and 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 the normal agricultural activities. The operation of commercial feed pens, sales yards, and auction yards for cattle or hogs shall be deemed an industrial use and not an agricultural use.**

10. ***Air rights*** **means the rights to a space above a property, for development, usually for a dissimilar use.**

11. ***Airport zoning*** **means a particular set of controls intended to protect the integrity of an airport, its airspace, and its environs.**

12. ***Airspace*** **means the space above the land which provides care for eight (8) or more adults, eighteen (18) years of might be subject to division and sale either with age or older, for six or more hours in a twenty-four (24) hour or separate from the surface.**

13. ***Alcohol and drug center, reformatory, residential treatment center, and social rehabilitation facility*** **mean community-based residential facilities providing diagnostic or therapeutic services, counseling, or treatment and long term room and board in a highly structured environment for its residents for alcoholism, drug abuse, or behavioral disorders.**

14. ***Alley*** **means a minor right-of-way, dedicated to public use, from which a secondary means of access to the back or side of properties abutting a street is obtained, not intended for general traffic circulation, and which may be used for public utility purposes.**

15. ***Alteration*** **means a physical change in a building or an addition to it.**

16. ***Assisted living facility*** **means a facility where persons are housed and furnished with meals and limited nursing care for a fee.**

17. ***Automobile wrecking or salvage yard*** **means an area outside of a building where motor vehicles are disassembled, dismantled, junked, or wrecked or where motor vehicles not in operable condition, or used parts of motor vehicles, are stored.**

18. ***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 (½) 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.**

19. ***Block*** **means a parcel of land, intended to be used for development purposes, which is entirely surrounded by public streets, highways, railroad rights-of-way, public walks, parks, rural lands, drainage channels, or boundary lines of municipalities, and not traversed by a through street.**

20. ***Board of adjustment*** **means a local quasi-judicial body, created by ordinance, whose responsibility is to hear appeals concerning the strict interpretation of the adopted zoning regulations and to consider requests for variances under the terms of the adopted zoning regulations.**

21. <u>Boardinghouse</u> means a building other than a hotel where, for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for three (3) or more but not exceeding six (6) persons.

22. *Buffer zone* means a strip of land established to protect one type of land use from another with which it is incompatible. A buffer zone is comprised of a buffer use which may, in addition to the normal range of open space and landscaping uses, take the form of "transitional" uses, structures, and yards.

23. *Building* means any structure built for the support, shelter, or enclosure of persons, animals, chattel, or movable property of any kind, including any other structure; when separated by dividing walls without openings, each portion of such structure so separated shall be deemed a separate building.

24. *Building area* means the space remaining on a zoned lot after the minimum open space requirements (coverage, yards and setbacks) have been met.

25. *Building code* means a collection of regulations adopted by the city council setting forth standards for the construction of buildings and other structures for the purpose of protecting the health, safety, and general welfare of the public.

26. *Building coverage* means the percentage of the lot area covered by the building. The building area shall include all overhanging roofs.

27. *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, the deckline of a mansard roof, or to the average height of the highest gable of a pitch or hip roof.

28. *Building line* means a line frequently drawn on a subdivision plat to indicate the setback distance from the lot line. Note: This line does not necessarily coincide with the actual construction line of a building or structure, only a minimum requirement.

29. *Building official* means the official responsible for the use and enforcement of the adopted building code of the city, as well as the review and inspection official for building permit applications. The building official may also serve as the plumbing and electrical inspectors for the city.

30. *Building permit* means the permit required before construction can be initiated. Building permit provisions are contained in this Code.

31. *Building, principal or main*, means a building in which is conducted the principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be a main building on the lot on which it is situated.

32. ***Building sewer*** **means that part of the sewer which conveys the sewage from the building to a public sanitary sewer, private sanitary sewer, individual sewage disposal system, or other point of disposal.**

33. ***Building site*** **means a single parcel of land in one (1) ownership, occupied or intended to be occupied by a building or structure.**

34. ***Carport*** **means a permanently roofed structure, open on at least two (2) sides, designed for, or occupied by, private passenger vehicles.**

35. ***Channel*** **means a natural or artificial watercourse of perceptible extent with definite bed and banks to confine and conduct continuously or periodically flowing water.**

36. ***Child*** **means an individual under the age of eighteen (18) years.**

37. ***Child day care center*** **means a facility which provides care for eight (8) or more children for six (6) or more hours in a twenty-four (24) hour day. The term "child day care center" does not include nursery schools, kindergartens, or other facilities for which the purpose is primarily educational, recreational, or medical treatment.**

38. ***Cluster development*** **means a development pattern in which the uses are built close together rather than spread evenly throughout a parcel as in conventional lot-by-lot development. The term "cluster development" is used to preserve open space, create workable land use mixtures, and save money by building fewer streets and shorter utility lines.**

39. ***Compatibility*** **means the characteristics of different uses or activities that permit them to be located near each other in harmony and without conflict.**

40. ***Comprehensive plan and master plan*** **mean the officially adopted comprehensive plan or plans for the city which provide long range development policies, plans, and programs for the city and its developing areas, and which include, among other things, land use and housing elements, traffic circulation elements, and community utilities and facilities elements.**

41. ***Condominium*** **means a form of individual ownership within a multifamily building with joint responsibility for maintenance and repairs. In a condominium, each apartment is owned outright by its occupant and each occupant owns a share of the land and other common property of the building.**

42. ***Congregate care residence*** **means any building or portion thereof that contains facilities for living, sleeping and sanitation, which may include facilities for eating and cooking by other than a family. The term "congregate care residence" shall include but not be limited to a shelter, convent, monastery, dormitory, fraternity or sorority house.**

The term "congregate care residence" does not include jails, hospitals, nursing homes, hotels or lodging houses.

43. *Convalescent home* means a health facility where persons are housed and furnished with meals and continuing nursing care for a fee.

44. *Conversion* means the changing of the original purpose of a building to a different use; for example, this may include a change from residential to commercial as well as a change from low-density residential to higher-density residential.

45. *Cooperative housing* means a multiunit development operated by and for its occupants. Individual occupants do not own their specific housing units outright, but instead own shares in the enterprise.

46. *Correctional centers* means a facility for the detention, confinement, treatment and/or rehabilitation of persons arrested or convicted for the violation of civil or criminal law. Such facilities include but are not necessarily limited to an adult detention center, juvenile delinquency center, prerelease center, correctional community treatment center, jail or prison.

47. *Dedication* means the transfer of property from private to public ownership under adopted subdivision regulations as a condition of subdivision plat approval.

48. *Density* means the number of families, persons, or housing units per acre of land.

49. *Density transfer* means permitting unused allowable densities in one area to be used in another area.

50. *Detention center*. See Correctional, detention, juvenile delinquency, and prerelease centers.

51. *Detoxification*. See Residential treatment center.

52. *Down zoning* means a change in the zoning classification of land to a classification permitting development that is less intensive or dense, such as from multifamily to single-family or from commercial to residential.

53. *Drainageway* means any depression below the surrounding land serving to give direction to a regular or periodic current of water.

54. *Drive-in restaurant* means any establishment where food or beverages are sold to the consumer, where motor vehicle parking space is provided, and where such food or beverages are intended to be consumed in the motor vehicle parked upon the premises

or where there is an option of consuming food in the motor vehicle or within the restaurant building.

55. ***Dwelling*** **means any building, or portion thereof, which is used or designed for residential purposes.**

56. ***Dwelling, attached*****, means a dwelling having any portion of each of one or more walls in common with adjoining dwellings.**

57. ***Dwelling, detached*****, means a dwelling having open space on all sides.**

58. ***Dwelling, multifamily*****, means a dwelling designed for occupancy by three (3) or more families living independently of each other, exclusive of auto or trailer courts or camps, hotels, or motels.**

59. ***Dwelling, single-family*****, means a building designed to be occupied by one family.**

60. ***Dwelling, two-family*****, means a budding designed to be occupied by not more than two (2) families; also known as a "duplex."**

61. ***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.**

62. ***Extended care facility*****. See Convalescent home.**

63. ***Family*** **means one or more persons related by blood or marriage, or a group of not to exceed five (5) persons, excluding servants, not all related by blood or marriage, occupying premises and living as a single nonprofit housekeeping unit as distinguished from a group occupying a boardinghouse or lodging house, hotel, club, or similar dwelling for group use.**

64. ***Family day care home*** **means a single-family dwelling which is the permanent residence of the operator that provides care and protection for seven (7) or less children for part of a twenty-four (24) hour day. The term "family day care home" does not include informal arrangements which parents make independently with neighbors, friends, or others nor does it include caretakers in the child's own home.**

65. ***Floating zone*** **means a zoning district whose requirements are fully described in the text of this chapter, but which is unmapped. The zoning district may be mapped in response to an applicant's petition for a rezoning or initial use of such zones. Floating zones most commonly refer to varying types of planned unit development.**

66. ***Flood and flooding*** **mean general and temporary conditions of partial or complete inundation of normally dry land areas from the overflow of lakes, streams, rivers, or any other inland waters.**

67. ***Flood hazard area*** **means the maximum area of the floodplain that, on the average, is likely to be flooded once every one-hundred (100) years; i.e., that has a one percent chance of being flooded in any given year.**

68. ***Flood hazard boundary map (FHBM)*** **means an official map or plat of the city issued or approved by the Federal Insurance Administration or the Federal Emergency Management Agency on which the boundaries of the floodplain area having special hazards have been drawn.**

69. ***Flood insurance rate map (FIRM)*** **means the official map or plat of the city issued or approved by the Federal Insurance Administration or the Federal Emergency Management Agency on which special flood hazard zones, for insurance purposes, have been drawn.**

70. ***Floodplain*** **means the land adjacent to a body of water which has been or may be covered by flooding, including, but not limited to, the one-hundred (100) year flood.**

71. ***Floodplain management regulations*** **means the full range of codes, ordinances and other regulations, projects, and programs relating to the use of land and construction within the limits of the floodplain. The term "floodplain management regulations" encompasses the city's adopted zoning regulations, subdivision regulations, and sanitary and building codes.**

72. ***Floodproofing*** **means any combination of structural and nonstructural additions, changes, or adjustments to properties and structures subject to flooding which reduce or eliminate flood damage to lands, water and sanitary facilities or the contents of buildings in a flood hazard area.**

73. ***Floodway*** **means the channel of a stream, watercourse, or body of water and those portions of floodplains which are reasonably required to carry and discharge the floodwater or flood flow of any river or stream.**

74. ***Floodway encroachment lines*** **means the lines marking the limits of floodways on official federal, state and local floodplain maps.**

75. ***Floodway fringe zoning district*** **means an overlay zoning district to provide special regulations for reduction of flood losses in those areas of the floodplain, outside of the floodway, which are subject to periodic flooding and therefore require special consideration before development is permitted to occur. Requirements of this overlay district are in addition to the requirements contained in the basic, underlying zoning districts.**

76. ***Frontage*** **means the side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but not the ordinary side of a corner lot.**

77. ***Garage apartment*** **means a dwelling unit for not more than one family erected above a garage.**

78. ***Garage, private*****, means a detached accessory building or portion of a main building used for the parking or temporary storage of the automobiles of the occupants of the premises; provided, that not to exceed two (2) spaces may be rented to persons not residing on the premises, and further provided that not more than one commercial vehicle per family dwelling on the premises and not exceeding one and one-half (1½) tons rated capacity may be parked or stored therein.**

79. ***Garage, public*****, means a building other than a private garage used for the care, servicing, repair, or equipment of automobiles or where such vehicles are parked or stored for remuneration, hire or sale.**

80. ***Gasoline, service, or motor vehicle service station*** **means any area of land, including structures thereon, used for the retail sales of gasoline or oil fuels, other automobile accessories, and incidental services, but not including major repair, body work, painting, or automatic washing; such stations may be located and operated in conjunction with quick-stop grocery stores and when so located and operated shall be considered as a gasoline station and not a grocery store.**

81. ***Group care facility*** **means a facility which is required to be licensed by the state and which provides training, care, supervision, treatment and/or rehabilitation to the aged, disabled, those convicted of crimes, or those suffering from the effects of drugs or alcohol. This type of facility does not include day care centers, family day care homes, foster homes, schools, hospitals, jails or prisons.**

82. ***Halfway house*** **means a facility whose primary purpose is the rehabilitation of persons. Such services include but are not necessarily limited to drug and alcohol rehabilitation, assistance to emotionally and mentally disturbed persons, and halfway houses for prison parolees and juveniles.**

83. ***Historic district*** **means an area designated by ordinance of the city council which contains one or more landmarks or landmark sites as well as those abutting parcels which the city council has determined will fall under the provisions of this chapter to ensure that their appearance and development will be harmonious with such landmarks or landmark sites.**

84. ***Historic structure*** **means a structure which is listed in the National Register of Historic Places, which is certified by the secretary of the interior to conform to national register criteria, which has been nominated for national register status or which meets the criteria for nomination to national register status as certified by the city council.**

85. ***Home business or occupation*** **means any occupation carried on only by the inhabitants which is clearly incidental and secondary to the use of the dwelling purposes and does not change the character thereof, and which is conducted entirely within the main or accessory buildings; provided, that no physical personal service is performed and no trading in merchandise is carried on and in connection with which there is no sign or display other than one non-illuminated name plate not more than three (3) square feet in area attached to the building, and that no mechanical equipment is used or activity is conducted which creates any noise, dust, odor, or electrical disturbance beyond the confines of the lot on which the occupation is conducted.**

86. ***Homeowner*** **means a person owning and living in, or who will live in, if the building is under construction, a single-family dwelling.**

87. ***Homeowners' association*** **means an incorporated, nonprofit organization operating under recorded land agreements, through which:**

a. Each lot or homeowner in a described land area is a member;

b. Each lot is subject to a charge for a proportionate share of the expenses for the organization's activities; and

c. The charge, if unpaid, becomes a lien against the property.

88. ***Hotel and motel*** **mean any hotel, motel, tourist court, apartment house, rooming house, or other place where sleeping accommodations are furnished or offered for pay for transient guests if four or more rooms are available therein for transient guests.**

89. ***Housing code*** **means a standard used to determine whether an old or new structure is fit for human occupancy. Its purpose is to ensure maintenance and improvement of existing housing to meet accepted standards. Also known as a "maintenance code."**

90. ***Impact analysis*** **means the process of evaluating a proposal's expected physical or fiscal impact on its surroundings or on a community.**

91. ***Institutional building or use*** **means a building occupied by a nonprofit organization or a nonprofit establishment for the use of the public.**

92. ***Intensity*** **means the degree to which land is used. Often used synonymously with "density."**

93. ***Jail*** **means a facility under the jurisdiction of a local governmental entity for the confinement of persons awaiting trial or those convicted of minor crimes.**

94. ***Jurisdiction*** **means the jurisdiction of the city planning commission for purposes of zoning and subdivision review which shall include all lands within the corporate limits of the city.**

95. ***Juvenile delinquency center*****. See Correctional, detention, juvenile delinquency, and pre-release centers.**

96. ***Kennel*** **means any lot or premises on which three (3) or more dogs, more than four (4) months of age, are kept.**

97. ***Land development code*** **means the land development code of the city encompassing the city's adopted:**

a. Permit regulations;

b. Zoning regulations;

c. Subdivision regulations;

d. Floodplain management regulations; and

e. Policies.

98. ***Landmark*** **means any building or structure which has a special historic, architectural, or cultural interest, significance, or value as part of the heritage, development, or cultural characteristics of the city, state, or nation and which has been designated as a landmark pursuant to the provisions of this chapter.**

99. ***Landmark site*** **means any parcel of land of historic, geological, or archeological significance due to its substantial value in tracing the history of man or upon which an historic event has occurred and which has been designated as a landmark site under the provisions of this chapter or any parcel of land, or part thereof, upon which is situated a landmark.**

100. ***Laundromat*** **means a laundry providing washing, drying, and possibly ironing machines for hire to be used on the premises by customers.**

101. ***Loading space, off-street*****, means space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in the computation of required off-street parking pace.**

102. ***Lot*** **means a parcel of land, intended as a unit for the transfer of ownership or for development of at least sufficient size to meet minimum zoning regulations**

requirements for use, coverage, and area and to provide such yards and other open spaces as are required. Such lot shall have frontage on a public street and may consist of:

a. A single lot of record;

b. A portion of a lot of record;

c. A combination of complete lots of record and portions of lots to lots of record or of complete lots of record; or

d. A parcel of land describe by metes and bounds; provided, that in no case of division or combination shall any lot or parcel be created which does not meet the requirements of these zoning regulations or the city's adopted subdivision regulations.

103. *Lot, area*, means the total horizontal area included within lot lines.

104. *Lot, corner*, means a lot located at the intersection of and abutting on two (2) or more streets.

105. *Lot 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.

106. *Lot, double frontage*, means a lot which runs through a block from street to street and has nonintersecting frontage on two or more streets.

107. *Lot frontage* means that dimension of a lot or portion of a lot abutting on a street, except the side dimension of a corner lot.

108. *Lot, interior*, means a lot other than a corner lot.

109. *Lot line adjustment* means a relocation of the lot lines of two (2) or more lots included in a plat which is filed of record for the purpose of making necessary adjustments to building sites.

110. *Lot lines* means the lines bounding a "lot," as defined in this section.

111. *Lot, mobile home*, means a parcel or tract of land for the placement of a single mobile home and for the exclusive use of the occupants.

112. *Lot of record* means a separate and distinct parcel of land designated on a legally recorded subdivision plat or a legally recorded deed filed in the records of the county courthouse.

113. ***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 access provided on a minor street.**

114. ***Lot split*** **means any division of land by metes and bounds description into two (2) or more parcels for the purpose, whether immediate or future, of transfer of ownership and which constitutes a "subdivision," as defined in this section.**

115. ***Lot, townhouse*****, means a lot shown on a townhouse plat and intended as the site of a single, attached dwelling unit.**

116. ***Medical facilities*** **means the following:**

a. ***Convalescent, rest, or nursing home or extended day care facility*****. A health facility where persons are housed and furnished with meals and continuing nursing care for a fee.**

b. ***Dental or medical offices or clinics*****. A facility for the examination and treatment of ill and afflicted human outpatients; provided, however, that patients are not kept overnight except under emergency conditions.**

c. ***Hospital*****. A facility providing, health services for in-patient medical or surgical care for the sick or injured including related facilities such as laboratories, outpatient departments, training facilities, central service facilities and staff offices which are an integral part of the facility. A hospital can include more than one building which may be located on real estate separate and apart from the main facility.**

d. ***Mental hospital*****. A facility authorized by law to provide care and treatment for mentally ill persons including related facilities such as laboratories, out-patient departments, training facilities, central service facilities and staff offices which are an integral part of the facility.**

e. ***Public health center*****. A facility primarily utilized by a health unit for the provision of public health services including related facilities such as laboratories, clinics, and administrative offices operated in connection therewith and including the state department of health.**

f. ***Sanatorium*****. An institution providing health facilities for inpatient medical treatment or treatment and recuperation using natural therapeutic agents.**

117. ***Metes and bounds*** **means a system of describing and identifying land by measure (metes) and direction (bounds) from an identifiable point of reference.**

118. ***Mixed use zoning*** **means zoning which permits a combination of normally separated uses within a single development, most frequently a "planned development" or a multilevel structure.**

119. ***Mobile home*** **means any single-family dwelling designed for transportation on streets and highways on its own wheels or on flatbed or other trailers, both highway and rail, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, connection to utilities, and similar operations.**

120. ***Mobile home park*** **means any land or property which is used or intended to be used or rented for occupancy by two or more mobile homes, trailers, or movable sleeping quarters of any kind.**

121. ***Mobile home space*** **means a plot of ground within a mobile home park designed for the accommodation of one mobile home.**

122. ***Mobile home stand*** **means the part of an individual lot or space which has been reserved for the placement of or which will be covered by the mobile home.**

123. ***Mobile home subdivision*** **means unified development of mobile home lots which has been subdivided for the purpose of individual ownership and which is governed by the provisions of this chapter, the city's adopted subdivision regulations, and this Code.**

124. ***Modular home*** **means a factory-fabricated, transportable building unit, not built on a permanent chassis, designed to be used by itself or to be incorporated with similar units on a permanent foundation. The term "modular home" is intended to apply to major assemblies and does not include prefabricated sub-elements incorporated into a structure at the site.**

125. ***Neighborhood commercial*** **use means a commercial establishment whose primary purpose is to provide services of a compatible nature with surrounding residential uses to the neighborhood within which it is located. Such uses include, but are not necessarily limited to, neighborhood grocery stores, but not quick-stop groceries, barber shops and beauty salons, an alcoholic beverage package store, a bar, a gas station or a tavern shall not be considered a neighborhood commercial use.**

126. ***Neighborhood planning*** **means the preparation and implementation of plans, policies, and programs at a less than citywide level and official and formal participation in the planning and implementation process by organized groups at a less than city wide level.**

127. ***Nonconforming building, lot structure or use of land*****, means:**

a. ***Nonconforming building, lot or structure*****. Any building, lot, or structure lawfully occupied or used on September 11, 1978, which does not conform in**

part or wholly to any or all of the use, area, height, coverage, off-street parking, or any other regulations of the district in which it is located; and

b. ***Nonconforming use of lands*. Any lawful use of land, existing on September 11, 1978, which does not conform to the regulations of the district in which it is located.**

128. ***Official zoning districts map*** **means the official map on which the current zoning status of all land within the corporate limits of the city is depicted and which, along with the zoning text, comprises the zoning regulations of the city.**

129. ***100-year flood*** **means a flood which has a one percent chance of occurring each year, based upon the criteria established by the state water resources board.**

130. ***Overlay zoning district*** **means a set of zoning district requirements that is described in the text of this chapter and is imposed in addition to those of the underlying zoning district. The overlay zone mayor may not be immediately mapped, but must be mapped eventually in order to be utilized. Development within the overlay zone must conform to the requirements of both zoning districts or the most restrictive.**

131. ***Parcel*** **means a lot or contiguous group of lots in single ownership or under single control and usually considered as a unit for purposes of development.**

132. ***Parking space*** **means a permanently surfaced area, enclosed or unenclosed, sufficient in size to store one automobile, together with a permanently surfaced driveway connecting the parking space with a street or alley and permitting ingress or egress of an automobile. For purposes of regulation, the size of a parking space for one vehicle shall consist of a rectangular area having dimensions of not less than nine (9) feet by twenty (20) feet, plus adequate area for ingress and egress.**

133. ***Percolation test*** **means an indicator of the suitability of an area for subsoil effluent disposal obtained by testing for the rate at which the undisturbed soil will absorb water per unit of surface area.**

134. ***Permitted use*** **means a use by right which is specifically authorized in a particular zoning district.**

135. ***Planned unit development*** **includes cluster housing, planned residential and nonresidential development, community unit plan, and other zoning requirements which are designed to accomplish the objectives of a comprehensive plan and zoning ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area. This permits the planning of a project and the calculation of densities over the entire development rather than on an individual lot-by-lot basis.**

136. ***Planning commission*** **means the municipal planning commission or the regional planning commission of the city.**

137. ***Plat*** **means a map, generally of a subdivision, showing the location, boundaries, and ownership of designated properties.**

138. ***Policy*** **means a statement or document of a public body that forms the basis for enacting legislation or making decisions.**

139. ***Pre-release center*****. See Correctional, detention, juvenile delinquency, and prerelease centers.**

140. ***Preservation*** **means the process of sustaining the form and extent of a structure essentially as it now exists. The term "preservation" aims at halting further deterioration and providing structural stability, but does not contemplate significant rebuilding.**

141. ***Principal use*** **means the main use of land or structures as distinguished from a secondary or accessory use.**

142. ***Prison*** **means a facility for the confinement of persons convicted of serious crimes.**

142. ***Privacy fence*** **means a fence a minimum of six (6) feet but not more than eight (8) feet in height made of wood, masonry, metal, stockade poles, or other suitable material or consisting of evergreen vegetation a minimum of six (6) feet in height which must be maintained in a sight proof condition and retained in a presentable appearance.**

143. ***Private or restrictive covenants*** **means any specification limiting the transfer, rental, or lease of any dwelling because of race, color, religion, sex, national origin, age, handicap, familial status.**

144. ***Recreational vehicle*** **means any motor home or other vehicle or portable structure that is:**

a. Built on a chassis.

b. Self-propelled or towed.

c. Designed and equipped to serve as temporary living quarters for recreational, camping, or travel purposes.

d. Used solely as a family or personal conveyance.

145. ***Recreational vehicle park*** **means any tract of land upon which two (2) or more recreational vehicles, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodations.**

146. ***Rehabilitation*** **means the process of returning a structure to a state of utility through repair or alteration which makes possible an efficient contemporary use. In rehabilitation, those portions of the property which are important in illustrating historic, architectural, and cultural values are preserved or restored.**

147. ***Restoration*** **means the process of accurately recovering the form and details of a structure as it appeared at a particular period of time by removing later work and by replacing missing original work.**

148. ***Rezoning*** **means an amendment to or a change in the zoning regulations. Rezonings can take three (3) forms:**

a. A comprehensive revision or modification of the zoning regulations text and map;

b. A text change in zoning district requirements; and

c. A change in the zoning district designation of a particular parcel or parcels, as shown on the official zoning districts map.

148. ***Right-of-way*** **means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, roadway, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or another special use.**

149. ***Roadway*** **means the portion of any street designated for vehicular traffic; where curbs are in place, that portion of the street between the curbs.**

150. ***Rooming house*** **means a building where lodging only is provided for compensation to three (3) or more, but not exceeding six, persons; buildings holding more than six (6) persons shall be defined as a "hotel," under the terms of this chapter.**

151. ***Septic tank*** **means a watertight receptacle which receives the discharge of sewage from a building sewer and is designed and constructed so as to permit deposition of the settleable solids from the liquid, digestion of the detention, and discharge of the liquid portion into a disposal area.**

152. ***Setback*** **means the distance between the lot line and the building line.**

153. ***Setback, front yard*****, means the minimum horizontal distance between the street easement line (front lot line) and the main building or structure, including a garage**

or any projection thereof other than steps, required to create a yard extending across the front of a lot between the side lot lines.

***Note*: The platted "building line" need not coincide with the town's minimum setback line in all cases. See building line. See also Yard, front.**

154. *Setback, rear yard*, means the minimum horizontal distance between the rear lot line (alley easement line, if one exists) and the rear of the main building or any projections other than eaves, steps, unenclosed balconies or unenclosed porches, required to create a yard extending across the rear of the lot and measured between side lot lines. 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. See Yard, rear.

155. *Setback, side yard*, means the minimum horizontal distance between a side lot line and the side of the main building, or any projections thereof other than steps and two (2) foot eaves, required to create a side yard extending from the front lot line to the rear lot line. See Yard, side.

156. *Site* means a tract of land intended, or suitable for, development; the area upon which a building or town has been built.

157. *Sight proof fence* means a barrier consisting of, but not limited to, wood, metal, plastic, or vegetation.

158. *Solar collector* means any device or combination of devices or elements which rely upon sunshine as an energy source and which are capable of collecting not less than twenty-five thousand (25,000) BTU's on a clear winter solstice day. The term "solar collector" also includes any substance or device which collects solar energy for use in:

a. The heating or cooling of a structure or building;

b. The heating or pumping of water;

c. Industrial, commercial or, agricultural processes; or

d. The generation of electricity.

A solar collector may be used for purposes in addition to the collection of solar energy. These uses include, but are not limited to, serving as a structural member or part of a roof of a building or structure and serving as a window or wall.

159. *Solar right* means a right to an unobstructed line-of-sight path from a solar collector to the sun, which permits radiation from the sun to impinge directly on the solar collector.

160. ***Special district*** **means a zoning district established to accommodate a special set of uses or for special purposes; for example, certain types of planned districts, overlay districts, or historic districts.**

161. ***Spot zoning*** **means zoning a relatively small area differently from the zoning of the surrounding area; the term "spot zoning" can be appropriate or inappropriate, based upon whether or not the nature of the change is appropriate or arbitrary and inappropriate.**

162. ***Start of construction*** **means the first placement of permanent construction on a site, such as the pouring of footings or any work beyond the stage of excavation. For a structure 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 pilings or foundation or the affixing of any prefabricated structure or mobile home on its permanent site. Permanent construction does not include land preparation; land clearing; grading or filling; excavation for basement, footings, piers or foundations; erection of temporary forms; the installation of piling under proposed subsurface footing; installation of sewer, gas, or water pipes or electric or other service lines from the street; or existence on the property of accessory buildings, such as garages or sheds not occupied as dwelling unit or not a part of the main structure.**

163. ***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.**

164. ***Story, half*****, means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level and in which space not more than two-thirds (⅔) of the floor area is finished off for use. A half-story containing independent apartment or living quarters shall be counted as a full story.**

165. ***Street*** **means any public or private right-of-way which affords the primary means of access to abutting property.**

165. ***Street classification*** **means that for the purpose of providing for the development of all traffic ways and rights-of-way in the city, and for their future improvement, reconstruction, realignment, and necessary widening, each existing traffic way and right-of-way has been designated and arranged or organized according to category within the comprehensive plan for the city.**

166. ***Street, commercial or industrial*****, means a street which abuts property zoned for commercial or industrial use and which is designed to provide access to those parcels so designated.**

167. ***Street, half*****, means any street platted twenty-five (25) feet or more in width, where, at the time of the approval of the plat, it is the intent of the city council that the street dedication shall constitute only a part of the total street easement width.**

168. ***Street, intersecting*****, means any street which joins another street at an angle, whether or not it crosses the other.**

169. ***Street, major*****, means an arterial street which is so designated on the city's major streets plan and is designed to carry intercity traffic and to relate the various neighborhoods or residential areas within the city.**

170. ***Street, minor*****, means any street other than one designated as a major street in the city's major streets plan, but not including alleys.**

171. ***Street, perimeter*****, means any existing street to which the parcel of land to be subdivided abuts on only one side.**

172. ***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.**

173. ***Structure*** **means a building which is used for residential, business, agricultural, religious, or other purposes, which is occupied by a private, nonprofit organization, or which is owned by state or local government or an agency thereof. The term "structure" includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair unless such materials or supplies are within an enclosed building on the premises.**

174. ***Subdivision*** **means the division or re-division of land, vacant or improved, or airspace into two (2) or more lots tracts, parcels, sites, areas, units, or plots, anyone of which, when divided, has an area of less than ten acres, for the purpose of transfer of ownership or for development or the dedication, vacation, or realignment of any public or private right-of-way easement.**

175. ***Subdivision regulations or chapter*** **means the officially adopted subdivision regulations for the city designed to provide standards for the subdivision of land within the jurisdictional area of the planning commission of the city.**

176. Substantial improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the actual cash value of the structure either before the improvement is started or, if the structure has been damaged and is being restored, before the damage occurred. Substantial improvement is started when the first alteration of any structural part of the building commences.

177. ***Superblock*** **means an unusually large block, commonly found where building clustering is permitted.**

178. ***Townhouse*** **means one of a series of two (2) or more attached dwelling units separated from one another by continuous, vertical walls without openings from basement floor to the roof deck and tight against the same or through the roof and which are intended to have ownership transferred in conjunction with a platted lot.**

179. ***Transitional uses and structures*** **means uses or structures permitted under the zoning regulations which, by their nature or level and scale of activity, act as a transition or buffer between two (2) or more incompatible uses.**

180. ***Urban service area*** **means an area, identified through official public policy, within which urban development will be encouraged during a specified time period.**

181. ***Use*** **means the purpose or activity for which a piece of land or its buildings is designed, arranged, or intended or for which it is occupied or maintained.**

182. ***Use permitted on review*** **means a use deemed appropriate in a zoning district, but only upon review of the proposed use by the planning commission to determine whether or not specified conditions, as detailed in the zoning regulations, are met.**

183. Used or occupied, as applied to any land or building, include the words "intended, arranged, or designed to be used or occupied.

184. ***Variance*** **means a device which grants a property owner relief from certain provisions of the zoning regulations when, because of the particular physical surroundings, shape, or topographic condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from an inconvenience or a desire to make more money.**

185. ***Vertical zoning*** **means zoning which allows different uses to be located at different elevations in the same building or structure.**

186. ***Vested right*** **means a right which has become absolute and fixed and cannot be denied by subsequent changes in conditions or regulations; for example, there is no vested right to have a zoning district classification remain the same forever, but once construction has legally been allowed and initiated on a structure, there is a right to maintain that particular use regardless of the zoning district classification given the property.**

187. ***Water surface elevation*** **means the heights, in relation to mean sea level (MSL), expected to be reached by floods of various magnitudes and frequencies at pertinent points in the floodplains of riverine areas.**

188. ***Yard*** **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. 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 and the main building shall be used.**

189. ***Yard, front*****, means a yard extending across the front of a lot between the side yard lines and being the minimum horizontal distance between the street line and the main building or any projection thereof other than steps. When the dedicated street right-of-way is less than fifty (50) feet, the depth of the required front yard shall be measured at a starting point twenty-five (25) feet from the centerline of the street right-of-way.**

190. ***Yard, rear*****, means a yard extending across the rear of a lot measured between lot lines and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than eaves, 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.**

191. ***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 line and the side of the main building or any projections other than steps and two-foot eaves.**

192. ***Zero lot line*** **means a development approach in which a building is sited on one or more lot lines with no yard, conceivably three (3) of the four (4) sides of the building could be on the lot lines, in order to allow more flexibility in site design and to increase the amount of usable open space on the lot.**

193. Zoning district means a section of the city designated in the text of this chapter and usually delineated on the official zoning district map in which requirements for the use of land and building and development standards are prescribed.

194. ***Zoning regulations or this chapter*** **means the officially adopted zoning regulations of the city. (Prior Code 1991, §12-206; Ord. No. 00-06, §1(12-206), 6-5-2000; Ord. No. 00-25, §12-206, 11-6-2000; Ord. No. 01-02, §12-206, 3-5-2001; Ord. No. 02-12, §1(12-206), 8-5-2002)**

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

State law reference**: Similar provisions, 11 O.S. §43-110, 25 O.S. §1451, 63 O.S. §1-1201, 82 O.S. §1603.**

§ 122-7 OFFICIAL ZONING DISTRICT MAP.

A. *Adopted*. The city is hereby divided into districts or zones, as shown on the official zoning district map, which, as now or after September 11, 1978, amended, including all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter as fully as if the same were set forth herein in detail.

B. *Amendments*. If, in accordance with the provisions of this chapter, changes are made in zoning district boundaries or other matter depicted on the official zoning district map, such changes shall be made on the official zoning district map within ten days after the amendment has been approved by the city council, together with an entry on the map, made by the city clerk, as follows: "Change Number ___, by action of the City Council on _____, Ordinance Number "

C. *Conformity to procedures*. No changes of any nature shall be made in the official zoning district map or matter shown thereon except in conformity with the procedures set forth in this chapter.

D. *Maintenance*. The official zoning district map shall be maintained as the final authority as to the current zoning district status of land and water areas, buildings and other structures within the city; however, the city clerk and the chair of the planning commission shall also each maintain an individual zoning district atlas, reflecting the current zoning district status of all land within the city, as shown on the official zoning district map.

E. *Authority to adopt new map*. In the event that the official zoning district map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the city council may, by resolution, adopt a new official zoning district map which shall supersede the prior official zoning district map. The new official zoning district map shall include amendments and may correct drafting or other errors or omissions, but no such corrections shall have the effect of amending the original zoning regulations or altering any subsequent amendments thereof. (Prior Code 1991, §12-207)

§ 122-8 ZONING DISTRICT BOUNDARIES.

A. The district boundary lines shown on the official zoning district map are usually along streets, alleys, property lines, or extensions thereof; where uncertainty exists as to the boundaries of districts as shown on the official zoning district map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines;

2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

3. Boundaries indicated as approximately following corporate boundary lines shall be construed as following corporate boundary lines;

4. Boundaries indicated as following railroad lines shall be construed to be the centerline of the right-of-way, or, if no centerline is established, the boundary shall be interpreted to be midway between the right-of-way lines of such railroad;

5. Boundaries indicated as parallel to or extensions of features indicated in subsections (a)(1) and (2) of this section shall be so construed; distances not specifically indicated on the official zoning district map shall be determined by the scale of the map; and

6. Whenever any street, alley, or other public way is vacated by official action, or whenever such area is franchised for building purposes, the zoning district adjoining each side of such street, alley, or other public way shall be automatically extended to the centerline of such vacated street, alley, or way and all areas so involved shall then and henceforth be subject to all regulations of the extended districts.

B. Where physical features on the ground are at variance with information shown on the official zoning district map, or when there arises a question as to how or whether a parcel of property is zoned and such question cannot be resolved by the application of subsections (a)(1) through (6) of this section, the property shall temporarily be considered as classified A-I, agricultural residential district in the same manner as provided for newly annexed territory; the issuance of a building permit and the determination of permanent zoning shall be in accordance with the provisions providing for amendments to the zoning regulations and official zoning district map. (Prior Code 1991, §12-208)

§ 122-9 ZONING OF ANNEXED TERRITORY.

A. All territory annexed to the city after September 11, 1978, shall be automatically classified as A-1, agricultural residential district, except as provided in subsection (b) of this section.

B. Owners or developers of land annexed to the city may petition the city council for a zoning district classification other than the A-1, agricultural residential district, by following the procedures outlined in section 122-13. This process may be initiated at any time prior to, during, or subsequent to the official annexation of the territory, but in all cases:

1. The procedures outlined in section 122-13 must be followed; and

2. The passage, adoption, and publication by the city council of the ordinance indicating the zoning district classification or change shall not occur until after the land involved has been officially annexed. (Prior Code 1991, §12-209)

§ 122-10 ENFORCEMENT AND ADMINISTRATION.

A. These zoning regulations shall be enforced by the city building official or his designated representative, acting at the direction of the city manager, who shall review all building permit applications for compliance with zoning regulations provisions.

B. It is a violation of these regulations for any person to change or permit a change in the use of land, buildings, or structures, or to erect, alter, move, or improve any building or structure, until a building permit has been obtained from the office of the city clerk, under the terms set forth in this Code.

C. The zoning regulations requirement for a building permit shall not, however, apply to the use or construction of farm buildings for agricultural purposes or the planting of agricultural crops. Such buildings shall, however, observe setback requirements of all city ordinances.

D. In the administration of these zoning regulations, the provisions of the following sections shall be used to govern procedures for uses and structures permitted on review, rezoning, and amendment applications, the use of special districts, and the handling of nonconforming uses, structures, and lots. Related administrative procedures for building permit issuance, review of subdivisions, issuance of other required permits, and floodplain management requirements are found in this Code of Ordinances. (Prior Code 1991, §12-210)

§ 122-11 USES AND STRUCTURES PERMITTED ON REVIEW.

Certain uses and structures listed in each zoning district as uses and structures permitted on review shall be considered by the planning commission and the city council under the following procedures:

1. An application for a use permitted on review shall be filed with the planning commission, through the office of the city clerk;

2. The minimum fee for filing of a use permitted on review application with the city clerk shall be established by city council resolution;

3. This application shall contain the location and proposed use of the site, the names of all property owners, and the types of existing land uses within three hundred (300) feet of the site, and any other pertinent material required by the planning commission;

4. The city clerk shall notify the building official and the chair of the planning commission of the application and cause the application to be placed on the agenda for the next scheduled meeting of the planning commission;

5. The planning commission shall hold one or more public hearings thereon, giving adequate and legal notice to all adjacent property owners and community residents;

6. The planning commission shall, within forty-five (45) days of the date of application, transmit to the city council its report as to the effect of such proposed structure or use upon the character of the neighborhood, traffic conditions, public utilities, and other matters pertaining to the general welfare, as well as the recommendations of the planning commission concerning the approval or denial of the application. Persons in attendance at the planning commission's public hearing shall be informed at that time of the probable meeting date at which the city council will consider the approval or denial of the application. The city council may subsequently authorize or deny the issuance of a building permit for the use or structure requested in the application; and

7. Approval by the city council shall not constitute issuance of a building permit; application for a building permit shall be considered a separate process. (Prior Code 1991, §12-211)

§ 122-12 BED AND BREAKFAST ESTABLISHMENTS.

A. All bed and breakfast establishments are considered accessory residential or commercial uses, and can only be established on review by the planning commission.

B. There are two (2) basic categories of bed and breakfast establishments, distinguished primarily by size.

1. Type I is principally used as a single-family dwelling with the provision of guest lodging a secondary feature and must conform to all of the following conditions:

a. May be permitted in residential (R-2, R-3 or R-4) or agricultural (A-I) zoning district.

b. No more than four (4) guest bedrooms may be provided.

c. No individual cooking facilities may be installed in any guest room.

d. Meal service is limited to resident guest only, except for special events on site within parking limit.

e. The owner shall reside on the premises.

f. One parking space shall be provided for the owner-operator, plus two (2) spaces for each three (3) rooms, or fraction thereof, that serve as guest bedrooms.

If overflow parking cannot be accommodated on-street, additional on-site parking may be considered.

g. To the extent feasible, parking should be located to the side or rear of the structure. When front yard parking is used, no more than forty (40) percent of the required front yard shall be hard surfaced for parking. All new parking areas are required to provide full retention of stormwater.

h. Any proposed additions must be compatible with the architectural style and building materials of the dwelling.

Additions which do not comply with the applicable setback requirements may not be submitted to the board of adjustment as a request for a variance.

i. A landscaping and screening plan must be submitted which enhances the appearance of the site by reducing or screening all parking areas to minimize their visual intrusion on abutting properties. No lighting or sign age may be installed which has not been reviewed as part of the proposed development plan. Low wattage or low-intensity light fixtures are preferred.

j. The use shall be inspected by the code enforcement and fire department and shall meet all codes for plumbing, electricity, and fire safety.

2. Type II also serves as a residence, but because of the increased number of guest rooms and additional parking, this category of use is not appropriate in all residential districts. The following conditions must be observed:

a. This type may only be permitted in multifamily dwelling (R-3 or R-4) districts or commercial districts.

b. One guest room may be permitted for each two-thousand (2,000) square feet of lot area, up to a maximum of eight guest rooms.

c. No individual cooking facilities may be installed in any guest room.

d. Meal service is limited to resident guest only, except for special events on site within parking limit.

e. The owner shall reside on the premises; except in a commercial building, an employee may reside on premises.

f. One parking space shall be provided for the owner-operator, plus two (2) spaces for each three (3) rooms, or fraction thereof, that serve as guest bedrooms.

If over flow parking cannot be accommodated on-street, additional on-site parking may be considered.

g. To the extent feasible, parking should be located to the side or rear of the structure. When front yard parking is used, no more than forty (40) percent of the required front yard shall be hard surfaced for parking. All new parking areas are required to provide full retention of stormwater.

h. Any proposed additions must be compatible with the architectural style and building materials of the dwelling.

Additions which do not comply with the applicable setback requirements may not be submitted to the board of adjustment as a request for a variance.

i. A landscaping and screening plan must be submitted which enhances the appearance of the site by reducing or screening all parking areas to minimize their visual intrusion on abutting properties. No lighting or signage may be installed which has not been reviewed as part of the proposed development plan. Low wattage or low-intensity light fixtures are preferred.

j. The use shall be inspected by the code enforcement and fire department and shall meet all codes for plumbing, electricity, and fire safety. (Ord. No. 99-03, §1, 1-4-1999)

§ 122-13 REZONING AND AMENDMENT APPLICATIONS.

A. *Right to petition for change*. Any person, firm, or corporation having a proprietary interest in any property may petition the city council for a change or amendment to the provisions of the zoning regulations or official zoning district map by obtaining, filling out, and filing a formal application for rezoning or zoning ordinance amendment with the city clerk.

B. *Fees*. The fee for filing such application shall include the notice and publication costs of such application, the review costs incurred by city personnel, and other administrative costs. The minimum fee for such applications shall be as set by the city council plus a fee plus per acre for each acre over five acres. The city clerk may automatically increase the fees due to increases in the costs of mailing or publication.

C. *Notification of planning commission*. The city clerk shall notify the city building official and the chair of the planning commission and cause the application to be placed on the agenda for the next scheduled meeting of the planning commission.

D. *Commission consideration*. The planning commission shall consider any rezoning or zoning regulations amendment application at a regular, public meeting prior to making and submitting recommendations to the city council. At least fifteen (15) days'

notice of the date, time, and place of the hearing shall be published in a newspaper of general circulation in the city. Such notice shall include a map of the area to be affected which indicates street names or numbers, streams, or other significant landmarks in such area.

E. *Public hearing*. No rezoning, amendment, chance, or supplement shall become effective until a public hearing shall have been held by the city council at which parties in interest and other citizens shall have an opportunity to be heard.

Notice of such public hearing, to include the time and place of such hearing, shall be given at least twenty (20) days prior to such hearing by publication in the official newspaper of the city, and, in addition to publication, notice shall also be given by mailing written notice signed by the city clerk to all owners of property within a three-hundred (300) foot radius of the exterior boundary of the subject property. Such notice shall be mailed not less than twenty (20) days before the date set for hearing and the notice shall contain:

1. Legal description of the property and the street address or approximate location in the city;

2. Present zoning district classification of the property and the classification sought by the applicant; and

3. The date, time, and place of the public hearing.

F. *Protests against proposed change*. Protests against proposed changes shall be filed at least three (3) days before the date of the public hearings.

If protests are filed by:

1. The owners of twenty (20) percent or more of the area of the lots included in a proposed change; or

2. The owners of fifty (50) percent or more of the area of the lots within a three-hundred (300) foot radius of the exterior boundary of the territory included in a proposed change; then the proposed change or amendment shall not become effective except by the favorable vote of three-fifths (3/5) of all the members of the city council.

G. *Initiation of studies or administrative proposals*. The city council or the planning commission may, from time to time, initiate studies or administrative proposals for changes or amendments to the zoning regulations, provided that they are in the public interest, and provided also that, before taking action on any such study or proposal, the city shall have submitted the same to the planning commission for its recommendations and adequate and legal public hearings shall have been held by the city council.

H. ***Finalization of change*. All amendments, changes, supplements, or rezonings shall become final and effective upon passage and publication of an ordinance indicating the amendment, change, supplement, or rezoning. (Prior Code 1991, §12-212)**

***State law reference*: Similar provisions, 11 O.S. §§43-104, 43-105.**

§ 122-14 USE OF SPECIAL DISTRICTS.

A. The city council, acting subsequent to review and recommendation by the planning commission, is hereby authorized to use the provisions of any of the special districts (R-6, planned residential development district or C-2, planned commercial district) provided in this Code, subject to the conditions listed in subsection (c) of this section.

B. The primary purpose for using such districts shall always be to provide for and encourage flexibility in the design and development of structures and subdivisions in order to promote the most appropriate use of land; to facilitate the adequate, efficient and economical provisions of streets and utilities; and to preserve the natural and scenic qualities of open lands.

C. The conditions under which applications for such projects will be considered are as follows:

1. The owner-developer shall make written application to the city council, through the planning commission, for the use of a special district;

2. The planning commission shall determine that such application would serve to benefit the city;

3. Where such procedure involves lands zoned for residential purposes, its application shall result in a permitted number of dwelling units which shall in no case exceed the number which could be permitted, in the planning commission's judgment, if the land were subdivided into lots conforming to the minimum lot size and density requirements of the zoning regulations applicable to the districts in which such land is situated;

4. The proposed site plan, including areas within which structures may be located, the height and spacing of buildings, open spaces and their landscaping, off-street open and enclosed parking spaces, and streets, driveways, and all other physical features as shown on the plan, or otherwise described, accompanied by a statement setting forth the nature of such modifications, changes, or supplementation of existing zoning district provisions as are not shown on the site plan shall be subject to review and public hearing by the planning commission and the city council in the same manner as set forth in this article for the consideration of rezoning applications; and

5. Where a new or unlisted use shall develop, the application shall contain a statement of facts listing the nature of the use, the amount of activity involved, type of product involved, if any, storage requirements, anticipated employment, transportation requirements, if any, the amount of noise, odor, fumes, dust, toxic material, or vibration likely to be generated and the general requirements for public utilities. (Prior Code 1991, §12-213)

§ 122-15 NONCONFORMING LOTS, STRUCTURES, AND USES.

A. Within the zoning districts established by this chapter, there may exist lots, structures, and uses of land, or structures which were lawful prior to September 11, 1978, but which would be prohibited, regulated, or restricted under the terms of these zoning regulations or any future amendments thereto.

B. It is the intent of these zoning regulations to:

1. Consider such nonconforming uses to be incompatible with permitted uses in the zoning districts involved; and

2. Permit these nonconforming uses to continue until they are removed, but not to encourage their extended survival. (Prior Code 1991, §12-214)

§ 122-16 NONCONFORMING LOTS OF RECORD.

In any zoning district in which a lot of record exists on September 11, 1978, or at the effective date of an amendment of these zoning regulations, which does not conform in size or area to the provisions of these zoning regulations, structures for the uses permitted in such zoning district may be constructed on such lot, notwithstanding certain other provisions of these zoning regulations, provided that:

1. Such lot is in separate ownership;

2. Such lot is not of continuous frontage with other lots in the same ownership; and

3. Front, side, and rear yard requirements are met or a variance obtained from the board of adjustment. (Prior Code 1991, §12-215)

§ 122-17 NONCONFORMING STRUCTURES; NONCONFORMING USE OF STRUCTURES.

A. Where a lawful structure exists on September 11, 1978, or at the effective date of an amendment of these zoning regulations that could not be built under the terms of these zoning regulations by reason of restrictions on area, height, yards, or other

requirements concerning the structure, such structure may be continued, so long as it remains otherwise lawful, subject to the following conditions:

1. No such structure may be enlarged or altered in a way which increases its nonconformity;

2. Should such structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at the time of destruction, it shall not be reconstructed except in accordance with the provisions of these regulations; and

3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.

B. If a lawful use of a structure or of a structure and premises in combination exists on September 11, 1978, that would not be allowed in the zoning district under the terms of the adopted zoning regulations, the lawful use may be continued as long as it remains otherwise lawful, subject to the following conditions:

1. No existing structure devoted to a use not permitted by these zoning regulations in the zoning 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 zoning district in which it is located;

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 these zoning regulations, 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 zoning 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 for six (6) consecutive months, the structure or structure and premises in combination shall not thereafter be used, except in conformance with the regulations of the zoning district in which it is located; and

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. (Prior Code 1991, §12-216)

§ 122-18 NONCONFORMING USES OF LAND.

A. Where, on September 11, 1978, or at the effective date of an amendment of these zoning regulations, lawful uses of land exist that are no longer permissible under the terms of these zoning regulations as enacted or amended, such uses may be continued so long as they remain otherwise lawful, subject to the following conditions:

1. 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 the adoption or amendment of these zoning regulations;

2. No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of the adoption or amendment of these zoning regulations; and

3. If any such nonconforming use of land ceases for any reason for a period of more than sixty (60) days, any subsequent use of such land shall conform to the regulations specified by these zoning regulations for the zoning district in which such land is located.

B. A nonconforming use of a structure or of a structure and land in combination shall not be changed unless changed to a use permitted in the zoning district in which it is located, including a use permitted on review. Such change shall be construed as an abandonment of the former nonconforming use. (Prior Code 1991, §12-217)

§ 122-19 MISCELLANEOUS PROVISIONS.

A. *Group housing projects*. In the case of public group housing projects, in which the application of R-3, two-family residential district, or R-4, multi-family residential district, provisions are impractical or inappropriate, the planning commission may, with the approval of the majority of its members, review the proposal under the terms and conditions of the R-6, planned residential development district.

B. *Sanitary sewer service*. No structure or use in any zoning district shall be erected or initiated which does not have a connection to the city sanitary sewer system, unless and until the county health department certifies that a septic tank or other approved disposal system can be installed and operated effectively. As a basis for this decision, the health department may require such soil percolation tests as it deems necessary. Such tests are to be made at the expense of the property owner.

C. *Street access*. No principal building shall after September 11, 1978, be constructed on a lot which does not abut a publicly dedicated street.

D. *Use of solar collectors*. Use of solar energy collectors is subject to the restraints imposed by the topography within the corporate limits of the city, existing trees, and the zoning district height and setback limitations contained within the zoning

regulations. No guarantee is hereby given that all property within the corporate limits of the city is entitled to the use of solar collectors; however, as a general policy, reasonable care shall be taken to protect the opportunity for the utilization of solar collectors at all available locations. (Prior Code 1991, §12-218)

§ 122-20 VIOLATIONS AND PENALTIES.

A. Any person, firm, or corporation who violates or refuses to comply with any of the provisions of these zoning regulations shall be punished as provided in section 1-12 of this Code for each offense. Each day upon which a violation is permitted to continue shall constitute a separate offense.

B. In case any building or structure or land is constructed, altered, converted, maintained, or used in violation of these zoning regulations, the city, in addition to other remedies available, may institute any proper action or proceedings to prevent such unlawful activities, in order to restrain, correct, or abate such violation. (Prior Code 1991, §12-219)

***State law reference*: Injunction for violations of regulations, 11 O.S. §43-107.**

§§ 122-21 – 122-45 RESERVED.

ARTICLE 2

DISTRICT REGULATIONS

DIVISION 1

GENERALLY

§§ 122-46 – 122-70 RESERVED.

DIVISION 2

AGRICULTURAL RESIDENTIAL, A-I DISTRICT

§ 122-71 Purpose.
§ 122-72 Permitted principal uses and structures and minimum required off-street parking.
§ 122-73 Permitted accessory uses and structures.
§ 122-74 Uses and structures permitted on review.
§ 122-75 Lot area, yard, and height requirements.
§ 122-76 Special requirements.
§§ 122-77 – 122-100 Reserved.

§ 122-71 PURPOSE.

This district is intended to preserve land for agricultural and directly related residential and commercial uses, discourage, premature suburban development, and prevent inefficient and expensive extension of city utilities, and is the only district in which a freestanding mobile home shall be permitted. (Prior Code 1991, §12-220)

§ 122-72 PERMITTED PRINCIPAL USES AND STRUCTURES AND MINIMUM REQUIRED OFF-STREET PARKING.

The following are the permitted principal uses and structures and minimum required off-street parking:

Permitted principal uses and structures		*Minimum required off-street parking*
1.	**General farming, forestry, ranching and other agricultural activities and structures which are not in conflict with other ordinances of the city**	**None**
2.	**Single-family farm or ranch home on minimum 5-acre lot**	**None**
3.	**Mobile home converted to real estate on minimum 5-acre lot, provided such homes comply with all other city ordinances**	**None**
4.	**Public parks and recreation or play areas for active usage**	**5 spaces for each acre developed**
5.	**Fairgrounds or rodeo arenas**	**25 spaces plus 1 space for every 4 seats in the main stadium or auditorium**
6.	**Elementary or secondary schools**	**1 space per classroom and office plus 1 space for every 6 seats in main auditorium or stadium**
7.	**Churches and religious temples**	**1 space per 4 seats in auditorium**
8.	**Golf courses and country clubs except Miniature golf courses or commercial Driving ranges**	**3 spaces per green or 1 space for every 100 square feet of clubhouse floor area, whichever is greater**

9.	**Community-wide or neighborhood meeting, or recreation buildings.**	**1 space for every 50 square feet of floor area**

(PriorCode 1991, §12-221)

§ 122-73 PERMITTED ACCESSORY USES AND STRUCTURES.

Subject to the provisions of these regulations and other city ordinances, the following accessory uses and structures are permitted in the A-1, agricultural residential district:

1. Farm buildings directly related to agricultural uses;

2. Private garages;

3. Private swimming pools and tennis courts;

4. Green houses and other related operations; provided, that they are in compliance with provisions for similar uses outlined in the C-3, general commercial district of these regulations;

5. Uses and structures clearly incidental and necessary to the permitted principal uses, or structures of this district which do not involve the conduct of business, other than "home occupations," on the premises;

6. Temporary buildings used in conjunction with construction work; provided, that such buildings are removed promptly upon completion of the construction work;

7. Commercial stands operated on a temporary or seasonal basis; provided, that:

a. Such stands, as well as the surrounding area, are properly maintained free from trash, weeds, and debris throughout the entire year; and

b. Such stands shall be set back from the roadway an adequate distance to provide for safe parking, ingress and egress;

8. Solar collectors, whether as a part of a structure or incidental to a group of nearby structures, when used for the purpose of providing energy for heating or cooling of related structures; and

9. Transportation, pipeline, and utility easements and rights-of-way. (Prior Code 1991, §12-222)

§ 122-74 USES AND STRUCTURES PERMITTED ON REVIEW.

Subject to the requirements of article 1 of this chapter, the planning commission may permit the following uses and structures on review:

1. Sanitary landfill or waste disposal area; provided, that:

a. Refuse shall be covered daily with dirt;

b. Smoke, odor, or blowing trash or debris shall not be allowed to create a public nuisance;

c. The operator agrees in writing to restore the site to a condition compatible with the adjacent area upon conclusion of the landfill operation;

d. A gravel access road, as a minimum, shall be provided;

e. County and state health department approval for the site shall have been obtained, in writing;

f. At least five (5) parking spaces shall be provided; and

g. No landfill or waste disposal area shall be located closer than one quarter (¼) mile to any dwelling, park, school, church, or place of public assembly.

2. Public buildings, utilities, and railroads, but not including unscreened equipment storage and maintenance yards or general administrative and sales offices; provided, that:

a. Any building or substation shall meet the front and rear yard setback requirements for dwellings in the R-2, single-family residential district, and provide side yard setbacks of at least twenty-five (25) feet; and

b. At least two (2) parking spaces per substation plus one parking space per employee at the site shall be provided.

3. Communication stations and towers; provided, that:

a. They shall not be closer to a dwelling or place of public assembly than a distance equal to one-half their height;

b. The height and location of such structures shall not interfere with the operation of any airport or landing strip; and

c. At least one parking space per employee at the site and one parking space for each vehicle used by the facility shall be provided.

4. Farm implement display sales, service, and repair facilities; provided, that they are in compliance with all requirements for such uses outlined in the I-1, industrial district, of these regulations.

5. Grain elevator, storage bins, and feed mills; provided, that such uses are in compliance with all requirements relating thereto outlined in the I-1, industrial district, of these regulations.

6. Tourist trailer camps or parks; provided, that such uses are constructed in accordance with all city ordinances relating thereto.

7. Animal hospitals, dog kennels, or veterinarian services; provided, that:

a. Such uses comply with all city codes and ordinances relating thereto; and

b. They comply with requirements for such uses outlined in the I-1, industrial district, of these regulations.

8. Airfields, airports, and landings strips.

9. Public stables; provided, that such uses comply with all city codes and ordinances relating thereto.

10. Oil and natural gas drilling operations or the extraction of minerals; provided, that the operation is conducted in accordance with all city codes, ordinances and state laws relating thereto.

11. Cemeteries, or mausoleums.

12. Child or day care centers; provided, that they are in compliance with provisions for such uses outlined in the R-3, two-family residential district, of these regulations.

13. Type I bed and breakfast establishments. (Prior Code 1991, §12-223; Ord. No. 99-03, §1, 1-4-1999)

§ 122-75 LOT AREA, YARD, AND HEIGHT REQUIREMENTS.

A. Minimum lot area and width requirements for residential uses is five (5) acres.

B. The following are minimum requirements for front, side, and rear yard setbacks:

1. Front: forty (40) feet.

2. Side: twenty-five (25) feet.

3. Rear: thirty (30) feet.

C. The following is the maximum height requirement: none. (Prior Code 1991, §12-224)

§ 122-76 SPECIAL REQUIREMENTS.

All signs and billboards shall be maintained in a neat and presentable condition, and, in the event their use shall cease, the area shall be restored to a condition free from refuse, rubble, or debris. (Prior Code 1991, §12-225)

§§ 122-77 – 122-100 RESERVED.

DIVISION 3

RESIDENTIAL ESTATES, R-1 DISTRICT

§ 122-101 Purpose.
§ 122-102 Permitted principal uses and structures; off-street parking.
§ 122-103 Permitted accessory uses and structures minimum required.
§ 122-104 Uses and structures permitted on review.
§ 122-105 Lot area and height requirements.
§ 122-106 Special requirements.
§§ 122-107 – 122-130 Reserved.

§ 122-101 PURPOSE.

This district is intended to provide minimum standards for low-density, planned, single-family, detached residential development. This development may occur in areas which can be effectively and efficiently served by the city sewage collection and disposal system or it may occur in areas which are beyond the existing or intermediate service area boundaries of the city sanitary sewage collection and disposal system. Additional objectives of the provisions of this district are to control sprawling, "leap frog" development, prevent the depletion of possible city groundwater reserves through encouraged use of the city water system, ensure adequate fire protection, eliminate the health threat of improperly utilized septic systems, and provide adequate existing and future utility, traffic way, and drainage easements in the developed area. (Prior Code 1991, §12-230)

§ 122-102 PERMITTED PRINCIPAL USES AND STRUCTURES; MINIMUM REQUIRED OFF-STREET PARKING.

The following are the permitted principal uses and structures and minimum required off-street parking:

Permitted principal uses and structures	*Minimum required off-street parking*
1. Single-family, detached dwelling	**2 spaces per dwelling**
2. General agricultural crops, but not the raising of farm animals, or poultry	**None**
3. Neighborhood meeting or recreation building	**1 space for every 50 square feet of floor area**
4. Park, playground, or recreation area	**4 spaces for each acre developed area for active use**
5. Elementary school	**1 space per classroom/office plus 1 space per 6 seats in the main auditorium**
6. City office building	**6 spaces, plus 1 space for each employee**

(Prior Code 1991, §12-231)

§ 122-103 PERMITTED ACCESSORY USES AND STRUCTURES.

Subject to the provisions of this and other city codes and ordinances, the following accessory uses and structures are permitted in the R-l, residential estates district:

1. One guesthouse per principal residential structure.

2. Private garage; provided, that:

a. Such structure shall not encroach upon the front, side, or rear yard setback requirements of the principal or main structure in this district; and

b. Such structure shall not encroach upon any utility, street, drainage, or alley easement.

3. Private swimming pool, tennis courts, and recreation and play area, either individually owned or operated on a nonprofit basis primarily for area residents.

4. Private pumphouse.

5. Private greenhouse (not operated for commercial uses) and gardens or areas for raising of agricultural crops, but not areas for the raising of livestock.

6. Temporary buildings used in conjunction with construction work; provided, that such buildings are removed promptly upon completion of the construction work.

7. Solar collectors, as a part of a structure, when used for the purpose of providing energy for heating or cooling of related principal structures.

8. Uses and structures clearly incidental and necessary to the permitted principal uses and structure in this district; provided, that:

9. Such structures and uses shall not involve the conduct of business, except home occupations, on the premises.

a. Such structures and uses shall not include barns or sheds for the keeping of livestock or other agriculturally related machinery or material;

b. Such structures and uses shall not encroach upon the front, side, or rear yard setback requirements of the principal or main structures in this district; and

c. Such structures shall not encroach upon any alley, utility, or drainage easement. (Prior Code 1991, §12-232)

§ 122-104 USES AND STRUCTURES PERMITTED ON REVIEW.

Subject to the requirements of article I of this chapter, the planning commission may permit the following uses and structures on review:

1. Golf courses and country clubs, but not miniature golf courses or commercial driving ranges operated separately from golf courses; provided, that:

a. Off-street parking is in conformance with requirements for such uses outlined in the A-1, agricultural residential district; and

b. Primary access thereto shall not be from reduced-standard residential estates streets.

2. Public utility or facility buildings, but not including open equipment storage, maintenance yards, or general administrative and sales offices; provided, that:

a. Any building, structure, or substation shall meet the front and rear yard setback requirements for single-family dwellings in this district and shall provide side yard setbacks of not less than twenty-five (25) feet;

b. Two (2) parking spaces per structure or per one employee on the site, whichever is the greater, shall be provided; and

c. Primary access thereto shall not be from reduced-standard residential estates streets;

3. Churches and religious temples, but not including missions or revival tents or arbors; provided, that:

a. Parking requirements for such uses, detailed in the A-1, agricultural residential district, shall met;

b. The front, side, and rear yard setback requirements for such uses, detailed in this district, shall be met; and

c. Primary access thereto shall not be from reduced-standard residential estates streets;

4. The keeping of not more than two horses; provided, that:

a. Such animals shall be kept at least eighty (80) feet from the front lot line and shall be confined within the property lines by means of a suitable fence;

b. Any corral or pen shall not be located nearer than twenty-five (25) feet to any property line; and

c. Excrement from all horses shall be disposed of in an acceptable manner to prevent the breeding of insects or the creation of a nuisance or health hazard.

5. Additional horses may be permitted, provided that one additional acre of lot area, over the required initial one acre, shall be required for each additional horse. (Prior Code 1991, §12-233)

§ 122-105 LOT AREA AND HEIGHT REQUIREMENTS.

A. The following are the minimum lot area and width requirements for:

1. Single-family dwelling:

a. Area: one acre.

b. Width: One-hundred fifty (150) feet at the building line. All lots shall abut a public street for a minimum distance of fifty (50) feet.

2. Schools, public, and other institutional buildings:

a. Area: shall be adequate to provide yard areas required by setback provisions.

b. Width: shall be adequate to provide yard areas required by setback provisions.

B. The following are the minimum requirements for front, side, and rear yard setbacks for:

1. Single-family dwelling:

a. Front, all lots: Forty (40) feet. Double street frontage lots shall provide a front yard setback on both streets;

b. Rear: Thirty (30) feet.

c. Side.

1) Interior lot or side: Twenty-five (25) feet.

2) Street side, corner lot: Forty (40) feet.

2. Schools, public, and other institutional buildings:

a. Front: Forty-five (45) feet.

b. Rear: Thirty-five (35) feet.

c. Side: Thirty (30) feet.

C. Maximum height requirements.

1. Single-family dwelling: two and one-half (2½) stories or thirty-five (35) feet.

2. Schools, public and other institutional buildings: two and one-half (2½) stories or thirty-five (35) feet. (Prior Code 1991, §12-234)

§ 122-106 SPECIAL REQUIREMENTS.

A. Sight triangle restrictions. Hedges, shrubbery, or bushes of more than three (3) feet in height shall not be planted, placed, or maintained on a corner so as to restrict the vision of drivers, persons on bicycles, or pedestrians. This type of unobstructed area is commonly referred to as a "site triangle."

B. Signs. All signs, including temporary signs, shall be maintained in a neat and presentable condition and, in the event their use shall cease, they shall be promptly removed and the surrounding area restored to a condition free from refuse and trash.

C. Uses permitted upon review. When the planning commission considers an application for a use permitted on review in this district, it shall consider the impact of the proposal upon surrounding properties and the potential for increased traffic upon lower-standard residential estate streets. If, in the opinion of the commission, any proposed use will generate an unreasonable increase in the flow of traffic into a residential estates development or create situations where heavier vehicles will use the streets more frequently than under normal use and conditions, the planning commission shall deny the application. It is the intent of these regulations that all uses permitted on review be located on high standard streets or have access from a major street.

D. Lot coverage. Principal and accessory buildings shall not cover more than twenty (20) percent of the lot area of any lot within this district.

E. Reduction of lot sizes. Reduction of sizes through lot splits, etc., in areas within the R-1, residential estates district, shall not be permitted:

1. Until such time as higher quality streets are provided; or

2. Unless both resulting lots will equal or exceed the basic requirements of this district's provisions and such action will not overload existing street systems.

F. Sight proof fencing. Sight proof fencing shall not be erected within the building line setback of the adjoining street. (Prior Code 1991, §12-235)

§§ 122-107 – 122-130 RESERVED.

DIVISION 4

SINGLE-FAMILY RESIDENTIAL, R-2 DISTRICT

§ 122-131 Purpose.
§ 122-132 Permitted principal uses and structures; minimum required off-street parking.
§ 122-133 Permitted accessory uses and structures.

§ 122-134 Uses and structures permitted on review.
§ 122-135 Lot area, yard, and height requirements.
§ 122-136 Special requirements.
§§ 122-137 – 122-160 Reserved.

§ 122-131 PURPOSE.

This district is intended to provide minimum standards for predominantly single-family residential development located within the city's major drainage basin, accompanied by related recreational, religious and educational facilities. Primary objectives of the regulations in this district are to protect stable residential neighborhoods from uses which do not contribute to a residential environment and to encourage planned, contiguous development. (Prior Code 1991, §12-240)

§ 122-132 PERMITTED PRINCIPAL USES AND STRUCTURES; MINIMUM REQUIRED OFF-STREET PARKING.

The following are the permitted principal uses and structures and minimum required off-street parking:

Permitted principal uses and structures	*Minimum required off-street parking*
l. Detached, single-family dwelling	**2 spaces per dwelling**
2. Community-wide or neighborhood meeting, or recreation buildings	**1 space for every 50 square feet of floor area**
3. Park, playground, or recreation areas	**5 spaces for each acre developed for active use**
4. Elementary or secondary schools	**1 space per classroom /office, plus 1 space per 6 seats in the main auditorium or stadium**
5. Library	**1 space for every 50 square feet of floor area**
6. Churches or religious temples (permanent	**1 space for every 4 seats in the main structures only) auditorium.**

(Code 1991, §12-241)

§ 122-133 PERMITTED ACCESSORY USES AND STRUCTURES.

Subject to the provisions of these regulations and other city ordinances, the following accessory uses and structures are permitted in the R-2, single-family residential district:

1. Permanent garage, garage apartment, storage building, any other out buildings; provided, that:

a. Such structure shall observe the same front and side requirements as the principal or main structure and a ten (10) foot setback from principle structure and a ten (10) foot setback from rear property line. The structure shall not exceed four-hundred (400) square feet, or forty (40) percent of the principal structure square footage, whichever is larger. The structure shall not exceed the height of the principal structure or a maximum of twenty-five (25) feet. All accessory structures shall be harmonious with the surrounding area.

b. Such structures shall not encroach upon any utility, street, alley, or drainage easement.

2. Private swimming pools and tennis courts.

3. Private greenhouses, not operated for commercial purposes, and gardens, or areas for the raising of agricultural crops, but not areas for the raising of livestock.

4. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.

5. Carports, provided that:

a. Such structures may not be used as areas of storage for any materials other than a frequently used motor vehicle;

b. Such structures may not be enclosed at the time of construction or any later date unless the carport is located within both the front and the side yard setbacks;

c. Such structure shall have a side setback of five (5) feet, front setback of five (5) feet, and a rear setback of ten (10) feet from the property line. The structure shall not exceed forty (40) percent of the principal structure's square footage. The structure shall not exceed the height of a principal structure or maximum of twenty-five (25) feet. All carports shall be permanently open at the minimum on two (2) sides from grade surface to one foot below roof eaves line. All carports, which extend into the required front

yard setback shall be permanently open on three (3) sides from grade surface to one foot below roof eaves line. All accessory structures must be harmonious with surrounding area. Such structure shall not encroach upon any utility, street, alley, or drainage easement;

d. The installation or construction of a carport on property on which there has not been a commencement of construction of a new dwelling structure, which carport would extend past or beyond the required front yard setback line, is specifically prohibited except in those cases where other carports exist in the same block on either side of the street; in which case, a carport would be permitted to extend past the front yard setback line but only to the extensions of the same block; and

e. Such structures may not obstruct traffic visibility;

6. Uses and structures clearly incidental and necessary to the permitted principal uses and structures in this district, including all portable buildings and similar structures, not involving the conduct of business on the premises, except legal home occupations and located on the same lot or a contiguous lot under the same ownership, provided that:

a. Such structures shall not encroach upon the front or side yard setback of the main or principal structure and shall have a five (5) foot setback from rear property line. The structure shall not exceed one-hundred fifty (150) square feet. The structure shall not exceed twelve (12) feet in total height. The structure shall be harmonious with surrounding area.

b. Such structures shall not encroach upon any utility, street, alley, or drainage easement; or

7. Solar collectors, whether as a part of a structure or incidental to a group of nearby structures, when used for the purpose of providing energy for heating or cooling of related structures. (Prior Code 1991, §12-242; Ord. No. 99-23, §§1-3, 9-7-1999; Ord. No. 99-38, §§1-3, 1-4-2000; Ord. No. 01-06, §1, 8-6-2001; Ord. No. 03-02, §1, 5-5-2003)

§ 122-134 USES AND STRUCTURES PERMITTED ON REVIEW.

Subject to the requirements of article I of this chapter, the planning commission may permit the following uses and structures on review:

1. Nursing and convalescent homes and hospitals, provided that:

a. They shall be located on sites of more than one acre;

b. Front, side, and rear yard setbacks shall be comparable to similar institutional uses permitted in this district;

c. Off-street parking shall be provided in the amount of one space per employee, plus one space for every two (2) beds; and

d. Adequate provisions are made for loading and unloading of supplies and materials.

2. Golf courses and country clubs, but not miniature golf courses or commercial driving ranges operated separately from golf courses.

3. Funeral parlors, provided that:

a. Off-street parking shall be provided in the amount of one space for every four (4) seats in the main auditorium;

b. A vehicle waiting area, sufficient to hold at least ten (10) vehicles, is provided;

c. Front, side, and rear yard setbacks shall be comparable to similar institutional uses permitted in this district; and

d. Additions to the principal structure or landscaping of the grounds, shall not create shadows on adjacent residential properties which would interfere with the function of a solar collector on such property during critical times of the day.

4. Medical clinics and facilities, provided that:

a. They shall be located on sites of less than one acre;

b. Front, side, and rear yard setbacks shall be comparable to similar institutional uses permitted in this district;

c. Off-street parking shall be provided in the amount of one space for each employee plus six (6) spaces; and

d. The maximum height of any new structure shall be one and one-half (1½) stories;

5. Structures related to the operation of local, county, state, or federal governmental operations, but not storage, construction, maintenance, or repair yards or buildings, provided that:

a. **Off-street parking shall be provided in the amount of six (6) spaces, plus one space for every employee;**

b. **Front, side, and rear yard setbacks shall be comparable to similar institutional uses permitted in this district; and**

c. **The maximum height of any structure shall be one and one-half (1½) stories.**

6. **Type I bed and breakfast establishments.**

7. **Family day care home, provided that:**

a. **It must be located in a single-family dwelling, which is the permanent residence of the operator, or be located within a multipurpose building, which is used for religious or educational purposes;**

b. **It must be operated in a manner that will not alter the residential character of the neighborhood or adversely affect property values;**

c. **It must be located on a lot having not less than sixty-five hundred (6,500) square feet of total area with a minimum outdoor play area of seventy-five (75) square feet per child enclosed by a suitable security fence;**

d. **It must meet city and state health department requirements as to safety, design, facilities, and equipment;**

e. **Adequate off-street parking area is provided to minimize the adverse effects of increased traffic on the surrounding residential environment; and**

f. **All requirements of this chapter and the Code are complied with. (Prior Code 1991, §12-243; Ord. No. 99-03, §1, 1-4-1999; Ord. No. 00-25, §12-243, 11-6-2000)**

§ 122-135 LOT AREA, YARD, AND HEIGHT REQUIREMENTS.

A. **Minimum lot area and width requirements.**

1. **Single-family dwelling, or other non-institutional uses:**

a. **Area: Six-thousand (6,000) square feet.**

b. **Width: Fifty (50) feet at the building line.**

2. **Schools, churches, or other public or institutional buildings:**

a. Area: same as for single-family dwellings.

b. Width: same as for single-family dwellings.

B. Minimum requirements for front, side, and rear yard setbacks.

1. Single-family dwelling or other non-institutional uses:

a. Front.

1) Interior lot: twenty-five (25) feet.

2) Corner lot, home facing same direction as other homes on block: twenty-five (25) feet.

3) Comer lot, home facing side street with driveway in front: twenty-five (25) feet.

4) Comer lot, home facing side street with driveway through rear or either side: fifteen (15) feet.

b. Rear: twenty (20) feet.

c. Side.

1) Interior lot: five (5) feet.

2) Street side, cornet lot, home facing same direction as other homes on block: fifteen (15) feet.

3) Street side, corner lot, home facing side street: twenty-five (25) feet.

2. Schools, churches, or other public or institutional buildings:

a. Front: thirty-five (35) feet.

b. Rear: thirty-five (35) feet.

c. Side.

1) Interior lot/side: twenty (20) feet.

2) Street side, corner lot: twenty-five (25) feet.

C. Maximum height requirements.

1. Single-family dwelling: two and one-half (2½) stories or thirty-five (35) feet.

2. Schools, churches, or other public or institutional buildings: two and one-half (2½) stories or thirty-five (35) feet. (Prior Code 1991, §12-244)

§ 122-136 SPECIAL REQUIREMENTS.

A. Hedges, shrubbery, or bushes of more than three (3) feet in height shall not be planted, placed, or maintained on a corner so as to restrict the vision of drivers, persons on bicycles, or pedestrians.

B. All signs, including temporary signs, shall be maintained in a neat and presentable condition, and, in the event their use shall cease, they shall be promptly removed and the surrounding area restored to a condition free from refuse and trash.

C. The maximum height of any building, structure, or vegetation shall cast no shadow on the solar collector of any neighboring property during critical times of the day in any of the seasons. The planning commission may require such additional and reasonable setback distance as may be possible or modify the maximum permitted height in any case where a neighboring property owner can provide proof that proposed new construction will have the herein-described effect.

D. Sight proof fencing shall not be erected within the building line setback of the adjoining street. (Prior Code 1991, §12-245)

§§ 122-137 – 122-160 RESERVED.

DIVISION 5

TWO-FAMILY RESIDENTIAL, R-3 DISTRICT

§ 122-161 Purpose.
§ 122-162 Permitted principal uses and structures; minimum required off-street parking.
§ 122-163 Permitted accessory uses and structures.
§ 122-164 Uses and structures permitted on review.
§ 122-165 Lot area, yard, and height requirements.
§ 122-166 Special requirements.
§§ 122-167 – 122-190 Reserved.

§ 122-161 PURPOSE.

This residential district is intended to provide for medium population density and to help balance, preserve, or stabilize existing or developing neighborhoods whose basic structure involves a mixture of single-family and two-family residential units. Certain uses

which are compatible with more intensive residential uses are also permitted and greater flexibility is encouraged in prompting rehabilitation and reuse of existing structures, utilities and facilities. (Prior Code 1991, §12-250)

§ 122-162 PERMITTED PRINCIPAL USES AND STRUCTURES; MINIMUM REQUIRED OFF-STREET PARKING.

The following are the permitted principal uses and structures and minimum required off-street parking:

Permitted principal uses and structures	*Minimum required off-street parking*
1. Any use permitted in the R-2, single-family residential district	**Same as in R-2 district**
2. Two-family dwelling	**2 spaces per dwelling unit**
3. Single-family dwelling and garage apartment	**2 spaces per dwelling unit**
4. Public buildings and utilities, but not storage, construction, maintenance, or repair yards or construction, maintenance, or repair yards or buildings	**6 spaces, plus 1 space for every employee**

(Prior Code 1991, §12-251)

§ 122-163 PERMITTED ACCESSORY USES AND STRUCTURES.

Subject to the provisions of these regulations and other city ordinances, the following accessory uses and structures are permitted in the R-3, two-family residential district:

1. Accessory uses and structures clearly incidental and necessary to the permitted principal uses of structures in the R-2, single-family residential district, or R-3, two-family residential district, not involving the conduct of business on the premises, except legal home occupations, and located on the same lot, or a contiguous lot under the same ownership; or

2. Solar collectors, whether as part of a structure or incidental to a group of related structures, when used for the purpose of providing energy for heating, or cooling of related principal structures. (Prior Code 1991, §12-252)

§ 122-164 USES AND STRUCTURES PERMITTED ON REVIEW.

Subject to the requirements of article I of this chapter, the planning commission may permit the following uses and structures on review:

1. Railroad and public utility buildings, but not open equipment storage or maintenance yards or general administrative and sales offices, provided that:

a. Any building, structure, or substation shall meet the front and rear yard setback requirements for single-family dwellings and shall provide side yard setbacks of not less than twenty-five (25) feet; and

b. Two (2) parking spaces per substation or per one employee on the site, whichever is the greater, shall be provided.

2. Family day care home is permitted on review subject to the requirements in section 122-134.

3. Home beauty shop located in a residential dwelling, provided that:

a. Such shop is operated within the main dwelling only by the residents thereof and does not exceed one operator; and

b. Only one sign shall be permitted; the sign shall be non-illuminated, attached to the main building, and shall not exceed two (2) square feet in area.

4. Lodges, fraternities, and sororities, except those whose chief activity is a service customarily carried on as a business or commercial operation, provided that:

a. The setback requirements for institutional buildings, provided for in this district shall be met; and

b. Off-street parking shall be provided in the amount of one space for each fifty (50) square feet of floor area in the main building.

5. Off-street parking lots associated with a principal use permitted in a residential or commercial district.

6. Neighborhood commercial uses, such as neighborhood grocery stores, or bakeries, provided that:

a. No outside storage is permitted;

b. Yard setback and height restrictions shall be in accordance with the requirements for schools, churches, and other public or institutional facilities permitted in this district;

c. Restrictions on accessory uses and structures permitted in this district shall be adhered to;

d. **Parking requirements shall be in accordance with the requirements for similar uses in the C-3, general commercial district; and**

e. **The primary function of the use is to provide necessary goods and services to the neighborhood only. Bars, taverns, clubs, and gasoline stations or combinations of gasoline stations and grocery stores shall not be considered as neighborhood commercial uses.**

7. **Types I and II bed and breakfast establishments.**

8. **Child day care center, provided that:**

a. **When play area abuts commercial property, a four-foot minimum privacy fence is required;**

b. **It is operated in a manner that will not alter the residential character of the neighborhood or adversely affect property values;**

c. **It is located on a lot having not less than sixty five-hundred (6,500) square feet of total area with a minimum outdoor play area of seventy-five (75) square feet per child enclosed by a suitable security fence;**

d. **It meets city-state health department requirements as to safety, design, facilities, and equipment;**

e. **Adequate off-street parking area is provided to minimize the adverse effects of increased traffic on the surrounding residential environment; and**

f. **All requirements of this chapter and the Code are complied with. (Prior Code 1991, §12-253; Ord. No. 99-03, §1, 1-4-1999; Ord. No. 00-25, §12-253, 11-6-2000)**

§ 122-165 **LOT AREA, YARD, AND HEIGHT REQUIREMENTS.**

A. **Minimum lot area and width requirements.**

1. **Single-family dwelling or combined with garage apartment:**

a. **Area: sixty five-hundred (6,500) square feet.**

b. **Width: fifty (50) feet at the building line.**

2. **Single-family dwelling/garage apartment (separate):**

a. **Area: sixty five-hundred (6,500) square feet.**

b. Width: fifty (50) feet at the building line.

3. Two-family dwelling:

a. Area: eight-thousand (8,000) square feet.

b. Width: sixty (60) feet at the building line.

4. Schools, churches, or other public and institutional buildings:

a. Area: same as single-family dwelling.

b. Width: same as single-family dwelling.

B. Minimum requirements for front, side, and rear yard setbacks.

1. Single-family dwelling or combined with garage apartment: same as the R-2, single-family residential district requirements for single-family dwellings except that a garage apartment shall not be located closer than ten (10) feet to rear lot line.

2. Single-family dwelling/garage apartment (separate): same as the R-2, single-family residential district requirements for single-family dwellings except that a garage apartment shall not be located closer than ten (10) feet to the rear lot line.

3. Two-family dwelling: same as the R-2, single-family residential district requirements for single-family dwellings.

4. Schools, churches, or other public and institutional buildings:

a. Front: thirty-five (35) feet.

b. Rear: thirty-five (35) feet.

c. Side: twenty-five (25) feet.

C. Maximum requirements for height.

1. Single-family dwelling or combined with garage apartment: two and one-half (2½) stories or thirty-five (35) feet.

2. Single-family dwelling/garage apartment (separate): two and one-half (2½) stories or thirty-five (35) feet.

3. Two-family dwelling: two and one-half (2½) stories or thirty-five (35) feet.

4. Schools, churches, or other public and institutional buildings: two and one-half (2½) stories or thirty-five (35) feet. (Prior Code 1991, §12-254)

§ 122-166 SPECIAL REQUIREMENTS.

A. Hedges, shrubbery, or bushes of more than three (3) feet in height shall not be placed, planted, or maintained on a comer so as to restrict the vision of drivers, persons on bicycles, or pedestrians.

B. All signs, including temporary signs, shall be maintained in a neat and presentable condition, and, in the event their use shall cease, they shall be promptly removed and the surrounding area restored to a condition free from refuse and trash.

C. A garage apartment shall not be located on the same lot with a two-family dwelling.

D. Sight proof fencing shall not be erected within the building line setback of the adjoining street. (Prior Code 1991, §12-255)

§§ 122-167 – 122-190 RESERVED.

DIVISION 6

MULTIFAMILY RESIDENTIAL, R-4 DISTRICT

§ 122-191 Purpose.
§ 122-192 Permitted principal uses and structures; minimum required off-street parking.
§ 122-193 Permitted accessory uses and structures.
§ 122-194 Uses and structures permitted on review.
§ 122-195 Lot area, yard, and height requirements.
§ 122-196 Special requirements.
§§ 122-197 – 122-220 Reserved.

§ 122-191 PURPOSE.

This district is intended to provide for medium and high population density and to help establish, stabilize, or protect neighborhoods whose basic structure may involve a mixture of single-family residences, duplexes, and multifamily residences. Certain recreational, religious, educational, and commercial uses which support and are compatible with more intensive residential uses, are also permitted. (Prior Code 1991, §12-260)

§ 122-192 PERMITTED PRINCIPAL USES AND STRUCTURES; MINIMUM REQUIRED OFF-STREET PARKING.

The following are the permitted principal uses and structures and minimum required off-street parking:

Permitted principal uses and structures	*Minimum required off-street parking*
1. Any use permitted in the R-3, two-family residential district	**Same as in R-3 district**
2. Multifamily dwellings	**2 spaces per dwelling unit**
3. Roominghouse or boardinghouse, not to include hotels or motels	**1 space for every 2 beds**
4. Nursing and convalescent homes and hospitals (Prior Code 1991, §12-261)	**1 space per employee, plus 1 space for every 2 beds**

§ 122-193 PERMITTED ACCESSORY USES AND STRUCTURES.

Subject to the provisions of these regulations and other city ordinances, the following accessory uses and structures are permitted in the R-4, multifamily residential district:

1. Accessory uses and structures clearly incidental and necessary to the permitted principal uses or structures in the R-2, single-family residential, or R-3, two-family residential districts, not involving the conduct of business on the premises, except legal home occupations and located on the same lot or a contiguous lot under the same ownership; and

2. Solar collectors, whether as a part of a structure or incidental to a group of related structures, when used for the purpose of providing energy for health, or cooling of related structures. (Prior Code 1991, §12-262)

§ 122-194 USES AND STRUCTURES PERMITTED ON REVIEW.

A. Subject to the requirements of article I of this chapter, the planning commission may permit any uses and structures permitted on review in the R-2, single-family residential and R-3, two-family residential districts.

B. Child day care center or family day care home is permitted on review subject to the requirements in section 122-164 of this Code.

§ 122-195 LOT AREA, YARD, AND HEIGHT REQUIREMENTS.

A. Minimum lot area and width requirements.

1. Multifamily dwellings: seventy-two hundred (7,200) square feet for first unit plus fifteen-hundred (1,500) square feet for each additional unit up to twelve (12); and seven-hundred fifty (750) square feet for each additional unit over twelve (12).

2. Single-family dwellings: same as the R-2, single-family residential district requirements for single-family dwellings.

3. Two-family dwellings: same as the R-3, two-family residential district requirements for two-family dwellings.

4. Schools, churches and other public and institutional buildings: same as the R-2, single-family residential district requirements for single-family dwellings.

B. Minimum requirements for front, side, and rear yard setbacks.

1. Multifamily dwellings:

a. Front: same as the R-2, single-family residential district.

b. Rear: residential district requirements for single-family dwellings.

c. Side.

1) One-story dwelling: five (5) feet.

2) Dwellings more than one story: ten (10) feet.

2. Single-family dwellings: same as the R-2, single-family residential district requirements for single-family dwellings.

3. Two-family dwellings: same as the R-3, two-family residential district requirements for two-family dwellings.

4. Schools, churches, and other public and institutional buildings:

a. Front: thirty-five (35) feet.

b. Rear: thirty-five (35) feet.

c. Side.

1) Interior lot/side: twenty (20) feet.

2) Street side, corner lot: twenty-five (25) feet.

C. Maximum height requirements.

1. Multifamily dwellings: two and one-half (2½) stories or thirty-five (35) feet.

2. Single-family dwellings: two and one-half (2½) stories or thirty-five (35) feet.

3. Two-family dwellings: two and one-half (2½) stories or thirty-five (35) feet.

4. Schools, churches, and other public and institutional buildings: two and one-half (2½) stories or thirty-five (35) feet. (Prior Code 1991, §12-264)

§ 122-196 SPECIAL REQUIREMENTS.

A. The maximum height of any building or structure shall cast no shadow on the solar collector of any neighboring property, building, or structure during critical times of the day, during any season.

B. Variances from the height limitation or the side yard setback requirements of this district shall not be considered by the board of adjustment of the city unless the applicant for such variance provides data which establishes that the possible grant of such a variance will not adversely affect an existing solar collector, or the future opportunity to reasonably install a solar collector upon adjacent property.

C. Sight proof fencing shall not be erected within the building line setback of the adjoining street. (Prior Code 1991, §12-265)

§§ 122-197 – 122-220 RESERVED.

DIVISION 7

MOBILE HOME RESIDENTIAL, R-5 DISTRICT*

§ 122-221 Purpose.
§ 122-222 Permitted principal uses and structures; minimum required off-street parking.
§ 122-223 Permitted accessory uses and structures.
§ 122-224 Uses and structures permitted on review.
§ 122-225 Lot area, yard, and height requirements.
§ 122-226 Special requirements.
§§ 122-227 – 122-250 Reserved.

§ 122-221 PURPOSE.

This district is intended to provide for the appropriate, safe, sanitary, and attractive location of mobile homes on subdivided lots in mobile home subdivisions, or un-subdivided lots in mobile home parks. (Prior Code 1991, §12-270)

***Cross reference*: Manufactured homes and trailers, ch. 62.**

§ 122-222 PERMITTED PRINCIPAL USES AND STRUCTURES; MINIMUM REQUIRED OFF-STREET PARKING.

The following are the permitted principal uses and structures and minimum required off-street parking:

Permitted principal uses and structures	*Minimum required off-street parking*
1. Mobile homes on individual lots (either for sale or for rent)	**2 spaces per dwelling**

2.	**Parks and recreational facilities**	**4 spaces for each acre developed for active use**
3.	**Churches or religious temples**	**1 space for every 4 seats in the main auditorium**
4.	**Neighborhood meeting or recreation buildings**	**1 space for every 50 square feet of floor area**
5.	**Elementary school**	**1 space per classroom/office, plus 1 space per 6 seats in the main auditorium**

(Prior Code 1991, §12-271)

§ 122-223 PERMITTED ACCESSORY USES AND STRUCTURES.

Subject to the provisions these regulations and other city codes and ordinances, the following accessory uses and structures are permitted in the R-5, mobile home residential district:

1. Private garages, provided that:

a. Such structures shall not encroach upon the front, side, or rear yard setback requirements of the principal structures, or uses in this district; and

b. Such structures shall not encroach upon any utility, street, alley, or drainage easement;

2. Solar collectors, as a part of a structure, when used for the purpose of providing energy for heating or cooling of related principal structures;

3. Uses and structures clearly incidental and necessary to the permitted principal uses and structures in this district, provided that:

a. Such structures and uses shall not involve the conduct of business on the premises except home occupations, as defined in this chapter;

b. Such structures and uses shall not encroach upon any utility, street, alley, or drainage easement; and

c. Such structures and uses shall not encroach upon the front, side, or rear yard setback requirements of the principal structures, or uses in this district; or

4. Private gardens. (Prior Code 1991, §12-272)

§ 122-224 USES AND STRUCTURES PERMITTED ON REVIEW.

Subject to the requirements of article I of this chapter, the planning commission may permit the following uses and structures on review:

1. Private swimming pools or tennis courts, provided that:

a. Such uses or structures shall not encroach upon any utility, street, alley, or drainage easements; and

b. Such uses and structures shall be placed only in a defined rear yard and shall not encroach upon any side yard setback requirement of the principal structures or uses in this district;

2. Localized commercial uses, such as grocery stores, laundromats, or convenience stores, designed to primarily serve the residents of the mobile home parks, or subdivision, provided that:

a. No outside storage is permitted;

b. Yard setback and height restrictions shall be the same as the requirements for mobile homes;

c. Restrictions on accessory uses and structures permitted in this district shall be adhered to; and

d. Parking requirements shall be in accordance with the requirements for similar uses in the C-1, central business or C-3, general commercial zoning districts. (Prior Code 1991, §12-273)

§ 122-225 LOT AREA, YARD, AND HEIGHT REQUIREMENTS.

A. Minimum lot area and width requirements.

1. Mobile home parks:

a. Area: overall density may not exceed ten (10) mobile homes per gross acre.

b. Width: thirty (30) feet.

2. Mobile home subdivisions:

a. Area: four-thousand (4,000) square feet.

b. Width: forty (40) feet at the building line.

B. Minimum requirements for front, side, and rear yard setbacks.

1. Mobile home parks:

a. Front: ten (10) feet.

b. Side: five (5) feet.

c. Rear: five (5) feet.

2. Mobile home subdivisions:

a. Front: twenty-five (25) feet.

b. Side: five (5) feet.

c. Rear: twenty (20) feet.

C. Maximum height requirements.

1. Mobile home parks: twenty (20) feet.

2. Mobile home subdivisions: twenty (20) feet. (Prior Code 1991, §12-274)

§ 122-226 SPECIAL REQUIREMENTS.

A. All mobile home parks and subdivisions shall be developed in accordance with all applicable provisions of this Code, in particular chapters 42, 82, 94.

B. The minimum area for development of a mobile home park shall be five (5) acres.

C. The minimum area for development of a mobile home subdivision shall be ten (10) acres.

D. No landscaping required under any provision of this chapter or this Code shall be planted, placed, or maintained on any corner so as to restrict the clear vision of drivers, persons on bicycles, or pedestrians.

E. Sight proof fencing shall not be erected within the building line setback of the adjoining street. (Prior Code 1991, §12-275)

§§ 122-227 – 122-250 RESERVED.

DIVISION 8

PLANNED RESIDENTIAL DEVELOPMENT, R-6 DISTRICT*

§ 122-251 Purpose.
§ 122-252 Procedures.
§ 122-253 Special requirements.
§§ 122-254 – 122-280 Reserved.

§ 122-251 PURPOSE.

This special district is intended to provide for planned, unified developments incorporating a single type or a variety of residential and related uses. Such developments may consist of individual lots or common building sites, but it is not the purpose of this district to allow different, incompatible uses or a greater dwelling unit density than would otherwise be allowed in the applicable district. It is intended that greater flexibility be allowed and encouraged in the design of buildings, yards, courts, and traffic ways than would otherwise be possible through strict application of other district regulations. In addition, use of this district should encourage a maximum choice of available residential units, a pattern of development suited to existing natural features and open spaces, a creative and more efficient approach to the use of land resulting from smaller street and utility networks, and a natural environment with a distinct character harmoniously related to surrounding development patterns. (Prior Code 1991, §12-280)

§ 122-252 PROCEDURES.

The city council is hereby authorized to rezone land for use as a planned residential development if the following procedures and related standards are met:

1. Application for rezoning of land to the R-6, planned residential development district, shall be submitted in accordance with the procedures set forth in article I of this chapter;

2. Prior to submitting its recommendation to the city council, the planning commission shall review the rezoning proposal using the following criteria:

a. Consistency with the city's comprehensive plan;

b. Compatibility of the proposal with existing and future development in adjacent areas;

c. Economic feasibility, especially with respect to the city's housing market; and

d. Compliance with the provisions and standards included in section 122-253;

3. Any substantial deviation from the approved development plan shall constitute a violation of the rezoning approval and must be resubmitted for review following the same procedures required for the original plan; and

4. Construction of the development which shall be started within two (2) years of the date of plan approval by the city council. Failure to begin within the two (2) years shall void the development plan and shall cause the land to revert to the zoning district which existed immediately preceding the last rezoning. (Prior Code 1991, §12-281)

***Cross reference*: Planning, ch. 82.**

§ 122-253 SPECIAL REQUIREMENTS.

Use of the R-6, planned residential development district, may be authorized when all of the following provisions are complied with:

1. *Minimum site size*. The minimum size of the site upon which a planned residential development may be located shall be shot less than five (5) acres.

2. *Design characteristics*. The proposed development shall be planned and designed as a unified residential area, compatible with existing and projected uses in the surrounding areas and considerate of existing vegetation, soils, topography, and drainage ways. The development shall encourage efficiency in the street and utility networks and extensive and creative use of open spaces through flexible design standards. All uses must be permitted uses (i.e., principal uses, accessory uses, or uses permitted on review) in residential zoning districts. Overall dwelling unit density of the proposed development shall not exceed the density which would be attained if the same were to be developed using a minimum lot area of six-thousand five-hundred (6,500) square feet.

3. *Development plan*. The applicant shall submit a development plan in support of his rezoning application for the use of the R-6, planned residential development district, which plan shall include:

a. Total acreage;

b. Structure locations;

c. Sizes;

d. Elevations and floor plans;

e. Driveway and parking areas and dimensions;

f. Lot and yard areas and dimensions;

g. A drainage plan;

h. Open space and recreation areas; and

i. Overall dwelling unit density.

Water and sewer plans shall also be provided, indicating the overall requirements of the development for appropriate linkage to the city water and sewer systems. The development plan may provide for staged development of the project and shall so indicate on the plan. A study of the city's housing market shall also be provided, as proof of the economic feasibility of the proposal.

4. *Lot requirements*. There shall be no minimum lot size, width, height, or setback requirements within the R-6, planned residential development district.

5. *Off-street parking*. Off-street parking requirements shall be the same as for permitted uses in residential districts, except that they may be met by the use of common parking facilities.

6. *Homes association*. If other satisfactory arrangements for improving, operating, and maintaining streets, common parking, and open space areas, drives, service areas, and utilities have not been made with the city, a home owners association shall be provided for and created in accordance with accepted procedures and financial requirements.

7. *Subdivision regulations*. The requirements of any existing and future subdivisions regulations adopted by the city shall be met by the applicant for a planned residential development subsequent to the approval of the applicant's rezoning request. This shall include the preparation and approval of preliminary and final plats in developments meeting the definition of a subdivision according to the subdivision regulations.

8. *Signs*. Signs shall be permitted in the development only for the purpose of identifying the development and advertising the sale of lots, or residential units. Such signs, if they are to be permanent, shall be designed as an integral part of the project and shall be harmonious with the surrounding landscaping and design features.

9. Sight proof fencing shall not be erected within the building line setback of the adjoining street. (Prior Code 1991, §12-282)

§§ 122-254 – 122-280 RESERVED.

DIVISION 9

CENTRAL BUSINESS, C-l DISTRICT'"

§ 122-281 Purpose.
§ 122-282 Permitted principal uses and structures; minimum required off-street parking.
§ 122-283 Permitted accessory uses, and structures.
§ 122-284 Uses and structures permitted on review.
§ 122-285 Lot area, yard, and height requirements.
§ 122-286 Special requirements.
§ 122-287 Building facade.
§§ 122-288-122-310 Reserved.

§ 122-281 PURPOSE.

This district is intended to establish and preserve an attractive, safe, and convenient central business district in a manner that will accommodate a wide range of retail uses and businesses, financial offices and uses, governmental and professional offices and uses, and places of entertainment in a setting conducive to, and safe for, a high volume of pedestrian traffic. Compatible residential uses are allowed in order to promote increased daily activity levels in the district and reuse and development of existing structures. (Prior Code 1991, §12-290)

******Cross reference*: Businesses, ch. 18.**

§ 122-282 PERMITTED PRINCIPAL USES AND STRUCTURES; MINIMUM REQUIRED OFF-STREET PARKING.

The following are the permitted principal uses and structures and minimum required off-street parking:

Permitted principal uses and structures	*Minimum required off-street parking*
1. General retail sales establishment (enclosed)	**1 space for each employee, plus 1 space for each 200 square feet of store floor area**
2. Restaurant, cafe, private club or tavern (but	**1 space for every 1,000 square feet of floor space not a drive-in restaurant)**
3. Hotels and motels	**1 space per unit**

4.	**Dwelling unit above a store or shop**	**1 space per unit**
5.	**Clubs and lodges**	**1 space per unit**
6.	**Traditional grocery stores but not including quickstop-type grocery stores**	**1 space for every 150 square feet of floor area;**
7.	**Personal services**	**1 space for each employee**
8.	**Financial institutions and offices**	**1 space for every 150 square feet of floor area**
9.	**Business and professional offices and studios**	**1 space for every 300 square feet of floor area**
10.	**Newspaper offices**	**1 space for each employee**
11.	**Medical and dental clinics and offices**	**1 space for each employee plus 3 spaces**
12.	**Public buildings but not including utility buildings, storage, or maintenance yards or buildings**	**1 space for each employee plus 6 spaces**
13.	**Public parking garages**	**Not applicable**
14.	**Wholesale display and salesrooms (enclosed)**	**2 spaces for each employee**
15.	**Theater and other places of amusement (enclosed)**	**1 space for each employee, plus 1 space for each 200 square feet of floor area**
16.	**Cultural centers, museums, and art galleries**	**1 space for every 1,8OO square feet of floor area**
17.	**Churches or religious temples (permanent main structures only)**	**1 space for every 4 seats in the auditorium**
18.	**Child day care center, subject to subsections 122-164(S)a., c., d., e., f.**	**1 space for every 150 square feet of of floor area**

19. **The planning commission may review available public parking spaces at the request of any concerned party in the determination of new parking spaces required to meet the provisions of this district. The objective of allowing such review is to encourage flexibility in the effective provision of parking facilities for the central business**

district without adversely affecting the area available for commercial expansion, growth and redevelopment. (Prior Code 1991, §12-291; Ord. No. 00-25, §12-291, 11-6-2000)

§ 122-283 PERMITTED ACCESSORY USES, AND STRUCTURES.

Subject to the provisions of these regulations and other city ordinances, the following accessory uses and structures are permitted in the C-1, central business district:

1. Uses and structures clearly incidental and necessary to the permitted principal uses and structures in this district, (excluding storage warehouses); and

2. Solar collectors, whether as part of a structure or incidental to a group of nearby structures, when used for the purpose of providing energy for heating or cooling of related principal structures. (Prior Code 1991, § 12-292; Ord. No. 03-03A, §1, 5-5-2003)

§ 122-284 USES AND STRUCTURES PERMITTED ON REVIEW.

Subject to the requirements of article I of this chapter, the planning commission may permit the following uses and structures on review:

1. Principal uses and structures permitted in the R-2, single-family residential district; provided, that:

a. Each request for a use permitted on review shall be for one principal structure, building, or use only;

b. Minimum requirements for off-street parking, yard setbacks, lot area and width, and maximum height restrictions for the R-2, single-family residential district, are complied with; and

c. The proposed use shall not be permitted if it will cause the destruction of an identified or designated historic site, structure, or element or will substantially reduce, through incompatible modification, alteration, or addition, the historic significance of the site, structure, or element.

2. Family day care homes are permitted on review subject to the requirements in section 122-134.

3. Type II bed and breakfast establishments. (Prior Code 1991, §12-293; Ord. No. 99-03, §1, 1-41999; Ord. No. 00-25, §12-293, 11-6-2000)

§ 122-285 LOT AREA, YARD, AND HEIGHT REQUIREMENTS.

A. Minimum lot area and width requirements for commercial uses: no minimum lot area and width.

B. Minimum requirements for front, side, and rear yard setbacks for commercial uses: none, except:

1. Where apartments are above a store or shop, in which case a rear yard setback of twenty (20) feet shall be provided; and

2. Where adjacent to a residential district, a side yard setback of ten (10) feet a rear yard setback of twenty (20) feet shall be provided.

C. Maximum height requirements for commercial uses: four stories or fifty (50) feet. (Prior Code 1991, §12-294)

§ 122-286 SPECIAL REQUIREMENTS.

A. Advertising signs related to the principal structure shall be kept in a safe and secure fashion.

B. Lighted signs shall be arranged so that there will be no annoying glare directed or reflected toward residential buildings in any residential district.

C. No use shall be permitted in the C-l, central business district, when operation of such use would adversely affect the safe flow of pedestrian traffic, cause the destruction of designated historic structures, or impact unfavorably upon the economic structure of the entire central business district.

D. Off-street parking facilities or lots shall be designed, located, and constructed in accordance with the following provisions:

1. The lot shall be located within two-hundred (200) feet, exclusive of street and alley widths, of the principal use and shall have direct access to a street or alley;

2. Land upon which the lot is located shall be owned or controlled by the same entity which owns or controls the land upon which the principal use is located, except that the city may own and use land solely for off-street parking purposes;

3. The intensity of light and the arrangement of reflecting devices shall be such as not to interfere with the surrounding, or adjacent residential uses; and

4. All parking surfaces required under the provisions of this district shall be paved with a sealed-surface pavement and maintained in a manner such that no dust will result from continued use.

E. Sight proof fencing shall not be erected on the street side of the property to extend past the building line setback of the adjoining residential property. (Prior Code 1991, §12-295)

§ 122-287 BUILDING FACADE.

A. All commercial zoned property shall be divided into two Tiers.

1. Tier 1.

a. All new construction located on commercially zoned property that adjoin any of the following streets shall contain, or have a facade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

b. All additions to existing buildings located on commercially zoned property that adjoin any of the following streets, will require the addition, as well as the entire exterior of the existing building to have a facade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

c. All remodels and/or repairs in excess of fifty (50%) percent of the total linear feet of the exterior walls of any building located on commercially zoned property that adjoin any of the following streets, will require the entire exterior of the building to have a facade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

The city of Purcell shall determine the total percentage of the remodel and/or repair to the building.

Only corporate franchisees may submit an alternative façade design to the city of Purcell Planning Commission, with at letter from the corporate office stating these are the franchise standards. The planning commission recommendations will be forwarded to the city of Purcell city council for approval or denial.

Streets.
Green Ave. from exit 95 south to the stop light at Weedn Blvd./ S.H. 77;
S.H. 74 S. from the stop light at Weedn Blvd/S.H. 77 southwest to 180th street
Weedn Blvd/ S.H. 77 from the stop light at Green Ave. south 3000';
Chandler Rd. from the stop light at Green Ave. west to the stop sign at Lake Rd.;
S. 9th from Chandler Rd. south to S.H. 74 S.;
Wyatt Rd./ S.H. 39 from Green Ave. west to Horse Ave.;
Main St. from 6th St. east to the 400 Block of E. Main;
Washington St. from 6th St. east to the 200 Block of E. Washington St.;
4th St. from Main St. north to Adams St.;
3rd St. from Apache St. north to Adams St.;
2nd St. from Apache St. north to Adams St.;
Canadian St. from Apache St. north to Adams St.;
Lester Ln. from Main St. south to Comanche;
Lincoln St. from Green Ave east to 4th St.;
Grant St. from 4th St. west to the intersection of 220 St. and S.H. 74;
N. 9th St. from Hallmark Blvd. north to Feland Dr.

2. Tier 2.

a. All new construction located on commercially zoned property that does not adjoin any of the Tier 1 streets shall contain, or have a façade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

b. All additions to existing buildings located on commercially zoned property that does not adjoin any of the Tier 1 streets, will require the addition, as well as the entire exterior of the existing building to have a façade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

c. All remodels and/or repairs in excess of fifty (50%) percent of the total linear feet of the exterior walls of any building located on commercially zoned property that does not adjoin any of the Tier 1 streets will require the entire exterior of the building to have a façade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls untreated concrete block or unfinished, untreated concrete panels.

The city of Purcell shall determine the total percentage of the remodel and/or repair

to the building.

With respect to the Tier 2 Properties, the planning commission and city council may approve a façade material and/or landscaping design compatible with the surrounding buildings in the area. Requests for exception or variations to the wall content or façade requirements of this section and/or landscaping plan may be presented to and considered by the planning commission, which will then make recommendations to the city council. The city council, upon the advice from the planning commission, shall consider, approve or deny the request. Factors to be considered and evaluated shall not be limited to, but shall include, the specific provisions of the request, the effect of the exception or variation on the overall and local community appearance, the potential impact on the community quality of life, the applicability of the exceptions or variation to the specific structure, the economic impact on the community as a whole, adjacent zoning districts, present adjoining uses and potential future uses of surrounding property.

B. <u>All Industrial Zoned Property.</u>

a. All new construction in areas zoned industrial that adjoin any of the following streets shall contain, or have a facade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

b. All additions to existing buildings located on Industrial zoned property that adjoin any of the following streets, will require the addition, as well as the entire exterior of the existing building to have a facade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

c. All remodels and/or repairs in excess of fifty (50%) percent of the total linear feet of the exterior walls of any building located on industrial zoned property that adjoin any of the following streets, will require the entire exterior of the building to have a facade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

The city of Purcell shall determine the total percentage of the remodel and/or repair to the building.

Only corporate franchisees may submit an alternative façade design to the city of Purcell planning commission, with a letter from the corporate office stating these are the franchise standards. The planning commission recommendations will be forwarded to the

city of Purcell city council for approval or denial.

Streets.
From exit 95 south on Green Ave. and State Highway 74 S. to exit 91.

In all other areas zoned Industrial the planning commission and city council may approve a facade material and/or landscaping design compatible with the surrounding buildings in the area. Requests for exceptions or variations to the wall content or facade requirements of this section and/or landscaping plan may be presented to and considered by the planning commission, which will then make recommendations to the city council. The city council, upon the advice from the planning commission, shall consider, approve or deny the request. Factors to be considered and evaluated shall not be limited to, but shall include, the specific provisions of the request, the effect of the exception or variation on the overall and local community appearance, the potential impact on the community quality of life, the applicability of the exceptions or variation to the specific structure, the economic impact on the community as a whole, adjacent zoning districts, present adjoining uses and potential future uses of surrounding property. (Ord. No. 07-16, §1, 10-1-2007, Ord. No. 12-01, 1-3-2012)

§§ 122-288 – 122-310 RESERVED.

DIVISION 10

OFFICE COMMERCIAL, C-2 DISTRICT*

§ 122-311 Purpose.
§ 122-312 Permitted principal uses and structures; minimum required off-street parking.
§ 122-313 Permitted accessory uses and structures.
§ 122-314 Uses and structures permitted on review.
§ 122-315 Lot area, yard, and height requirements.
§ 122-316 Special requirements.
§ 122-317 Building facade.
§§ 122-318 – 122-340 Reserved.

§ 122-311 PURPOSE.

This district is intended to provide a special area for institutional and commercial office activities, employment and services, or small groupings thereof, which can be uniquely planned and developed so as not to materially detract from adjacent residential uses. Such offices and uses shall be compatible with surrounding properties in order to enable such uses to serve as effective transitional areas between general commercial and residential areas, where necessary. (Prior Code 1991, §12-300)

***Cross reference*: Businesses, ch. 18.**

§ 122-312 PERMITTED PRINCIPAL USES AND STRUCTURES; MINIMUM REQUIRED OFF-STREET PARKING.

The following are the permitted principal uses and structures and minimum required off-street parking:

Permitted principal uses and structures		*Minimum required off-street parking*
1.	**Any use permitted in the R-2, single-family residential residential district**	**Same as the R-2, single-family district**
2.	**Business, professional, or financial offices or studios, but not including a commercial health spa or gymnasium facility**	**1 space per employee, plus 4 spaces**
3.	**Social, fraternal, and civic offices**	**1 space per employee, plus 4 spaces**
4.	**Public offices**	**1 space for each employee, plus 6 spaces**
5.	**Restaurant, store, or small groups of stores designated to serve persons conducting business in this district**	**1 space for every 150 square feet of floor space**
6.	**Educational institutions and studios**	**1 space for every 200 square feet of floor space**
7.	**Museums and cultural centers**	**1 space for every 800 square feet of floor area**
8.	**Open space and recreational uses designed to serve persons conducting business in this district**	**(Not applicable)**
9.	**Medical and dental clinics and offices**	**1 space for each employee, plus 5 spaces**
10.	**Child day care center, subject to subsections 122-164(8)a., c., d., e., f.**	**1 space for every 150 square feet of floor area**

(Prior Code 1991, §12-301; Ord. No. 00-25, §12-301, 11-6-2000)

§ 122-313 PERMITTED ACCESSORY USES AND STRUCTURES.

Subject to the provisions of these regulations and other city ordinances, the following accessory uses and structures are permitted in the C-2, office commercial district:

1. Uses and structures clearly incidental and necessary to the permitted principal uses and structures in this district; and

2. Solar collectors, whether as part of a structure or incidental to a group of nearby structures, when used for the purpose of providing energy for heating or cooling of related principal structures. (Prior Code 1991, §12-302)

§ 122-314 USES AND STRUCTURES PERMITTED ON REVIEW.

Subject to the requirements of article I of this chapter, the planning commission may permit the following uses and structures on review:

1. Principal uses and structures permitted in the R-3, two-family residential district; provided, that:

a. Each request for a use permitted on review shall be for one principal structure, building, or use only; and

b. Minimum requirements for off-street parking, yard setbacks, lot area and width, and maximum height restrictions for the R-3, two-family residential district are complied with; and

2. Family day care home is permitted on review subject to the requirements in section 122-134.

3. Type II bed and breakfast establishments. (Prior Code 1991, §12-303; Ord. No. 99-03, §1, 1-41999; Ord. No. 00-25, §12-303, 11-6-2000)

§ 122-315 LOT AREA, YARD, AND HEIGHT REQUIREMENTS.

A. The following are the minimum lot area and width requirements for:

1. Residential uses: same as for the applicable residential district;

2. Commercial uses:

a. Area: no minimum lot area;

b. Width: fifty (50) feet at the building line.

B. The following are the minimum requirements for front, side, and rear yard setbacks for:

1. Residential uses: same as for the applicable residential district;

2. Commercial uses:

a. Front yard setback of ten feet; where adjacent to a residential district, twenty-five (25) feet;

b. Side yard setback of ten feet for an interior lot; fifteen (15) feet for a corner lot street side; ten feet for corner lot interior side; where adjacent to a residential district, twenty (20) feet minimum; if building exceeds sixteen (16) feet in height, the setback shall be increased one foot for each one foot in building height above sixteen (16) feet, but not to exceed twenty-five (25) feet;

c. Rear yard setback of twenty (20) feet.

C. The following are the maximum height requirements for:

1. Residential uses: two and one-half (2½) stories or thirty-five (35) feet.

2. Commercial uses: two and one-half (2½) stories or thirty-five (35) feet. (Prior Code 1991, §12-304; Ord. No. 00-06, §1(12-304), 6-5-2000)

§ 122-316 SPECIAL REQUIREMENTS.

A. *Signs*. Signs permitted in this district shall:

1. Relate directly to the identification of the principal structure or use or its proposed sale or rental only;

2. Not be located in, overhang, or project into a residential yard;

3. Not project above the height of the building;

4. Be designed to complement the overall design and development of the structure or use;

5. Be arranged so that there will be no annoying glare directed or reflected toward residential buildings in a residential district; and

6. Be maintained in a neat and presentable condition. In the event their use shall cease, they shall be promptly removed.

B. ***Site development plan*****. Applicants requesting use of this zoning district shall submit a site development plan for the proposed structure or use showing:**

1. The use of existing natural features;

2. Proposed landscaping and its impact upon noise and dust created by the proposed use;

3. Traffic ingress and egress;

4. Building orientation; and

5. Off-street parking facilities.

C. ***Parking facilities*****. All parking facilities required under the provisions of this district shall be designed and constructed in accordance with the requirements for such facilities in section 122-286.**

D. ***Privacy fence*****. C-2, office commercial district, when adjacent to residential zoning, shall construct and effectively maintain a privacy fence on adjoining property line.**

E. Landscaping. Corner lot side street side shall have suitable landscaping to enhance the site.

1. ***Sight proof fencing*****. Sight proof fencing shall not be erected on the street side of the property to extend past the building line setback of the adjoining residential property. (Prior Code 1991, §12-305; Ord. No. 00-06, §1(12-305), 6-5-2000)**

§ 122-317 BUILDING FACADE.

A. All commercial zoned property shall be divided into two Tiers.

1. Tier 1.

a. All new construction located on commercially zoned property that adjoin any of the following streets shall contain, or have a facade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

b. All additions to existing buildings located on commercially zoned property that adjoin any of the following streets, will require the addition, as well as the entire exterior of the existing building to have a facade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

c. All remodels and/or repairs in excess of fifty (50%) percent of the total linear feet of the exterior walls of any building located on commercially zoned property that adjoin any of the following streets, will require the entire exterior of the building to have a facade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

The city of Purcell shall determine the total percentage of the remodel and/or repair to the building.

Only corporate franchisees may submit an alternative façade design to the city of Purcell Planning Commission, with at letter from the corporate office stating these are the franchise standards. The planning commission recommendations will be forwarded to the city of Purcell city council for approval or denial.

Streets.
Green Ave. from exit 95 south to the stop light at Weedn Blvd./ S.H. 77;
S.H. 74 S. from the stop light at Weedn Blvd/S.H. 77 southwest to 180th street
Weedn Blvd/ S.H. 77 from the stop light at Green Ave. south 3000';
Chandler Rd. from the stop light at Green Ave. west to the stop sign at Lake Rd.;
S. 9th from Chandler Rd. south to S.H. 74 S.;
Wyatt Rd./ S.H. 39 from Green Ave. west to Horse Ave.;

Main St. from 6th St. east to the 400 Block of E. Main;
Washington St. from 6th St. east to the 200 Block of E. Washington St.;
4th St. from Main St. north to Adams St.;
3rd St. from Apache St. north to Adams St.;
2nd St. from Apache St. north to Adams St.;
Canadian St. from Apache St. north to Adams St.;
Lester Ln. from Main St. south to Comanche;
Lincoln St. from Green Ave east to 4th St.;
Grant St. from 4th St. west to the intersection of 220 St. and S.H. 74;
N. 9th St. from Hallmark Blvd. north to Feland Dr.

2. <u>Tier 2</u>.

a. All new construction located on commercially zoned property that does not adjoin any of the Tier 1 streets shall contain, or have a façade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

b. All additions to existing buildings located on commercially zoned property that does not adjoin any of the Tier 1 streets, will require the addition, as well as the entire exterior of the existing building to have a façade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

c. All remodels and/or repairs in excess of fifty (50%) percent of the total linear feet of the exterior walls of any building located on commercially zoned property that does not adjoin any of the Tier 1 streets will require the entire exterior of the building to have a façade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls untreated concrete block or unfinished, untreated concrete panels.

The city of Purcell shall determine the total percentage of the remodel and/or repair to the building.

With respect to the Tier 2 Properties, the planning commission and city council may approve a façade material and/or landscaping design compatible with the surrounding buildings in the area. Requests for exception or variations to the wall content or façade requirements of this section and/or landscaping plan may be presented to and considered by the planning commission, which will then make recommendations to the city council.

The city council, upon the advice from the planning commission, shall consider, approve or deny the request. Factors to be considered and evaluated shall not be limited to, but shall include, the specific provisions of the request, the effect of the exception or variation on the overall and local community appearance, the potential impact on the community quality of life, the applicability of the exceptions or variation to the specific structure, the economic impact on the community as a whole, adjacent zoning districts, present adjoining uses and potential future uses of surrounding property.

B. <u>All Industrial Zoned Property.</u>

a. All new construction in areas zoned industrial that adjoin any of the following streets shall contain, or have a facade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

b. All additions to existing buildings located on Industrial zoned property that adjoin any of the following streets, will require the addition, as well as the entire exterior of the existing building to have a facade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

c. All remodels and/or repairs in excess of fifty (50%) percent of the total linear feet of the exterior walls of any building located on industrial zoned property that adjoin any of the following streets, will require the entire exterior of the building to have a facade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

The city of Purcell shall determine the total percentage of the remodel and/or repair to the building.

Only corporate franchisees may submit an alternative façade design to the city of Purcell planning commission, with a letter from the corporate office stating these are the franchise standards. The planning commission recommendations will be forwarded to the city of Purcell city council for approval or denial.

<u>Streets</u>.
From exit 95 south on Green Ave. and State Highway 74 S. to exit 91.

In all other areas zoned Industrial the planning commission and city council may approve a facade material and/or landscaping design compatible with the surrounding buildings in the area. Requests for exceptions or variations to the wall content or facade requirements of this section and/or landscaping plan may be presented to and considered by the planning commission, which will then make recommendations to the city council. The city council, upon the advice from the planning commission, shall consider, approve or deny the request. Factors to be considered and evaluated shall not be limited to, but shall include, the specific provisions of the request, the effect of the exception or variation on the overall and local community appearance, the potential impact on the community quality of life, the applicability of the exceptions or variation to the specific structure, the economic impact on the community as a whole, adjacent zoning districts, present adjoining uses and potential future uses of surrounding property. (Ord. No. 07-16, §1, 10-1-2007, Ord. No. 12-01, 1-3-2012)

§§ 122-318 – 122-340 RESERVED.

DIVISION 11

GENERAL COMMERCIAL, C-3 DISTRICT*

§ 122-341 Purpose.
§ 122-342 Permitted principal uses and structures; minimum required off-street parking.
§ 122-343 Permitted accessory uses and structures.
§ 122-344 Uses and structures permitted on review.
§ 122-345 Lot area, yard, and height requirements.
§ 122-346 Special requirements.
§ 122-347 Building facade.
§§ 122-348 – 122-370 Reserved.

§ 122-341 PURPOSE.

This district is intended to provide for the normal range of commercial services within the community in such a manner that the district will accommodate both quickstop and longer visit shopping, as well as provide for additional retail, cultural, and entertainment trade. Additionally, district regulations are intended to minimize traffic congestion and noise, provide adequate and controlled parking and expansion area, allow safe overall and local community appearance, pedestrian movement, minimize adverse impacts on residential areas, encourage improved commercial site design and layout, promote the reuse and development of existing commercial structures, and encourage unproved visual quality in commercial development. (Prior Code 1991, §12-310)

***Cross reference*: Businesses, ch. 18.**

§ 122-342 PERMITTED PRINCIPAL USES AND STRUCTURES; MINIMUM REQUIRED OFF-STREET PARKING.

The following are the permitted principal uses and structures and minimum required off-street parking:

Permitted principal uses and structures	*Minimum required off-street parking*
1. Any use permitted in the C-1, central business district, and C-2, office commercial district	**Same as in C-1 and C-2 districts**
2. Automotive display, sales, service and repair but excluding body repair and painting	**1 space for every 300 square feet of sales service or office floor area**
3. Farm implement display, sales, service and repair	**1 space for each employee plus 1 space for each vehicle used by the industry**
4. Boats, motors, travel trailers, and mobile home display, sales, service and repair	**1 space for each employee plus 1 space for each vehicle used by industry**
5. Drive-in theater	**Storage lanes outside of ticket booth to accommodate ten percent of theater capacity**
6. Regular or traditional grocery stores, or markets (no gasoline sales facilities)	**1 space for every 150 square feet of floor area**
7. Quick-stop type grocery stores (with or without gasoline sales facilities	**1 space for every 200 square feet of floor area**
8. Gasoline, service, or motor vehicle service station	**1 space for every 250 square feet of**
9. Drive-in restaurants	**1 space for each employee, in addition to the desired number of customer spaces**

10. For all uses not covered in this section, the planning commission shall make a determination of the parking demand to be created by the proposed use and the amount of parking thus determined shall be the off-street parking requirement for the permitted use. (Prior Code 1991, §12-311)

§ 122-343 PERMITTED ACCESSORY USES AND STRUCTURES.

Subject to the provisions of these regulations providing energy for heating or cooling of and other city ordinances, the following accessory uses and structures are permitted in the C-3, general commercial district:

1. Uses and structures, including storage warehouses, clearly incidental and necessary to the permitted principal uses and structures in this district; and

2. Solar collectors, whether as part of a structures or incidental to a group of nearby structures when used for the purpose of providing energy for heating or cooling of related principal structures. (Prior Code 1991, §12-312)

§ 122-344 USES AND STRUCTURES PERMITTED ON REVIEW.

Subject to the requirements of article I of this chapter, the planning commission may permit the following uses and structures on review:

1. Public and private utility or contractor equipment and material storage and maintenance yards or buildings, provided that any stored material or equipment shall be within a building or enclosed by a six (6) foot high fence or suitable landscaping to screen the materials or equipment from the view of adjacent public streets, parks, recreation areas, and residential properties;

2. Principal uses and structures permitted in the R-2, single-family residential and R-3, two-family residential districts; provided, that:

a. Each request for a use permitted on review shall be for one principal structure, building, or use only; and

b. Minimum requirements for off-street parking, yard setbacks, lot area and width, and maximum height restrictions for the applicable residential district are complied with.

3. Family day care home is permitted on review subject to the requirements in section 122-134.

4. Light manufacturing or assembly operations, even though otherwise limited to I-1 district, meeting the following requirements:

a. Conducted entirely within an enclosed building, same to be a building already in existence, but this shall not be construed to prevent alterations to an existing building.

b. Not objectionable due to noise, dust, odor, smoke, vibration, electrical disturbance, danger to life and property or otherwise injurious to the health and safety of the neighborhood.

5. Automobile body and fender repair and painting meeting the following requirements:

a. Conducted entirely within an enclosed building.

b. No new or used parts stored outside of building.

c. All salvage materials removed from automobiles must be enclosed within a privacy fence until picked up for disposal.

d. All vehicles must be operable, inspected and tagged or be enclosed within a privacy fence.

e. All storage inside a privacy fence must be so screened so that it cannot be seen by person standing at ground level any place on private or city property (streets, alleys, parks, easements, etc.) adjacent to the lot on which the storage is located.

f. Must comply with all OSHA, EPA, and fire regulations.

6. Type II bed and breakfast establishments.

7. Animal hospitals and veterinarians with indoor or outdoor facilities.

8. Body piercing and tattoo facilities.

a. Must be licensed by the state department of health;

b. Facility not to be located within one thousand (1,000) feet of a church, school, or playground;

c. Provide copy of one hundred thousand ($100,000.00) dollar bond; and

d. Provide copy of state sales tax permit. (Prior Code 1991, §12-313; Ord. No. 93-2125, §1, 6-7-1992; Ord. No. 99-03, §1, 1-4-1999; Ord. No. 00-25, 12-313, 11-6-2000; Ord. No. 06-03, §1, 2-6-2006; Ord. No. 07-17, §1, 11-5-2007)

***Editor's note*: Ord. No. 07-17, §1, adopted November 5, 2007, enacted provisions intended for use as subsection (7). Inasmuch as there are already provisions so designated, and at the discretion of the editor, said provisions have been re-designated as subsection (8).**

§ 122-345 LOT AREA, YARD, AND HEIGHT REQUIREMENTS.

A. The following are the minimum lot area and width requirements for commercial uses: no minimum lot area and width.

B. The following are the minimum requirements for front, side, and rear yard setbacks for commercial uses, none except:

1. Where apartments are above a store or shop, a rear yard setback of twenty (20) feet shall be provided; and

2. Where adjacent to a residential district a front yard setback of twenty-five (25) feet; a rear yard setback of twenty (20) feet and side yard setback of ten (10) feet or fifteen (15) feet of side yard abutting a street, minimum; if a building exceed sixteen (16) feet in height, the setback shall be increased one foot for each one foot in building height above sixteen (16) feet, but not to exceed twenty-five (25) feet.

C. The following are the maximum height requirements for commercial uses: four stories or fifty (50) feet. (Prior Code 1991, §12-314; Ord. No. 00-06, §1(12-314), 6-5-2000)

§ 122-346 SPECIAL REQUIREMENTS.

A. *Signs and billboards*. Advertising signs, billboards, and trade, business, or industry identification signs, related to the principal structure or use, shall not:

1. Be located in, overhang, or project into a residential yard;

2. Exceed two (2) times the height of the principal structure, not to exceed forty (40) feet.

B. *Lighted signs*. Lighted signs shall be arranged so that there will be no annoying glare directed or reflected toward residential buildings in a residential district.

C. *Maintenance of signs*. All signs and billboards, including temporary signs, shall be maintained in a neat and presentable condition. In the event their use shall cease, they shall be promptly removed and the surrounding area restored to a condition free from refuse and rubbish.

D. *Parking spaces*. All parking spaces required under the provisions of this district shall be designed and constructed in accordance with the requirements of section 122-286.

E. *Privacy fences*. C-3, Commercial District, when adjacent to residential zoning, shall construct and effectively maintain a privacy fence.

F. ***Landscaping*****. Corner lot side street side shall have suitable landscaping to enhance the site.**

G. ***Sight proof fencing*****. Sight proof fencing shall not be erected on the street side of the property to extend past the building line setback of the adjoining residential property. (Prior Code 1991, §12-315; Ord. No. 00-06, §1(12-315), 6-5-2000; Ord. No. 00-14, §2(12-315), 6-5-2000)**

§ 122-347 BUILDING FACADE.

A. All commercial zoned property shall be divided into two Tiers.

1. Tier 1.

a. All new construction located on commercially zoned property that adjoin any of the following streets shall contain, or have a facade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

b. All additions to existing buildings located on commercially zoned property that adjoin any of the following streets, will require the addition, as well as the entire exterior of the existing building to have a facade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

c. All remodels and/or repairs in excess of fifty (50%) percent of the total linear feet of the exterior walls of any building located on commercially zoned property that adjoin any of the following streets, will require the entire exterior of the building to have a facade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

The city of Purcell shall determine the total percentage of the remodel and/or repair to the building.

Only corporate franchisees may submit an alternative façade design to the city of Purcell Planning Commission, with at letter from the corporate office stating these are the franchise standards. The planning commission recommendations will be forwarded to the city of Purcell city council for approval or denial.

Streets.
Green Ave. from exit 95 south to the stop light at Weedn Blvd./ S.H. 77;
S.H. 74 S. from the stop light at Weedn Blvd/S.H. 77 southwest to 180th street
Weedn Blvd/ S.H. 77 from the stop light at Green Ave. south 3000';
Chandler Rd. from the stop light at Green Ave. west to the stop sign at Lake Rd.;
S. 9th from Chandler Rd. south to S.H. 74 S.;
Wyatt Rd./ S.H. 39 from Green Ave. west to Horse Ave.;
Main St. from 6th St. east to the 400 Block of E. Main;
Washington St. from 6th St. east to the 200 Block of E. Washington St.;
4th St. from Main St. north to Adams St.;
3rd St. from Apache St. north to Adams St.;
2nd St. from Apache St. north to Adams St.;
Canadian St. from Apache St. north to Adams St.;
Lester Ln. from Main St. south to Comanche;
Lincoln St. from Green Ave east to 4th St.;
Grant St. from 4th St. west to the intersection of 220 St. and S.H. 74;
N. 9th St. from Hallmark Blvd. north to Feland Dr.

2. Tier 2.

a. All new construction located on commercially zoned property that does not adjoin any of the Tier 1 streets shall contain, or have a façade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

b. All additions to existing buildings located on commercially zoned property that does not adjoin any of the Tier 1 streets, will require the addition, as well as the entire exterior of the existing building to have a façade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

c. All remodels and/or repairs in excess of fifty (50%) percent of the total linear feet of the exterior walls of any building located on commercially zoned property that does not adjoin any of the Tier 1 streets will require the entire exterior of the building to have a façade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls untreated concrete block or unfinished, untreated concrete panels.

The city of Purcell shall determine the total percentage of the remodel and/or repair

to the building.

With respect to the Tier 2 Properties, the planning commission and city council may approve a façade material and/or landscaping design compatible with the surrounding buildings in the area. Requests for exception or variations to the wall content or façade requirements of this section and/or landscaping plan may be presented to and considered by the planning commission, which will then make recommendations to the city council. The city council, upon the advice from the planning commission, shall consider, approve or deny the request. Factors to be considered and evaluated shall not be limited to, but shall include, the specific provisions of the request, the effect of the exception or variation on the overall and local community appearance, the potential impact on the community quality of life, the applicability of the exceptions or variation to the specific structure, the economic impact on the community as a whole, adjacent zoning districts, present adjoining uses and potential future uses of surrounding property.

B. <u>All Industrial Zoned Property.</u>

a. All new construction in areas zoned industrial that adjoin any of the following streets shall contain, or have a facade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

b. All additions to existing buildings located on Industrial zoned property that adjoin any of the following streets, will require the addition, as well as the entire exterior of the existing building to have a facade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

c. All remodels and/or repairs in excess of fifty (50%) percent of the total linear feet of the exterior walls of any building located on industrial zoned property that adjoin any of the following streets, will require the entire exterior of the building to have a facade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

The city of Purcell shall determine the total percentage of the remodel and/or repair to the building.

Only corporate franchisees may submit an alternative façade design to the city of Purcell planning commission, with a letter from the corporate office stating these are the

franchise standards. The planning commission recommendations will be forwarded to the city of Purcell city council for approval or denial.

Streets.
From exit 95 south on Green Ave. and State Highway 74 S. to exit 91.

In all other areas zoned Industrial the planning commission and city council may approve a facade material and/or landscaping design compatible with the surrounding buildings in the area. Requests for exceptions or variations to the wall content or facade requirements of this section and/or landscaping plan may be presented to and considered by the planning commission, which will then make recommendations to the city council. The city council, upon the advice from the planning commission, shall consider, approve or deny the request. Factors to be considered and evaluated shall not be limited to, but shall include, the specific provisions of the request, the effect of the exception or variation on the overall and local community appearance, the potential impact on the community quality of life, the applicability of the exceptions or variation to the specific structure, the economic impact on the community as a whole, adjacent zoning districts, present adjoining uses and potential future uses of surrounding property. (Ord. No. 07-16, §1, 10-1-2007, Ord. No. 12-01, 1-3-2012)

§§ 122-348 – 122-370 RESERVED.

DIVISION 12

PLANNED COMMERCIAL, C-4 DISTRICT*

§ 122-371 Purpose.
§ 122-372 Permitted principal uses and structures; minimum required off-street parking.
§ 122-373 Permitted accessory uses and structures.
§ 122-374 Uses and structures permitted on review.
§ 122-375 Lot area, yard, and height requirements.
§ 122-376 Procedures.
§ 122-377 Special requirements.
§ 122-378 Building facade.
§§ 122-379 – 122-400 Reserved.

§ 122-371 PURPOSE.

This special district is intended to encourage and facilitate the design of small, planned shopping areas, developed as a unified grouping, in one or more buildings, of retail shops and stores outside of the Central Business District. Any retail shopping areas permitted under this district shall be developed as a unit, with adequate off-street parking areas, safe ingress and egress, and appropriate landscaping and use of natural features to

encourage a safe and attractive area for commercial activity which will not be disruptive of any residential environment. (Prior Code 1991, §12-320)

***Cross reference*: Businesses, ch. 18.**

§ 122-372 PERMITTED PRINCIPAL USES AND STRUCTURES; MINIMUM REQUIRED OFF-STREET PARKING.

The following are the permitted principal uses and structures and minimum required off-street parking:

Permitted principal uses and structures	*Minimum required off-street parking*
Any use permitted in the C-1, central business district	**Off-street parking requirement shall be the same as set forth for each use in the C-1, central business district; however, a common off-street parking facility for all of the development's uses may be provided as long as the total number of parking spaces is not less than the sum of the individual requirements**

(Prior Code 1991, §12-321)

§ 122-373 PERMITTED ACCESSORY USES AND STRUCTURES.

Subject to the provisions of these regulations and other city ordinances, the following accessory uses and structures are permitted in the C-4, planned commercial district:

1. Uses and structures clearly incidental and necessary to the permitted principal uses and structures in this district; and

2. Solar collectors, whether as part of a structure or incidental to a group of nearby structures when used for the purpose of providing energy for heating or cooling of related principal structures. (Prior Code 1991, §12-322)

§ 122-374 USES AND STRUCTURES PERMITTED ON REVIEW.

Subject to the requirements of article I of this chapter, the planning commission may permit the following uses and structures on review:

1. Office uses, provided that the total gross floor area for all office uses shall not exceed twenty (20) percent of the gross floor area for the entire development;

2. Gasoline, service, or motor vehicle service station, provided that:

a. It is designed as an integral part of the overall development; and

b. It will not create a traffic pattern which is hazardous, unsafe, or detrimental to the entire development.

3. Child day care center or child home care center is permitted on review subject to the requirements in section 122-164.

4. Type II bed and breakfast establishments.

5. Family day home is permitted on review subject to the requirements in section 122-134. (Prior Code 1991, §12-323; Ord. No. 99-03, §1, 1-41999; Ord. No. 00-25, §12-323, 11-6-2000)

§ 122-375 LOT AREA, YARD, AND HEIGHT REQUIREMENTS.

A. The following are the lot area and width requirements for planned commercial uses:

1. Area: one acre.

2. Width: fifty (50) feet at the building line.

B. The following are the minimum requirements for front, side, and rear yard setbacks for planned commercial uses:

1. Front: twenty-five (25) feet.

2. Side: twenty-five (25) feet. Side adjacent to residential district.

3. Rear: There shall be a rear yard, alley, service court or combination thereof of not less than thirty (30) feet. (Prior Code 1991, §12-324)

§ 122-376 PROCEDURES.

The planning commission and the city council may zone, or rezone land as C-4, planned commercial district, according to the following procedures:

1. Application shall be submitted in accordance with the procedures set forth in section 122-13.

2. Prior to submitting its final recommendation to the city council, the planning commission shall review the proposal using the following criteria:

a. Consistency with the city's comprehensive plan;

b. Compatibility of the proposal with existing and projected development in adjacent areas;

c. Economic feasibility; and

d. Compliance with the provisions and standards included in section 122-346, the special requirements for this district.

3. If the development is not under construction within two (2) years after the effective date of the rezoning, the planning commission shall review the status of the development, and, if it finds that the developer cannot proceed immediately with the project in conformity with all the requirements set forth in this division, this fact and the reasons thereof shall be reported to the city council, along with the planning commission's recommendation for a suitable zoning district classification. The city council may, at its discretion, set and hold the required hearings and rezone the area to a more suitable district.

4. Any substantial deviation from the development plan submitted at the time of rezoning shall constitute a violation of the building permit authorizing construction of the development. Substantial changes in the plan shall be resubmitted to the planning commission and the city council for review and approval. No building permit shall be issued which is not in substantial conformity with the approved development plan. (Prior Code 1991, §12-325)

§ 122-377 SPECIAL REQUIREMENTS.

Land may be zoned or rezoned as C-4, planned commercial district, only when the following conditions, standards, and materials are met or provided:

1. *Design characteristics*. The proposed development shall be planned and designed as a unified area, compatible with surrounding uses, both natural and manmade, and considerate of existing vegetation, soils, topography, and drainage ways. The proposal must promote creative use of natural open spaces and include landscaping proposals. Project structural and street coverage shall not exceed fifty (50) percent of the total land area.

2. *Development plan*. The applicant shall submit a formal development plan in support of his rezoning application which shall include:

a. Total acreage;

b. Proposed structure locations;

c. Sizes;

d. Elevations;

e. Uses and floor plans;

f. Parking area locations and dimensions;

g. A drainage plan;

h. A landscaping plan; and

i. Open space and recreation area locations.

Water and sewer plans shall also be provided, indicating the overall water and sewer requirements of the development and the proposed means of accommodating these needs. The development plan may provide for staged development of the project and, if so, the same shall be indicated on the plan. An economic study of the project shall also be included, showing the feasibility of the development; if the proposed development encompasses an area of more than five acres, the economic impact of the proposal upon the city's Central Business District shall also be shown in the economic feasibility study.

3. *Lot requirements*. If any lots are platted for sale to other individuals, the minimum dimensions shall be the same as for the same use in the appropriate zoning district.

4. *Off-street parking*. The planning commission may recommend to the city council that additional or special parking areas be provided, based upon the unique character or nature of the proposed project.

5. *Subdivision regulations*. The requirements of any existing and future subdivision regulations adopted by the city must be met by the applicant for a development under this zoning district, subsequent to the final approval of the applicant's rezoning request, if the proposal contains one or more lots which are to be sold to other individuals; and

6. *Signs*. Advertising signs related to the development shall be designed as an integral part of the project and shall be harmonious with surrounding design features.

7. *Privacy fence*. C-4, planned commercial district, when adjacent to residential zoning, shall construct and effectively maintain a privacy fence on adjoining property lines.

8. ***Sight proof fencing*. Sight proof fencing shall not be erected on the street side of the property to extend past the building line setback of the adjoining residential property. (Prior Code 1991, §12-326; Ord. No. 00-06, §1(12-326), 6-5-2000)**

§ 122-378 BUILDING FACADE.

A. All commercial zoned property shall be divided into two Tiers.

1. Tier 1.

a. All new construction located on commercially zoned property that adjoin any of the following streets shall contain, or have a facade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

b. All additions to existing buildings located on commercially zoned property that adjoin any of the following streets, will require the addition, as well as the entire exterior of the existing building to have a facade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

c. All remodels and/or repairs in excess of fifty (50%) percent of the total linear feet of the exterior walls of any building located on commercially zoned property that adjoin any of the following streets, will require the entire exterior of the building to have a facade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

The city of Purcell shall determine the total percentage of the remodel and/or repair to the building.

Only corporate franchisees may submit an alternative façade design to the city of Purcell Planning Commission, with at letter from the corporate office stating these are the franchise standards. The planning commission recommendations will be forwarded to the city of Purcell city council for approval or denial.

Streets.
Green Ave. from exit 95 south to the stop light at Weedn Blvd./ S.H. 77;
S.H. 74 S. from the stop light at Weedn Blvd/S.H. 77 southwest to 180th street

Weedn Blvd/ S.H. 77 from the stop light at Green Ave. south 3000';
Chandler Rd. from the stop light at Green Ave. west to the stop sign at Lake Rd.;
S. 9th from Chandler Rd. south to S.H. 74 S.;
Wyatt Rd./ S.H. 39 from Green Ave. west to Horse Ave.;
Main St. from 6th St. east to the 400 Block of E. Main;
Washington St. from 6th St. east to the 200 Block of E. Washington St.;
4th St. from Main St. north to Adams St.;
3rd St. from Apache St. north to Adams St.;
2nd St. from Apache St. north to Adams St.;
Canadian St. from Apache St. north to Adams St.;
Lester Ln. from Main St. south to Comanche;
Lincoln St. from Green Ave east to 4th St.;
Grant St. from 4th St. west to the intersection of 220 St. and S.H. 74;
N. 9th St. from Hallmark Blvd. north to Feland Dr.

2. <u>Tier 2</u>.

a. All new construction located on commercially zoned property that does not adjoin any of the Tier 1 streets shall contain, or have a façade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

b. All additions to existing buildings located on commercially zoned property that does not adjoin any of the Tier 1 streets, will require the addition, as well as the entire exterior of the existing building to have a façade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

c. All remodels and/or repairs in excess of fifty (50%) percent of the total linear feet of the exterior walls of any building located on commercially zoned property that does not adjoin any of the Tier 1 streets will require the entire exterior of the building to have a façade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls untreated concrete block or unfinished, untreated concrete panels.

The city of Purcell shall determine the total percentage of the remodel and/or repair to the building.

With respect to the Tier 2 Properties, the planning commission and city council may

approve a façade material and/or landscaping design compatible with the surrounding buildings in the area. Requests for exception or variations to the wall content or façade requirements of this section and/or landscaping plan may be presented to and considered by the planning commission, which will then make recommendations to the city council. The city council, upon the advice from the planning commission, shall consider, approve or deny the request. Factors to be considered and evaluated shall not be limited to, but shall include, the specific provisions of the request, the effect of the exception or variation on the overall and local community appearance, the potential impact on the community quality of life, the applicability of the exceptions or variation to the specific structure, the economic impact on the community as a whole, adjacent zoning districts, present adjoining uses and potential future uses of surrounding property.

B. <u>All Industrial Zoned Property.</u>

a. All new construction in areas zoned industrial that adjoin any of the following streets shall contain, or have a facade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

b. All additions to existing buildings located on Industrial zoned property that adjoin any of the following streets, will require the addition, as well as the entire exterior of the existing building to have a facade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

c. All remodels and/or repairs in excess of fifty (50%) percent of the total linear feet of the exterior walls of any building located on industrial zoned property that adjoin any of the following streets, will require the entire exterior of the building to have a facade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

The city of Purcell shall determine the total percentage of the remodel and/or repair to the building.

Only corporate franchisees may submit an alternative façade design to the city of Purcell planning commission, with a letter from the corporate office stating these are the franchise standards. The planning commission recommendations will be forwarded to the city of Purcell city council for approval or denial.

Streets.
From exit 95 south on Green Ave. and State Highway 74 S. to exit 91.

In all other areas zoned Industrial the planning commission and city council may approve a facade material and/or landscaping design compatible with the surrounding buildings in the area. Requests for exceptions or variations to the wall content or facade requirements of this section and/or landscaping plan may be presented to and considered by the planning commission, which will then make recommendations to the city council. The city council, upon the advice from the planning commission, shall consider, approve or deny the request. Factors to be considered and evaluated shall not be limited to, but shall include, the specific provisions of the request, the effect of the exception or variation on the overall and local community appearance, the potential impact on the community quality of life, the applicability of the exceptions or variation to the specific structure, the economic impact on the community as a whole, adjacent zoning districts, present adjoining uses and potential future uses of surrounding property. (Ord. No. 07-16, §1, 10-1-2007, Ord. No. 12-01, 1-3-2012)

§§ 122-379 – 122-400 RESERVED.

DIVISION 13

INDUSTRIAL DISTRICTS*

SUBDIVISION I

IN GENERAL

§ 122-401 General description.
§ 122-402 General permitted uses.
§ 122-403 Accessory uses permitted.
§ 122-404 Table of permitted uses in industrial districts.
§ 122-405 Lot, yard, and height requirements.
§ 122-406 Parking requirements.
§ 122-407 Minimum required off-street parking.
§ 122-408 Building facade.
§§ 122-409 – 122-430 Reserved.

§ 122-401 GENERAL DESCRIPTION.

The regulations for the industrial districts are designed to:

1. Make available a range of suitable sites for all types of manufacturing and related activities; and

2. Protect residences by separating them from manufacturing activities and by prohibiting the use of such space for new residential development. (Ord. No. 96-11, §2, 8-5-1996)

§ 122-402 GENERAL PERMITTED USES.

A. The permitted uses in the industrial districts are set forth in section 122-404. Where the letter "x" appears on the line of the permitted use and in the column of the district, the listed use is permitted. Where the letter "p" appears instead of an "x", this use is permitted subject to obtaining a conditional use permit from the planning commission.

B. In those cases where a use is not specifically listed in the table of permitted uses, such use is to be allowed in the district containing similar uses so long as such use is compatible with the purpose and intent of the district as set forth in this division. The final interpretation as to the permitted classification of unlisted uses by district shall be made by the planning commission. (Ord. No. 96-11, §2, 8-5-1996)

******Cross reference*: Businesses, ch. 18.**

§ 122-403 ACCESSORY USES PERMITTED.

Accessory uses that are incidental to permitted uses shall be permitted in the industrial districts subject to the approval of the planning commission. Accessory uses may include signs, subject to chapter 86. (Ord. No. 96-11, §2, 8-5-1996)

§ 122-404 TABLE OF PERMITTED USES IN INDUSTRIAL DISTRICTS.

Permitted Uses	*Zoning District*			*Parking*
	I-1	I-2	I-3	*Group*
Accessories for vehicles or equipment whose sale is permitted but not including the rebuilding of tires	x	x	x	4
Aerosol containers: filling on contract basis	x	x	x	5
Air conditioning and heating equipment	p	x	x	5
Aircraft parts: sales, service, rental, or repair, including airframes and engines	p	x	x	6
Animal bones, offal, or waste: assembly, incinerator, processing, or utilization			p	6
Animal and marine fats and oil: manufacturing and processing			p	6
Animal and poultry slaughter and processing			p	6
Animal hospitals and veterinarians indoor or outdoor facilities	p	p	p	
Apparel and other textile products	x	x	x	5
Armature rewinding shop	x	x	x	5
Auditorium, or arena: public		x	x	1
Automatic merchandising establishment		x	x	2

Automobile body and fender repair and painting	**x**	**x**	**x**	**8**
Automobile, bus, truck dismantling, salvaging, or wrecking			**p**	**8**
Batching, or mixing plant, asphaltic, or Portland cement, concrete, mortar, or plaster			**x**	**5**
Book bindery	**x**	**x**	**x**	**5**
Bottling plant	**p**	**x**	**x**	**5**
Brick, tile, or clay manufacturing			**x**	**5**
Building materials	**p**	**x**	**x**	**4**
Building materials or lumber: wholesale sales	**p**	**x**	**x**	**6**
Cabinet maker	**x**	**x**	**x**	**4**
Canvas or canvas products	**x**	**x**	**x**	**5**
Ceramic products	**x**	**x**	**x**	**5**
Chemicals, compounding, or packaging	**x**	**x**	**x**	**5**
Child day care center	**p**	**p**		**2**
Compounding, or cosmetics, toiletries, drugs and pharmaceutical products	**x**	**x**	**x**	**5**
Computing, data processing, software preparation, or similar service	**x**	**x**	**x**	**5**
Contract sorting, grading, and packing of fruits and vegetables for grower			**x**	**5**
Direct selling organization retail	**p**	**x**	**x**	**3**
Electrical equipment assembly and manufacture	**x**	**x**	**x**	**6**
Engraving plant	**x**	**x**	**x**	**5**
Fire extinguisher service	**x**	**x**	**x**	**4**
Foundries			**x**	**5**
Furniture manufacturing	**p**	**x**	**x**	**5**
Glass or glass products		**p**	**x**	**5**
Grain milling or processing			**x**	**5**
Hair, felt, feather, or leather products	**x**	**x**	**x**	**5**
Instrument and meter manufacturing	**x**	**x**	**x**	**6**
Jewelry and watch manufacturing	**x**	**x**	**x**	**5**
Laboratory: Research, development or testing	**x**	**x**	**x**	**5**
Leather goods fabrication	**x**	**x**	**x**	**5**
Medical or dental laboratory	**x**	**x**	**x**	**3**
Monument works		**x**	**x**	**4**
Optical goods manufacturing	**x**	**x**	**x**	**6**
Orthopedic or medical supplies	**x**	**x**	**x**	**5**
Packing and crating service	**p**	**x**	**x**	**5**
Paint, enamel, lacquer, turpentine, varnish manufacturing		**x**	**x**	**5**
Paper products manufacturing			**x**	**5**
Plastic products, including luggage, tableware, or similar products	**p**	**x**	**x**	**5**
Printing and publishing, including engraving, or photoengraving	**x**	**x**	**x**	**5**
Rubber products, natural, or synthetic manufacturing			**x**	**5**

Scrap and waste materials handling, including building and vehicle wrecking establishments and junkyards			**p**	**8**
Shoe manufacturing	**x**	**x**	**x**	**5**
Sporting, or athletic equipment manufacturing	**x**	**x**	**x**	**5**
Steel products, fabrication, and assembly		**p**	**x**	**5**
Warehousing enterprise	**p**	**x**	**x**	**6**

(Ord. No. 96-11, §2, 8-5-1996; Ord. No. 00-25, §12-334.2, 11-6-2000; Ord. No. 06-03, §1, 2-6-2006)

§ 122-405 LOT, YARD, AND HEIGHT REQUIREMENTS.

No lot or yard shall be established or reduced in dimension or area in any industrial district that does not meet the minimum requirements set forth in the following tables. No building or structure shall be erected or enlarged that will cause the maximum lot coverage or maximum height regulations to be exceeded as set forth below:

Lot Regulations	*Zoning District*		
	I-1	**I-2**	**I-3**
Minimum front yard depth (feet)	**25**	**25**	**25**
Minimum side yard depth	**25**	**25**	**100, if adjacent to residential area 300, if adjacent to residential area 25, if adjacent to any other land use**
Minimum rear yard depth	**25**	**25**	**300, if adjacent to residential area 25, if adjacent to any other land use**
Minimum depth of side street corner lot	**25**	**25**	**25 100, if adjacent to any residential area**

(Ord. No. 96-11, §2, 8-5-1996)

§ 122-406 PARKING REQUIREMENTS.

All industrial uses shall provide off-street parking for employees, customers and/or clients, and for vehicles used by the industry. Off-street parking facilities or lots shall be designed, located, and constructed in accordance with the following provisions:

1. The lot shall be located within two hundred (200) feet, exclusive of street and alley widths, of the principal use and shall have direct access to a street or alley.

2. Land upon which the lot is located shall be owned or controlled by the same entity which owns or controls the land upon which the principal use is located, except that the city may own and use the land solely for off street parking purposes.

3. The intensity of light and the arrangement of reflecting devices shall be such as not to interfere with the surrounding or adjacent residential uses.

4. All parking areas required under the provisions of this chapter shall be surfaced with concrete, asphalt, or double bituminous asphalt pavement and maintained in a manner such that no dust will result from continued use, unless otherwise approved by the planning commission.

5. The front yard and exterior side yard areas of the lot in which a parking lot is located shall include a landscaped area equal to five percent of the parking area. Such landscaped area shall be maintained in good condition. All parking areas which are not visible from a public street shall be excluded from the landscaping requirement.

a. "*Landscaping*" shall be defined as live vegetation and/or other features, such as decorative rock, bark, and other items commonly used to improve the appearance of property. (Ord. No. 96-11, § 2, 8-5-1996)

§ 122-407 MINIMUM REQUIRED OFF-STREET PARKING.

The number of off-street parking spaces required for each use shall be determined by reference to the following table of parking groups. When parking spaces are used for the parking of vehicles for sale, in storage, or used in the operation of a business, such parking spaces shall be provided in addition to those otherwise required. If for any reason the classification of any use for the purpose of determining the amount of off-street parking spaces to be provided by such use is not readily determinable in this section, the classification of use shall be reviewed by the planning commission and approved by the city council:

Parking Group	*Required Parking Spaces*
1	1 space for every 4 seats, plus 1 space for every 2 employees
2	1 space for every 200 square feet of floor area
3	1 space for every 300 square feet of floor area
4	1 space for every 400 square feet of floor area or 1 space for every 1.5 employees, whichever is larger
5	1 space for every 500 square feet of floor area or 1 space for every 1.5 employees, whichever is larger
6	1 space for every 1,000 square feet of floor area or 1 space for every 1.5 employees, whichever is larger
7	1 space for every 2,000 square feet of lot area
8	1 space for every 1.5 employees
9	1 space for every 500 square feet of lot area
10	1 space for every 1,000 square feet of lot area
11	1 space for every 100 square feet of lot area

1. "*Floor area*" shall mean the gross floor area within the outside dimensions of a building, including each floor level, halls, lobbies, and stairways. It shall not include floor space within the building reserved for parking or loading vehicles and unimproved basement space or separate space used only for building maintenance and utilities or exterior features of the building such as stairs, porches, walkways, and other similar exterior features.

2. "*Lot area*" shall mean the area of the portion of the lot actually being used by the industry. (Ord. No. 96-11, §2, 8-5-1996)

§ 122-408 BUILDING FACADE.

A. All commercial zoned property shall be divided into two Tiers.

1. Tier 1.

a. All new construction located on commercially zoned property that adjoin any of the following streets shall contain, or have a facade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

b. All additions to existing buildings located on commercially zoned property that adjoin any of the following streets, will require the addition, as well as the entire exterior of the existing building to have a facade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

c. All remodels and/or repairs in excess of fifty (50%) percent of the total linear feet of the exterior walls of any building located on commercially zoned property that adjoin any of the following streets, will require the entire exterior of the building to have a facade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

The city of Purcell shall determine the total percentage of the remodel and/or repair to the building.

Only corporate franchisees may submit an alternative façade design to the city of

Purcell Planning Commission, with at letter from the corporate office stating these are the franchise standards. The planning commission recommendations will be forwarded to the city of Purcell city council for approval or denial.

<u>Streets.</u>
Green Ave. from exit 95 south to the stop light at Weedn Blvd./ S.H. 77;
S.H. 74 S. from the stop light at Weedn Blvd/S.H. 77 southwest to 180th street
Weedn Blvd/ S.H. 77 from the stop light at Green Ave. south 3000';
Chandler Rd. from the stop light at Green Ave. west to the stop sign at Lake Rd.;
S. 9th from Chandler Rd. south to S.H. 74 S.;
Wyatt Rd./ S.H. 39 from Green Ave. west to Horse Ave.;
Main St. from 6th St. east to the 400 Block of E. Main;
Washington St. from 6th St. east to the 200 Block of E. Washington St.;
4th St. from Main St. north to Adams St.;
3rd St. from Apache St. north to Adams St.;
2nd St. from Apache St. north to Adams St.;
Canadian St. from Apache St. north to Adams St.;
Lester Ln. from Main St. south to Comanche;
Lincoln St. from Green Ave east to 4th St.;
Grant St. from 4th St. west to the intersection of 220 St. and S.H. 74;
N. 9th St. from Hallmark Blvd. north to Feland Dr.

2. <u>Tier 2</u>.

a. All new construction located on commercially zoned property that does not adjoin any of the Tier 1 streets shall contain, or have a façade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

b. All additions to existing buildings located on commercially zoned property that does not adjoin any of the Tier 1 streets, will require the addition, as well as the entire exterior of the existing building to have a façade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

c. All remodels and/or repairs in excess of fifty (50%) percent of the total linear feet of the exterior walls of any building located on commercially zoned property that does not adjoin any of the Tier 1 streets will require the entire exterior of the building to have a façade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior

metal walls untreated concrete block or unfinished, untreated concrete panels.

The city of Purcell shall determine the total percentage of the remodel and/or repair to the building.

With respect to the Tier 2 Properties, the planning commission and city council may approve a façade material and/or landscaping design compatible with the surrounding buildings in the area. Requests for exception or variations to the wall content or façade requirements of this section and/or landscaping plan may be presented to and considered by the planning commission, which will then make recommendations to the city council. The city council, upon the advice from the planning commission, shall consider, approve or deny the request. Factors to be considered and evaluated shall not be limited to, but shall include, the specific provisions of the request, the effect of the exception or variation on the overall and local community appearance, the potential impact on the community quality of life, the applicability of the exceptions or variation to the specific structure, the economic impact on the community as a whole, adjacent zoning districts, present adjoining uses and potential future uses of surrounding property.

B. <u>All Industrial Zoned Property.</u>

a. All new construction in areas zoned industrial that adjoin any of the following streets shall contain, or have a facade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

b. All additions to existing buildings located on Industrial zoned property that adjoin any of the following streets, will require the addition, as well as the entire exterior of the existing building to have a facade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

c. All remodels and/or repairs in excess of fifty (50%) percent of the total linear feet of the exterior walls of any building located on industrial zoned property that adjoin any of the following streets, will require the entire exterior of the building to have a facade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

The city of Purcell shall determine the total percentage of the remodel and/or repair

to the building.

Only corporate franchisees may submit an alternative façade design to the city of Purcell planning commission, with a letter from the corporate office stating these are the franchise standards. The planning commission recommendations will be forwarded to the city of Purcell city council for approval or denial.

Streets.
From exit 95 south on Green Ave. and State Highway 74 S. to exit 91.

In all other areas zoned Industrial the planning commission and city council may approve a facade material and/or landscaping design compatible with the surrounding buildings in the area. Requests for exceptions or variations to the wall content or facade requirements of this section and/or landscaping plan may be presented to and considered by the planning commission, which will then make recommendations to the city council. The city council, upon the advice from the planning commission, shall consider, approve or deny the request. Factors to be considered and evaluated shall not be limited to, but shall include, the specific provisions of the request, the effect of the exception or variation on the overall and local community appearance, the potential impact on the community quality of life, the applicability of the exceptions or variation to the specific structure, the economic impact on the community as a whole, adjacent zoning districts, present adjoining uses and potential future uses of surrounding property. (Ord. No. 07-16, §1, 10-1-2007, Ord. No. 12-01, 1-3-2012)

§§ 122-409 – 122-430 RESERVED.

SUBDIVISION II

RESTRICTED LIGHT INDUSTRIAL, I-1 DISTRICT*

§ 122-431 General description.
§ 122-432 Uses permitted generally.
§ 122-433 Special requirements.
§§ 122-434 – 122-455 Reserved.

§ 122-431 GENERAL DESCRIPTION.

The purpose of the I-1, restricted 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 manufacturing, assembly plants, and warehousing whose operation is completely confined within an enclosed building. These industries may require direct access to rail, air, or street transportation facilities; however, the size and volume of the raw materials and finished products involved should not produce the volume of freight generated by the uses of the light and heavy industrial districts. Buildings in this district should be

architecturally attractive and surrounded by landscaped yards. (Ord. No. 96-11, §2, 8-5-1996)

***Cross reference*: Businesses. ch. 18.**

§ 122-432 USES PERMITTED GENERALLY.

Property and buildings in an I-1, restricted light industrial district shall be used only as follows:

1. Any use, except a residential or child day care center use, permitted in a C-3, general commercial district. No dwelling use shall be permitted except sleeping facilities no larger than one-hundred (100) square feet for caretakers and security personnel employed on the premises. It is intended that these regulations shall be interpreted as not permitting a dwelling unit to be located on the same lot or within a structure used or intended to be used primarily for nonresidential purposes.

2. All of the uses permitted under this section shall have their primary operation conducted entirely within enclosed buildings and shall not emit any dust or smoke, shall not emit noxious odor or fumes outside of the building housing the operation, shall not cause vibrations or create electrical interference, or shall not produce a noise level at the property line that is greater than the average noise level occurring on the adjacent street. Any article or material stored temporarily outside of an enclosed building as an incidental part of the primary operation shall be so screened by ornamental walls and fences, or evergreen plants that is at least six (6) feet high.

3. Not more than eighty (80) percent of the lot shall be covered by improvements. Off-street parking and loading facilities are considered improvements in the I-1, restricted light industrial district. No improvement shall exceed thirty-five (35) feet in height above the mean elevation of the lot. (Ord. No. 96-11, §2, 8-5-1996; Ord. No. 00-25, §12-331.1, 11-6-2000)

§ 122-433 SPECIAL REQUIREMENTS.

Sight proof fencing shall not be erected on the street side of the property to extend past the building line setback of the adjoining residential property.

§§ 122-434 – 122-455 RESERVED.

SUBDIVISION III

LIGHT INDUSTRIAL, I-2 DISTRICT*

§ 122-456 General description.
§ 122-457 Uses permitted generally.

§ 122-458 Special requirements.
§ 122-459 Building facade.
§§ 122-460 – 122-480 Reserved.

§ 122-456 GENERAL DESCRIPTION.

This industrial district is intended primarily for the conduct of manufacturing, assembling, and fabrication whose operation is not completely confined to an enclosed building. These uses do not depend primarily on frequent personal visits of customers or clients, but usually require good accessibility to major rail, air, or street transportation facilities. Because of the traffic generated and other potentially objectionable influences created in this district, a buffer or setback area may be required between this district and any other zoning district except I-1, restricted light industrial district and I-3, heavy industrial district. Buildings in this district should be landscaped on the street side of the building. (Ord. No. 96-11, §2, 8-5-1996)

§ 122-457 USES PERMITTED GENERALLY.

Property and buildings in an I-2, light industrial district shall be used only as follows:

1. Any use, except a residential or child day care center use, permitted in an I-1, restricted light manufacturing district. No dwelling use shall be permitted, except sleeping facilities no larger than one hundred (100) square feet for caretakers and security personnel employed on the premises. It is intended that these regulations shall be interpreted as not permitting a dwelling unit to be located on the same lot or within a structure used or intended to be used primarily for nonresidential purposes.

2. All of the uses permitted under this section shall be conducted in such a manner that no noxious odor, fumes, or dust will be emitted beyond the property line of the lot on which the use is located. Any article or material stored outside of an enclosed building as a part of the primary operation shall be so screened by ornamental walls and fences, or evergreen plants that are at least six (6) feet high.

3. Not more than eighty (80) percent of the lot shall be covered by improvements. Off-street parking and loading facilities are considered improvements in the I-2, light industrial district. No improvement shall exceed thirty-five (35) feet in height above the mean elevation of the lot. (Ord. No. 96-11, §2, 8-5-1996; Ord. No. 00-25, §12-332, 11-6-2000)

******Cross reference*****: Businesses, ch. 18.**

§ 122-458 SPECIAL REQUIREMENTS.

Sight proof fencing shall not be erected on the street side of the property to extend past the building line setback of the adjoining residential property.

§ 122-459 BUILDING FACADE.

A. All commercial zoned property shall be divided into two Tiers.

1. Tier 1.

a. All new construction located on commercially zoned property that adjoin any of the following streets shall contain, or have a facade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

b. All additions to existing buildings located on commercially zoned property that adjoin any of the following streets, will require the addition, as well as the entire exterior of the existing building to have a facade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

c. All remodels and/or repairs in excess of fifty (50%) percent of the total linear feet of the exterior walls of any building located on commercially zoned property that adjoin any of the following streets, will require the entire exterior of the building to have a facade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

The city of Purcell shall determine the total percentage of the remodel and/or repair to the building.

Only corporate franchisees may submit an alternative façade design to the city of Purcell Planning Commission, with at letter from the corporate office stating these are the franchise standards. The planning commission recommendations will be forwarded to the city of Purcell city council for approval or denial.

Streets.
Green Ave. from exit 95 south to the stop light at Weedn Blvd./ S.H. 77;

S.H. 74 S. from the stop light at Weedn Blvd/S.H. 77 southwest to 180th street
Weedn Blvd/ S.H. 77 from the stop light at Green Ave. south 3000';
Chandler Rd. from the stop light at Green Ave. west to the stop sign at Lake Rd.;
S. 9th from Chandler Rd. south to S.H. 74 S.;
Wyatt Rd./ S.H. 39 from Green Ave. west to Horse Ave.;
Main St. from 6th St. east to the 400 Block of E. Main;
Washington St. from 6th St. east to the 200 Block of E. Washington St.;
4th St. from Main St. north to Adams St.;
3rd St. from Apache St. north to Adams St.;
2nd St. from Apache St. north to Adams St.;
Canadian St. from Apache St. north to Adams St.;
Lester Ln. from Main St. south to Comanche;
Lincoln St. from Green Ave east to 4th St.;
Grant St. from 4th St. west to the intersection of 220 St. and S.H. 74;
N. 9th St. from Hallmark Blvd. north to Feland Dr.

2. <u>Tier 2</u>.

a. All new construction located on commercially zoned property that does not adjoin any of the Tier 1 streets shall contain, or have a façade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

b. All additions to existing buildings located on commercially zoned property that does not adjoin any of the Tier 1 streets, will require the addition, as well as the entire exterior of the existing building to have a façade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

c. All remodels and/or repairs in excess of fifty (50%) percent of the total linear feet of the exterior walls of any building located on commercially zoned property that does not adjoin any of the Tier 1 streets will require the entire exterior of the building to have a façade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls untreated concrete block or unfinished, untreated concrete panels.

The city of Purcell shall determine the total percentage of the remodel and/or repair to the building.

With respect to the Tier 2 Properties, the planning commission and city council may approve a façade material and/or landscaping design compatible with the surrounding buildings in the area. Requests for exception or variations to the wall content or façade requirements of this section and/or landscaping plan may be presented to and considered by the planning commission, which will then make recommendations to the city council. The city council, upon the advice from the planning commission, shall consider, approve or deny the request. Factors to be considered and evaluated shall not be limited to, but shall include, the specific provisions of the request, the effect of the exception or variation on the overall and local community appearance, the potential impact on the community quality of life, the applicability of the exceptions or variation to the specific structure, the economic impact on the community as a whole, adjacent zoning districts, present adjoining uses and potential future uses of surrounding property.

B. <u>All Industrial Zoned Property.</u>

a. All new construction in areas zoned industrial that adjoin any of the following streets shall contain, or have a facade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

b. All additions to existing buildings located on Industrial zoned property that adjoin any of the following streets, will require the addition, as well as the entire exterior of the existing building to have a facade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

c. All remodels and/or repairs in excess of fifty (50%) percent of the total linear feet of the exterior walls of any building located on industrial zoned property that adjoin any of the following streets, will require the entire exterior of the building to have a facade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

The city of Purcell shall determine the total percentage of the remodel and/or repair to the building.

Only corporate franchisees may submit an alternative façade design to the city of Purcell planning commission, with a letter from the corporate office stating these are the franchise standards. The planning commission recommendations will be forwarded to the city of Purcell city council for approval or denial.

Streets.
From exit 95 south on Green Ave. and State Highway 74 S. to exit 91.

In all other areas zoned Industrial the planning commission and city council may approve a facade material and/or landscaping design compatible with the surrounding buildings in the area. Requests for exceptions or variations to the wall content or facade requirements of this section and/or landscaping plan may be presented to and considered by the planning commission, which will then make recommendations to the city council. The city council, upon the advice from the planning commission, shall consider, approve or deny the request. Factors to be considered and evaluated shall not be limited to, but shall include, the specific provisions of the request, the effect of the exception or variation on the overall and local community appearance, the potential impact on the community quality of life, the applicability of the exceptions or variation to the specific structure, the economic impact on the community as a whole, adjacent zoning districts, present adjoining uses and potential future uses of surrounding property. (Ord. No. 07-16, §1, 10-1-2007, Ord. No. 12-01, 1-3-2012)

§§ 122-460 – 122-480 RESERVED.

SUBDIVISION IV

HEAVY INDUSTRIAL, I-3 DISTRICT*

§ 122-481 General description.
§ 122-482 Uses permitted generally.
§ 122-483 Special requirements.
§ 122-484 Building Facade.
§§ 122-485 – 122-489 Reserved.

§ 122-481 GENERAL DESCRIPTION.

The purpose of the I-3, heavy industrial district is to provide a location for industries which may by their nature create nuisances. The intent is to preserve this land especially for industry in locations that are located down wind and separated from commercial and residential uses. Because of the nuisances or other objectionable influences that may be created in this district, a buffer or setback strip is required between this district and other zoning districts except the I-1, restricted light industrial district and the I-2, light industrial district. (Ord. No. 96-11, §2, 8-5-1996)

***Cross reference*: Businesses, ch. 18.**

§ 122-482 USES PERMITTED GENERALLY.

Property and buildings in an I-3, heavy industrial district shall be used for any use except as follows:

1. All residential or child day care center uses except sleeping facilities no larger than one-hundred (100) square feet for caretakers and security personnel employed on the premises. It is intended that these regulations shall be interpreted as not permitting a dwelling unit to be located on the same lot or within a structure used or intended to be used primarily for nonresidential purposes.

2. All uses not complying with these regulations or any other city, state, or federal regulation or law. Any article or material stored outside of an enclosed building as a part of the primary operation shall be so screened by ornamental walls and fences or evergreen plants that are at least six (6) feet high.

3. Not more than eighty (80) percent of the lot shall be covered by improvements. Off-street parking and loading facilities are considered improvements in the I-3, heavy industrial district. No improvement shall exceed one-hundred (100) feet in height above the mean elevation of the lot. (Ord. No. 96-11, §2, 8-5-1996; Ord. No. 00-25, §12-333.1, 11-6-2000)

§ 122-483 SPECIAL REQUIREMENTS.

Sight proof fencing shall not be erected on the street side of the property to extend past the building line setback of the adjoining residential property.

§ 122-484 BUILDING FACADE.

A. All commercial zoned property shall be divided into two Tiers.

1. Tier 1.

a. All new construction located on commercially zoned property that adjoin any of the following streets shall contain, or have a facade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

b. All additions to existing buildings located on commercially zoned property that adjoin any of the following streets, will require the addition, as well as the entire exterior of the existing building to have a facade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials

such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

c. All remodels and/or repairs in excess of fifty (50%) percent of the total linear feet of the exterior walls of any building located on commercially zoned property that adjoin any of the following streets, will require the entire exterior of the building to have a facade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

The city of Purcell shall determine the total percentage of the remodel and/or repair to the building.

Only corporate franchisees may submit an alternative façade design to the city of Purcell Planning Commission, with at letter from the corporate office stating these are the franchise standards. The planning commission recommendations will be forwarded to the city of Purcell city council for approval or denial.

<u>Streets.</u>
Green Ave. from exit 95 south to the stop light at Weedn Blvd./ S.H. 77;
S.H. 74 S. from the stop light at Weedn Blvd/S.H. 77 southwest to 180th street
Weedn Blvd/ S.H. 77 from the stop light at Green Ave. south 3000';
Chandler Rd. from the stop light at Green Ave. west to the stop sign at Lake Rd.;
S. 9th from Chandler Rd. south to S.H. 74 S.;
Wyatt Rd./ S.H. 39 from Green Ave. west to Horse Ave.;
Main St. from 6th St. east to the 400 Block of E. Main;
Washington St. from 6th St. east to the 200 Block of E. Washington St.;
4th St. from Main St. north to Adams St.;
3rd St. from Apache St. north to Adams St.;
2nd St. from Apache St. north to Adams St.;
Canadian St. from Apache St. north to Adams St.;
Lester Ln. from Main St. south to Comanche;
Lincoln St. from Green Ave east to 4th St.;
Grant St. from 4th St. west to the intersection of 220 St. and S.H. 74;
N. 9th St. from Hallmark Blvd. north to Feland Dr.

2. <u>Tier 2</u>.

a. All new construction located on commercially zoned property that does not adjoin any of the Tier 1 streets shall contain, or have a façade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

b. All additions to existing buildings located on commercially zoned property that does not adjoin any of the Tier 1 streets, will require the addition, as well as the entire exterior of the existing building to have a façade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

c. All remodels and/or repairs in excess of fifty (50%) percent of the total linear feet of the exterior walls of any building located on commercially zoned property that does not adjoin any of the Tier 1 streets will require the entire exterior of the building to have a façade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls untreated concrete block or unfinished, untreated concrete panels.

The city of Purcell shall determine the total percentage of the remodel and/or repair to the building.

With respect to the Tier 2 Properties, the planning commission and city council may approve a façade material and/or landscaping design compatible with the surrounding buildings in the area. Requests for exception or variations to the wall content or façade requirements of this section and/or landscaping plan may be presented to and considered by the planning commission, which will then make recommendations to the city council. The city council, upon the advice from the planning commission, shall consider, approve or deny the request. Factors to be considered and evaluated shall not be limited to, but shall include, the specific provisions of the request, the effect of the exception or variation on the overall and local community appearance, the potential impact on the community quality of life, the applicability of the exceptions or variation to the specific structure, the economic impact on the community as a whole, adjacent zoning districts, present adjoining uses and potential future uses of surrounding property.

B. <u>All Industrial Zoned Property.</u>

a. All new construction in areas zoned industrial that adjoin any of the following streets shall contain, or have a facade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

b. All additions to existing buildings located on Industrial zoned property that adjoin any of the following streets, will require the addition, as well as the entire exterior of the existing building to have a facade with one-hundred

(100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

c. All remodels and/or repairs in excess of fifty (50%) percent of the total linear feet of the exterior walls of any building located on industrial zoned property that adjoin any of the following streets, will require the entire exterior of the building to have a facade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

The city of Purcell shall determine the total percentage of the remodel and/or repair to the building.

Only corporate franchisees may submit an alternative façade design to the city of Purcell planning commission, with a letter from the corporate office stating these are the franchise standards. The planning commission recommendations will be forwarded to the city of Purcell city council for approval or denial.

Streets.
From exit 95 south on Green Ave. and State Highway 74 S. to exit 91.

In all other areas zoned Industrial the planning commission and city council may approve a facade material and/or landscaping design compatible with the surrounding buildings in the area. Requests for exceptions or variations to the wall content or facade requirements of this section and/or landscaping plan may be presented to and considered by the planning commission, which will then make recommendations to the city council. The city council, upon the advice from the planning commission, shall consider, approve or deny the request. Factors to be considered and evaluated shall not be limited to, but shall include, the specific provisions of the request, the effect of the exception or variation on the overall and local community appearance, the potential impact on the community quality of life, the applicability of the exceptions or variation to the specific structure, the economic impact on the community as a whole, adjacent zoning districts, present adjoining uses and potential future uses of surrounding property. (Ord. No. 07-16, §1, 10-1-2007, Ord. No. 12-01, 1-3-2012)

§§ 122-485 – 122-489 RESERVED.

SUBDIVISION V

INSTITUTIONAL/RESIDENTIAL, IR DISTRICTS

§ 122-490 General description.
§ 122-491 Minimum required off-street parking.
§ 122-492 Permitted accessory uses and structures.
§ 122-493 Lot area, yard and height requirements.
§ 122-494 Special requirements.
§ 122-495 Uses permitted generally.
§ 122-496 Building Facade.
§§ 122-497 – 122-505 Reserved.

§ 122-490 GENERAL DESCRIPTION.

Institutional/residential district zoning classification includes but is not limited to, the use of a building or structure, or a portion thereof, to house people having physical and/or mental limitations because of health or age or for medical treatment or other care or treatment. It also includes the housing of people who are detained for penal or correctional purposes or in which the liberty of the occupants is restricted. Institutional/residential occupancies are classified as: IR-1, IR-2, IR-3 and IR-4. (Ord. No. 02-12, §2(12-390), 8-5-2002)

§ 122-491 MINIMUM REQUIRED OFF-STREET PARKING.

The minimum off-street parking requirements are as follows:

1. Adult day care home: four (4) spaces.

2. All other IR zoning: one space per employee plus one space for every two (2) beds.

Adequate off-street provisions for loading and unloading of supplies and materials must be submitted to code administration for approval. (Ord. No. 02-12, §2(12-395), 8-5-2002)

§ 122-492 PERMITTED ACCESSORY USES AND STRUCTURES.

Uses and structures clearly incidental and necessary to the permitted principal uses and structures in any particular zoning district, including but not limited to storage sheds and similar structures not involved in the conduct of business on the premises and located on the same lot or a contiguous lot under the same ownership, are permitted provided that:

1. Such structures and uses shall not encroach upon the front, side or rear yard setback requirements of the principal or main structures.

2. Such structures shall not encroach upon any utility, street, alley or drainage easement. (Ord. No. 02-12, §2(12-396), 8-5-2002)

§ 122-493 LOT AREA, YARD AND HEIGHT REQUIREMENTS.

A. The following are the minimum lot area and width requirements for:

1. Adult day care home.

a. Area: eight-thousand (8,000) square feet.

b. Width: sixty (60) square feet at the building line.

2. All other IR zoning.

a. Area: one acre.

b. Width: sixty (60) square feet at the building line.

B. The following are the minimum requirements for front, side and rear yard setbacks for:

1. Adult day care home. Same as the R-2, single-family residential district requirements for single-family dwellings.

2. All other IR zoning.

a. Front: thirty-five (35) feet.

b. Rear: thirty-five (35) feet.

c. Side: thirty-five (35) feet.

C. The following are the maximum requirements for height in all IR zoning: two and one-half (2½) stories or thirty-five (35) feet. (Ord. No. 02-12, §2(12-397), 8-5-2002)

§ 122-494 SPECIAL REQUIREMENTS.

A. All IR zoning classifications when adjacent to residential zoning classifications shall construct and effectively maintain a privacy fence on an adjoining property line.

B. Sight proof fencing shall not be erected on the street side of the property to extend past the building line setback of the adjoining residential property. (Ord. No. 02-12, §2(12-398), 8-5-2002)

§ 122-495 USES PERMITTED GENERALLY.

A. *Institutional/residential 1*. This occupancy shall include buildings or parts thereof housing adults who because of age, mental disability or other reasons, live in a supervised residential environment that provides personal care services. The occupants are capable of responding to an emergency situation with limited physical assistance from staff. This group shall include, but shall not be limited to, the following: adult day care centers and assisted living facilities. Facilities with seven (7) or fewer persons shall be allowed in the R-2 district, permitted on review. Facilities housing at least eight (8) and not more than sixteen (16) persons, shall be allowed in the R-4 district, permitted on review.

B. *Institutional/residential 2*. This occupancy shall include buildings and structures used for medical, surgical, psychiatric, nursing or custodial care on a twenty-four (24) hour basis of more than five (5) persons who are not capable of self-preservation. This group shall include, but shall not be limited to, the following:

1. Extended care facilities.

2. Residential treatment center.

3. Hospitals.

4. Nursing homes, rest homes, and convalescent homes.

Facilities with seven (7) or fewer persons shall be allowed in the R-2 district, permitted on review. Facilities housing at least eight (8) and not more than sixteen (16) persons, shall be allowed in the R-4 district, permitted on review.

C. *Institutional/residential 3*. This occupancy shall include buildings or parts thereof housing more than five (5) persons on a twenty-four (24) hour basis, who, because of age, mental disability or other reasons live in a supervised residential environment that provides treatment and/or rehabilitation services. The occupants are capable of responding to an emergency situation with limited physical assistance from the staff. This group shall include, but shall not be limited to, the following:

1. Halfway houses.

2. Group care facilities.

3. Congregate care residences.

4. Social rehabilitation facilities.

5. Alcohol and drug centers.

6. Mental hospitals.

7. Detoxification facilities.

Facilities in this category with five (5) or fewer persons shall be allowed in the R-4 district, permitted on review.

D. *Institutional/residential 4*. This occupancy shall include buildings and structures that are inhabited by more than five persons who are under restraint or security. An IR-4 facility is occupied by persons who are generally incapable of self-preservation due to security measures not under the occupants control. This group shall include, but not be limited to, the following:

1. Prisons.

2. Jails.

3. Reformatories.

4. Detention centers.

5. Correctional centers.

6. Prerelease centers. (Ord. No. 02-12, §2(12-391, 12-392, 12-393, 12394), 8-5-2002)

§ 122-496 BUILDING FACADE.

A. All commercial zoned property shall be divided into two Tiers.

1. Tier 1.

a. All new construction located on commercially zoned property that adjoin any of the following streets shall contain, or have a facade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

b. All additions to existing buildings located on commercially zoned property that adjoin any of the following streets, will require the addition, as well as the entire exterior of the existing building to have a facade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished,

untreated concrete panels.

c. All remodels and/or repairs in excess of fifty (50%) percent of the total linear feet of the exterior walls of any building located on commercially zoned property that adjoin any of the following streets, will require the entire exterior of the building to have a facade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

The city of Purcell shall determine the total percentage of the remodel and/or repair to the building.

Only corporate franchisees may submit an alternative façade design to the city of Purcell Planning Commission, with at letter from the corporate office stating these are the franchise standards. The planning commission recommendations will be forwarded to the city of Purcell city council for approval or denial.

<u>Streets.</u>
Green Ave. from exit 95 south to the stop light at Weedn Blvd./ S.H. 77;
S.H. 74 S. from the stop light at Weedn Blvd/S.H. 77 southwest to 180th street
Weedn Blvd/ S.H. 77 from the stop light at Green Ave. south 3000';
Chandler Rd. from the stop light at Green Ave. west to the stop sign at Lake Rd.;
S. 9th from Chandler Rd. south to S.H. 74 S.;
Wyatt Rd./ S.H. 39 from Green Ave. west to Horse Ave.;
Main St. from 6th St. east to the 400 Block of E. Main;
Washington St. from 6th St. east to the 200 Block of E. Washington St.;
4th St. from Main St. north to Adams St.;
3rd St. from Apache St. north to Adams St.;
2nd St. from Apache St. north to Adams St.;
Canadian St. from Apache St. north to Adams St.;
Lester Ln. from Main St. south to Comanche;
Lincoln St. from Green Ave east to 4th St.;
Grant St. from 4th St. west to the intersection of 220 St. and S.H. 74;
N. 9th St. from Hallmark Blvd. north to Feland Dr.

2. <u>Tier 2</u>.

a. All new construction located on commercially zoned property that does not adjoin any of the Tier 1 streets shall contain, or have a façade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

b. All additions to existing buildings located on commercially zoned property that does not adjoin any of the Tier 1 streets, will require the addition, as well as the entire exterior of the existing building to have a façade with one-hundred (100%) percent wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

c. All remodels and/or repairs in excess of fifty (50%) percent of the total linear feet of the exterior walls of any building located on commercially zoned property that does not adjoin any of the Tier 1 streets will require the entire exterior of the building to have a façade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls untreated concrete block or unfinished, untreated concrete panels.

The city of Purcell shall determine the total percentage of the remodel and/or repair to the building.

With respect to the Tier 2 Properties, the planning commission and city council may approve a façade material and/or landscaping design compatible with the surrounding buildings in the area. Requests for exception or variations to the wall content or façade requirements of this section and/or landscaping plan may be presented to and considered by the planning commission, which will then make recommendations to the city council. The city council, upon the advice from the planning commission, shall consider, approve or deny the request. Factors to be considered and evaluated shall not be limited to, but shall include, the specific provisions of the request, the effect of the exception or variation on the overall and local community appearance, the potential impact on the community quality of life, the applicability of the exceptions or variation to the specific structure, the economic impact on the community as a whole, adjacent zoning districts, present adjoining uses and potential future uses of surrounding property.

B. <u>All Industrial Zoned Property.</u>

a. All new construction in areas zoned industrial that adjoin any of the following streets shall contain, or have a facade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

b. All additions to existing buildings located on Industrial zoned property that adjoin any of the following streets, will require the addition, as well as the entire exterior of the existing building to have a facade with one-hundred

(100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

c. All remodels and/or repairs in excess of fifty (50%) percent of the total linear feet of the exterior walls of any building located on industrial zoned property that adjoin any of the following streets, will require the entire exterior of the building to have a facade with one-hundred (100%) wall area, excluding doors and windows, being brick, rock, decorative concrete blocks, stucco, or like material, excluding other materials such as exposed exterior metal walls, untreated concrete block or unfinished, untreated concrete panels.

The city of Purcell shall determine the total percentage of the remodel and/or repair to the building.

Only corporate franchisees may submit an alternative façade design to the city of Purcell planning commission, with a letter from the corporate office stating these are the franchise standards. The planning commission recommendations will be forwarded to the city of Purcell city council for approval or denial.

Streets.

From exit 95 south on Green Ave. and State Highway 74 S. to exit 91.

In all other areas zoned Industrial the planning commission and city council may approve a facade material and/or landscaping design compatible with the surrounding buildings in the area. Requests for exceptions or variations to the wall content or facade requirements of this section and/or landscaping plan may be presented to and considered by the planning commission, which will then make recommendations to the city council. The city council, upon the advice from the planning commission, shall consider, approve or deny the request. Factors to be considered and evaluated shall not be limited to, but shall include, the specific provisions of the request, the effect of the exception or variation on the overall and local community appearance, the potential impact on the community quality of life, the applicability of the exceptions or variation to the specific structure, the economic impact on the community as a whole, adjacent zoning districts, present adjoining uses and potential future uses of surrounding property. (Ord. No. 07-16, §1, 10-1-2007, Ord. No. 12-01, 1-3-2012)

§§ 122-497 – 122-505 RESERVED.

DIVISION 14

FLOODWAY, F-1 DISTRICT*

§ 122-506 Purpose.
§ 122-507 Permitted principal uses.

§ 122-508 Permitted accessory uses.
§ 122-509 Uses permitted on review.
§ 122-510 Special requirements.
§§ 122-511 – 122-535 Reserved.

§ 122-506 PURPOSE.

This district is intended to comprise those portions of the community's floodplain areas adjoining watercourses which are reasonably required to carry and discharge the floodwaters of the one-hundred (100) year flood. Such flood hazard areas are unsuitable for residential, commercial, or industrial purposes. It is the purpose of this district to protect the public health, safety, and general welfare by regulating uses in the floodway which are dangerous to such health or safety in times of flood or cause increases in flood heights or velocities in upstream, adjacent, or downstream areas creating damage to property. A secondary purpose of this district is to protect individuals from unknowingly purchasing lands which are unsuited for structural use purposes because of flood hazards. (Prior Code 1991, §12-340)

***Cross reference*: Floods, ch. 42.**

§ 122-507 PERMITTED PRINCIPAL USES.

The following uses having a low flood damage potential and not obstructing flood flows shall be permitted within the F-1, floodway district to the extent that they are not prohibited by any other regulations, and provided that they do not require structures, fill, or storage of materials or equipment.

No use shall adversely affect the capacity of the channels or floodways of any tributary to the main stream, drainage ditch, or any other drainage facility or system, nor shall it be detrimental to uses permitted in the adjoining F-2, floodway fringe (overlay) district, or other districts within the F-2, floodway fringe (overlay) district:

1. Agricultural uses, such as:

a. General farming;

b. Pasture;

c. Grazing;

d. Outdoor plant nurseries;

e. Horticulture;

f. Truck farming;

g. Forestry;

h. Sod farming; or

i. Wild crop harvesting;

2. The keeping of agricultural livestock, in accordance with other city ordinances relating thereto;

3. Public or private recreational uses or uses similar in nature, such as:

a. Golf courses;

b. Tennis courts;

c. Archery ranges;

d. Picnic grounds;

e. Boat launching ramps;

f. Swimming areas;

g. Parks;

h. Wildlife and nature preserves;

i. Game farms;

j. Fish hatcheries;

k. Shooting preserves;

1) Target ranges;

m. Hunting and fishing areas; and

n. Walking and riding trails;

4. Public or private open spaces;

5. Residential lawns, gardens, parking, and play areas; and

6. Docks, piers and other water-related uses. (Code 1991, §12-341)

§ 122-508 PERMITTED ACCESSORY USES.

Subject to the provisions of these regulations and other city ordinances, the accessory uses permitted in the F-1, floodway district, shall be uses clearly incidental and necessary to the permitted principal uses in this district, provided that:

1. Such uses shall not require fill of any type;

2. Such uses shall not adversely affect the channel or floodway capacity of any main stream, tributary, drainage ditch, or other drainage facility; and

3. Such uses shall not be detrimental to uses permitted in the adjoining F-2, floodway fringe (overlay) district, or other districts within the F-2, floodway fringe (overlay) district. (Prior Code 1991, §12-342)

§ 122-509 USES PERMITTED ON REVIEW.

Subject to the requirements of article I of this chapter, the planning commission may permit the following uses on review, provided that all of the standards set forth in section 122-510 are met:

1. Extraction of sand, gravel, or other materials;

2. Temporary or seasonal roadside stands;

3. Circuses, carnivals, and similar transient amusement enterprises;

4. Stables;

5. Storage yards for equipment, machinery, or materials; and

6. Railroads, streets, bridges, utility transmission lines and pipelines. (Prior Code 1991, §12-343)

§ 122-510 SPECIAL REQUIREMENTS.

Prior to final approval of a use permitted on review in the F-1, floodway district, the following standards must be met:

1. No use shall be permitted which is detrimental to existing or permitted uses in the adjoining F-2, floodway fringe (overlay) district, or other districts within the F-2, floodway fringe (overlay) district;

2. No use shall be permitted which is in conflict with policies recommended by the comprehensive plan of the city;

3. No structure, temporary, or permanent, fill, deposit, obstruction, storage of materials or equipment, or other use may be allowed which, acting alone or in combination with existing or future uses, unduly affects the capacity of the floodway or increases the water surface elevation of the one-hundred (100) year flood more than one foot at any point;

4. Before any fill may be deposited in the floodway, certification by a professional registered engineer or architect must be provided, demonstrating that such fill shall not result in any increase in flood levels. Such certification shall be accompanied by a plan showing the uses to which the filled land will be put and the final dimensions of the proposed fill. Such fill, if allowed, shall be protected against erosion by rip-rap, vegetative cover, or bulk heading;

5. No structures shall be designed for human habitation. Any structures permitted shall be firmly anchored to prevent flotation and shall be placed with the longitudinal axis parallel to the direction of flood flow;

6. Service facilities, such as electrical equipment, shall be constructed one foot above the flood protection elevation for the particular area, and flood proofed; and

7. Storage or processing of materials that are buoyant, flammable, explosive, or which could cause injury in time of flooding are prohibited. All other similar materials must be firmly anchored or readily and quickly removable prior to flooding. (Prior Code 1991, §12-344)

§§ 122-511 – 122-535 RESERVED.

DIVISION 15

FLOODWAY FRINGE, F-2 DISTRICT*

§ 122-536 Purpose.
§ 122-537 Permitted principal uses and structures; off-street parking.
§ 122-538 Permitted accessory uses and structures.
§ 122-539 Uses and structures permitted on review.
§ 122-540 Special requirements.
§§ 122-541 – 122-565 Reserved.

§ 122-536 PURPOSE.

This overlay district provides special regulations designed to reduce flood losses in those areas of the floodplain, outside of the floodway, which are subject to periodic flooding and therefore require special consideration before development is permitted to occur. The requirements of this overlay district are in addition to the requirements contained in the basic, underlying zoning districts. (Prior Code 1991, §12-350)

***Cross reference*: Floods, ch. 42.**

§ 122-537 PERMITTED PRINCIPAL USES AND STRUCTURES; MINIMUM REQUIRED OFF-STREET PARKING.

The following are the permitted principal uses and structures and minimum required off-street parking:

Permitted principal uses and structures	*Minimum required off-street parking*
1. Any use permitted in the F-l, floodway district	**Not applicable; and**
2. Structures or substantial improvements to structures; provided that they meet all of the conditions set forth in section 122-510	**Minimum parking requirements shall be the same as required be the underlying zoning district in which the use is allowed.**

(Prior Code 1991, §12-351)

§ 122-538 PERMITTED ACCESSORY USES AND STRUCTURES.

Subject to the provisions of these regulations and other city ordinances, the following accessory uses and structures are permitted in the F-2, floodway fringe district, provided that all of the standards set forth in section 122-540 below are met: uses and structures clearly incidental and necessary to the permitted principal uses and structures in this district. (Prior Code 1991, §12-352)

§ 122-539 USES AND STRUCTURES PERMITTED ON REVIEW.

The planning commission may require that any permitted principal use or structure be subject to the use permitted on review procedure in article I of this chapter when any of the data provided in accordance with section 122-540 to the commission is incomplete, erroneous, or subject to question. (Prior Code 1991, §12-353)

§ 122-540 SPECIAL REQUIREMENTS.

All of the following conditions must be met prior to the issuance of a building permit for construction of or substantial improvements to any structure in the F-2, floodway fringe district. The property owner/applicant shall provide, with the building permit application, such topographic, engineering, or other data as may be required to determine the effects of the structure or fill on the flow of water or the effects of flooding on the proposed structure, or fill:

1. Structures must be constructed so that the lowest floor, including basement, is elevated one foot above the level of the one-hundred (100) year flood;

2. Fill for such structures shall extend at such elevation (subsection (1) of this section) at least fifteen (15) feet at the front and rear and five (5) feet at the sides beyond such structure;

3. No use shall be constructed which will adversely affect the capacity of channels or floodways of any tributary to the main stream, drainage ditch, or any other drainage system by increasing the water surface elevation of the one-hundred (100) year flood more than one foot at any point;

4. Construction materials and methods must be used which are flood-resistant and will minimize flood damage;

5. All buildings, structures, mobile homes, equipment, materials, or applicable uses shall be firmly anchored to prevent flotation, collapse, or lateral movement which could damage other structures or restrict bridge openings or other narrow sections of the stream;

6. Waste disposal and water supply facilities shall be modified or protected to eliminate infiltration of floodwaters into such systems and discharges from such systems into the floodwaters; and

7. New construction or substantial improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including the basement, elevated to the level of the one-hundred (100) year flood elevation or, together with utility and sanitary facilities, shall be flood proofed so that the structure is watertight below the one hundred (100) year flood level, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads, as well as the effects of buoyancy. A registered professional engineer or architect shall certify in writing at the time of the submission of the building permit application that these standards will be met by the proposal. (Prior Code 1991, §12-354)

§§ 122-541 – 122-565 RESERVED.

DIVISION 16

SPECIAL DEVELOPMENT CONDITIONS, S-l DISTRICT

§ 122-566 Purpose.
§ 122-567 Permitted principal uses and structures; off-street parking.
§ 122-568 Permitted accessory uses and structures.
§ 122-569 Procedures.
§ 122-570 Special requirements.
§§ 122-571 – 122-595 Reserved.

§ 122-566 PURPOSE.

This overlay district provides special regulations for development in areas containing environmental conditions which may be sensitive to development or hazardous to develop or in areas which would be difficult to provide with suitable and adequate utilities and facilities. The requirements of the overlay district are in addition to the requirements contained in the basic, underlying zoning districts. (Prior Code 1991, §12-360)

§ 122-567 PERMITTED PRINCIPAL USES AND STRUCTURES; MINIMUM REQUIRED OFF-STREET PARKING.

The following are the permitted principal uses and structures and minimum required off-street parking:

Permitted principal uses and structures	*Minimum required off-street parking*
Any use permitted in the underlying zoning districts, provided that such use meets all applicable require ments established for this district.	**Off-street parking requirements shall be the same as may be established for the use in the applicable underlying zoning district.**

(Prior Code 1991, §12-361)

§ 122-568 PERMITTED ACCESSORY USES AND STRUCTURES.

Subject to the provisions of these regulations and other city ordinances, the following accessory uses and structures are permitted in the S-l, special development conditions district, provided that all of the standards set forth in section 122-570 are met:

1. Uses and structures clearly incidental and necessary to the permitted principal uses and structures in this district;

2. Solar collectors, whether as part of a structure or incidental to a group of nearby structures, when use for the purpose of providing energy for heating, or cooling of related principal structures. (Prior Code 1991, §12-362)

§ 122-569 PROCEDURES.

A. The city planning commission and city council shall review all proposals for development within a designated S-1, special development conditions district, utilizing the use permitted on review procedures established in article I of these zoning regulations.

B. Prior to submitting its recommendation to the city council, the city planning commission shall review the proposal using the following criteria:

1. Consistency with the city's comprehensive plan; and

2. Compliance with the applicable provisions and standards included in section 122-570.

C. If rezoning of the land is necessary, the city planning commission chairman shall inform the applicant of the need to initiate the rezoning process. (Prior Code 1991, §12-363)

§ 122-570 SPECIAL REQUIREMENTS.

Land within the S-1, special development conditions district, may be developed following review by the planning commission and city council in accordance with the following requirements:

1. The applicant shall submit a development plan if the proposal is for more than one lot or a building site plan, if the proposal is for one lot only. Development or building site plan requirements shall be the same as the requirements for development plans in the R-6, planned residential development district, or the C-4, planned commercial district, depending upon the nature of the development;

2. The development or building site plan shall be considered by the planning commission and city council using the following review criteria:

a. The provision of safe building sites for structures;

b. Provision of safe access for pedestrian and vehicular traffic;

c. Use of natural topography to minimize cutting and grading in traffic way construction;

d. Protection of possible aquifer recharge areas;

e. Prevention of soil erosion;

f. Use of innovative design and construction techniques to encourage preservation and compatible use of unique natural features and open spaces; and

g. Consideration of soil types and problems in the development and use of land; and

3. If the development proposal constitutes a subdivision, as defined herein or in chapter 94, the requirements of the subdivision regulations must be met by the applicant prior to the issuance of any building permits for actual construction, but subsequent to the final approval of the applicant's zoning request. (Prior Code 1991, §12-364)

§§ 122-571 – 122-595 RESERVED.

DIVISION 17

HISTORIC, H DISTRICTS

§ 122-596 Purpose.
§ 122-597 Procedures for historic district designation.
§ 122-598 Administrative procedures for historic districts.
§ 122-599 Special requirements.
§§ 122-600 – 122-625 Reserved.

§ 122-596 PURPOSE.

This overlay district is designed to encourage the protection, stabilization, rehabilitation and restoration of the city's identified neighborhoods of historic, architectural, social, or visual significance and the individual landmarks, landmark sites, and historic features located therein in order to safeguard the city's historic and cultural heritage as embodied and reflected in such designated historic districts. The requirements of this overlay district are in addition to the requirements contained in the basic, underlying zoning districts. (Prior Code 1991, §12-370)

§ 122-597 PROCEDURES FOR HISTORIC DISTRICT DESIGNATION.

A. The planning commission and the city council shall review all proposals for the creation of specific historic districts authorized under the general provisions of this district utilizing the zoning amendment procedures established in section 122-13, with the following exceptions:

1. Study of any proposed historic district may be initiated by the planning commission, as well as by the private sector;

2. No fee shall be charge for review of proposed historic districts; and

3. Notice of public hearings shall be given to all affected persons by newspaper publication.

B. The planning commission and the city council shall review only historic district proposals which:

1. Meet the provisions of section 122-599; and

2. Are based upon the development of a proposed historic district plan and accompanying historic district ordinances.

C. Each historic district shall be numbered and titled (for example, H-1, old town historic district, and H-2, railroad yards historic district) and shall be adopted as an individual ordinance.

D. Upon the adoption by ordinance of any designated historic district, the ordinance shall be placed in the records of the clerk to become a legal part of the zoning regulations. (Prior Code 1991, §12-371)

§ 122-598 ADMINISTRATIVE PROCEDURES FOR HISTORIC DISTRICTS.

A. *Review of building permit applications*. All building permit applications for work in an area officially designated as an historic district shall first be reviewed by the city planning commission for compliance with the terms of the applicable historic district ordinance.

B. *Time limit for review*. The commission shall have thirty (30) days from the date of receipt of the building permit application to review the application.

C. *Approval of permit issuance*. If the planning commission determines that the activity proposed by the application is in compliance with the provisions of the applicable historic district ordinance and will not destroy or adversely affect any landmark, landmark site, historic district property, or the overall character of the historic district, the commission may approve, in writing, the issuance of the building permit.

D. *Withholding of approval*. If the planning commission determines that a landmark, landmark site, historic district property, or the overall character of the historic district would be adversely affected by the proposed change, the commission may withhold its approval of the granting of the building permit.

E. *Transmission of disapproval; meeting with applicant*. If the planning commission refuses to approve issuance of the building permit, it shall transmit its reasons therefor, in writing, to the applicant within seven days of such decision. The commission shall also request that the applicant meet with the commission to work out a mutually acceptable agreement to avoid the adverse effects, maintain historic, architectural, social, or visual integrity, and achieve the applicant's objectives. If no plan of agreement can be reached by the planning commission and the applicant within six (6) months of the date of the planning commission's letter of permit refusal to the applicant, the city building inspector may issue the building permit, without approval of the commission, if the applicant requests issuance of the permit.

D. ***Additional procedures or requirements*****. The planning commission may incorporate additional administrative procedures or requirements in individual historic district ordinances in order to supplement or complement the basic procedures outlined in this section. (Prior Code 1991, §12-372)**

§ 122-599 SPECIAL REQUIREMENTS.

A. Each historic district ordinance shall contain, as a minimum, material to fit the following outline:

1. Boundaries;

2. Special administrative provisions;

3. Historic district plan preparation;

4. Character of the area;

5. General design regulations;

6. Permitted uses;

7. Off-street parking provisions;

8. Signs; and

9. Public facilities design and construction;

B. Any building permit application or historic district proposal for which a rezoning request or requests must be made, or for which a waiver or variance of the city's adopted building code must be obtained, shall be accompanied by the rezoning request, in accordance with the provisions of section 122-13 of article I of this chapter, or a written request to the appropriate agency for the waiver, or variance. (Prior Code 1991, §12-373)

§§ 122-600 – 122-625 RESERVED.

DIVISION 18

MUNICIPAL AIRPORT

§ 122-626 Short title.
§ 122-627 Definitions.
§ 122-628 Airport zones.
§ 122-629 Airport zone height limitations.
§ 122-630 Use restrictions.

§ 122-631 Nonconforming uses.
§ 122-632 Permits and variances.
§ 122-633 Enforcement.
§ 122-634 Board of adjustment.
§ 122-635 Appeals.
§ 122-636 Judicial review.
§ 122-637 Penalties.
§ 122-638 Conflicting regulations.
§ 122-639 Acquisition of air rights.
§§ 122-640 – 122-670 Reserved.

§ 122-626 SHORT TITLE.

This division shall be known and may be cited as the "Purcell Municipal Airport Zoning Ordinance." (Ord. No. 01-A14, §1, 9-27-2001)

§ 122-627 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:

1. *Airport* means the city airport.

2. *Airport elevation* means feet above mean sea level at the highest point on the runway surface.

3. *Airport hazard* means any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft.

4. *Airport hazard area* means any area of land or water upon which an airport hazard might be established if not prevented as provided in this division.

5. *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 122-629. In a plane, the perimeter of the approach surface coincides with the perimeter of the approach zone.

6. *Approach transitional horizontal and conical zones* means zones as set forth in section 122-628.

7. *Board of adjustment* means a board consisting of five (5) members appointed by the trustees as provided in 3 O.S. § 110, as amended.

8. ***Conical surface*** **means a surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) to one for a horizontal distance of four-thousand (4,000) feet.**

9. ***Height*****, for the purpose of determining the height limits in all zones set forth in this division and shown on the zoning map, means the datum which shall be mean sea level elevation unless otherwise specified.**

10. ***Horizontal surface*** **means a horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which in plane coincides with the perimeter of the horizontal zone.**

11. ***Nonconforming use*** **means any preexisting structure, object of natural growth, or the use of land which is inconsistent with the provisions of this division or an amendment thereto.**

12. ***Obstruction*** **means any structure, growth, or any other object, including a mobile object, which exceeds a limiting height set forth in section 122-629.**

13. ***Person*** **means any individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity and includes any trustee, receiver, assignee, or any other similar representative thereof.**

14. ***Political subdivision*** **means any municipality, city, town, village, or county.**

15. ***Primary surface*** **means a surface longitudinally centered on a runway. When the runway has a specifically prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway. The width of the primary surface is set forth in section 122-628. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.**

16. ***Runway*** **means a defined area on an airport prepared for landing and takeoff of aircraft along its length.**

17. ***Structure*** **means any object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formations, and overhead transmission lines.**

18. ***Transitional surfaces*** **means surfaces that extend outward at ninety (90) degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approaches surfaces to where they intersect the horizontal and conical surfaces.**

19. ***Tree*** **means any object of natural growth.**

20. ***Utility runway*** **means any runway that is constructed for and intended to be used by propeller driven aircraft of twelve thousand five hundred (12,500) pounds maximum gross weight and less.**

21. ***Visual runway*** **means a runway intended solely for the operations of aircraft using visual approach procedures. (Ord. No. 01-A14, §2, 9-27-2001)**

§ 122-628 AIRPORT ZONES.

In order to carry out the provisions of this division, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces and conical surfaces as they apply to the Purcell Municipal Airport. Such zones are shown on the Purcell Airport Zoning Map, prepared by Barnard Dunkelberg and Company, and dated June 2001, which is on file in the city hall. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. ***Utility runway visual approach zone*****. The inner edge of this approach zone coincides with the width of the primary surface and is two-hundred fifty (250) feet wide. The approach zone expands outward uniformly to a width of nine-thousand two-hundred fifty (9,250) feet at a horizontal distance of five-thousand (5,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.**

2. ***Transitional zones*****. The transitional zones are the areas beneath the transitional surfaces.**

3. ***Horizontal zone*****. The horizontal zone is established by swinging arcs of five-thousand (5,000) feet radii 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.**

4. ***Conical zone*****. The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of four- thousand (4,000) feet. (Ord. No. 01-A14, §3, 9-27-2001)**

§ 122-629 AIRPORT ZONE HEIGHT LIMITATIONS.

Except as otherwise provided in this division, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this division to a height in excess of the applicable height limit established in this division for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. ***Utility runway visual approach zone*. A utility runway visual approach zone, slopes twenty (20) 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 five-thousand (5,000) feet along the extended runway centerline.**

2. ***Transitional zone*. A transitional zone slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of one-hundred fifty (150) feet above the airport elevation which is eleven-hundred fifty (1,150) feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) 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 at the conical surface.**

3. ***Horizontal zone*. A horizontal zone is established at one hundred fifty (150) feet above the airport elevation.**

4. ***Conical zone*. A conical zone slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at one-hundred fifty (150) feet above the airport elevation and extending to a height of three-hundred fifty (350) feet above the airport elevation.**

5. ***Expected height limitations*. Nothing in this division shall be construed as prohibiting the construction or maintenance of any structure, or the growth of any tree to a height of fifty (50) feet above the surface of the land. (Ord. No. 01-A14, §4, 9-27-2001)**

§ 122-630 USE RESTRICTIONS.

Not with standing any other provisions of this division, no use may be made of land or water within any zone established by this division 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. 01-A14, §5, 9-27-2001)

§ 122-631 NONCONFORMING USES.

A. ***Regulations not retroactive*. The regulations prescribed by this division 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 the effective date of the ordinance from which this section is derived, or otherwise interfere with the continuance of a nonconforming use. Nothing contained in this division shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of**

which was begun prior to the effective date of the ordinance from which this section is derived, 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 joint airport zoning board to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstructions. Such markers and lights shall be installed, operated, and maintained at the expense of the Purcell Municipal Airport and the city. (Ord. No. 01-A14, §6, 9-27-2001)

§ 122-632 PERMITS AND VARIANCES.

A. *Future uses*. Except as specifically provided in subsections (a)(1), (2) and (3) of this section no material change shall be made in the use of the land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefor shall have 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 in this division prescribed in this division. If such determination is in the affirmative, the permit shall be granted. No permit for use inconsistent with the provisions of this division 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 structure or tree less than seventy-five (75) feet of the vertical height above the ground, except when, because of terrain, land contour, or topographical features, such structure or tree 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 no less than forty two-hundred (4,200) feet from each end of the runway, no permit shall be required for any structure or tree less than seventy-five (75) feet of vertical height above the ground, except when such structures or tree would extend above the height limit prescribed for such approach zones.

3. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any structure or tree less than seventy-five (75) feet of vertical height above the ground, except when such structure or tree, because of terrain, land contour, or topographical features, would extend above the height limit prescribed for such transition 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 division except as set forth in subsection 122-629(5).

B. *Existing uses*. No permit 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 the effective date of the ordinance from which this section is derived or any amendments thereto or than it is when the application for permit is made. Except as indicated, all applications for such permit shall be granted.

C. *Nonconforming uses abandoned or destroyed*. Whenever the joint airport zoning board determines that a nonconforming structure or tree has been abandoned or more than eighty (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 allow the growth of any tree, or use property, not in accordance with the regulations prescribed in this division, may apply to the board of adjustment for a variance from such regulations. The application for a 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 and 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 division. Additionally, no application for variance to the requirements of this division may be considered by the board of adjustment unless a copy of the application has been furnished to the airport zoning commission for advise as to the aeronautical effect of the variance. If the airport zoning commission does not respond to the application within fifteen (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 division and is reasonable in its circumstances, be so conditioned as to require the owner of the structure 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. 01-A14, §7, 9-27-2001)

§ 122-633 ENFORCEMENT.

It shall be the duty of the joint airport zoning board, to administer and enforce the regulations prescribed in this division. An application for permits or variances shall be made to the airport zoning commission on a form published for that purpose. Applications required by this division shall be submitted to the chairman, airport zoning commission,

promptly considered and, along with a recommendation to grant or deny the application, promptly forward to the joint airport zoning board for approval or denial thereof. (Ord. No. 01-A14, §8, 9-27-2001)

§ 122-634 BOARD OF ADJUSTMENT.

A. As required by 3 O.S. §110, there is hereby created a 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 joint airport zoning board, in the enforcement of this division;

2. To hear and decide special exceptions to the terms of this division upon which such board of adjustment under such regulations may be required to pass; and

3. To hear and decide specific variances.

B. The board of adjustment shall consist of five (5) members appointed by the joint airport zoning board and each shall serve for a term of three (3) years until a successor is duly appointed and qualified. Members shall be removable by the appointing authority for cause, upon written charges, after a public hearing.

C. The board of adjustment shall adopt rules for its governance and in harmony with the provisions of this division. Meetings of the board of adjustment shall be held at the call of the chairman and at such other times as the board of adjustment may determine. The chairman, or in the absence of the chairman, the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the board of adjustment shall be public and comply with the Open Meetings Act. The board of adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the board and shall be a public record.

D. The board of adjustment shall make written findings of facts and conclusions on 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 division.

E. The concurring vote of a majority of the members of the board of adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the joint airport zoning board, or to decide in favor of the applicant on any matter upon which it is required to pass under this division, or to effect variation to this division. (Ord. No. 01-A14, §9, 9-27-2001)

§ 122-635 APPEALS.

A. Any person aggrieved, or any taxpayer affected by any decision of the joint airport zoning board, made in the administration of this division' 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 chairman and the airport zoning commission, a notice of appeal specifying the grounds thereof. The chairman, airport zoning commission, shall forthwith, transmit to the board of adjustment and the joint airport zoning board all the papers constituting the record upon which the action appealed from was taken.

C. An appeal shall stay all proceedings in the furtherance of the action appealed from unless the chairman, airport zoning commission, 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 chairman, airport zoning commission, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the board of adjustment or notice to the chairman, airport zoning commission, 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, including the state aeronautics commission 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 division, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as may be appropriate under the circumstances. (Ord. No. 01-A14, §10, 9-27-2001)

§ 122-636 JUDICIAL REVIEW.

As provided in 3 0.8. §111, any person aggrieved, or any taxpayer affected by any decision of the board of adjustment, and who is of the opinion that the decision is illegal, may appeal to the district court. (Ord. No. 01-A14, §11, 9-27-2001)

§ 122-637 PENALTIES.

Each violation of this division or of any regulation, orders, or rulings promulgated by the political subdivision, joint airport zoning board, board of adjustment, or the state aeronautics commission pursuant to this division, shall constitute a misdemeanor and shall be punishable by a fine of not more than five-hundred ($500.00) dollars or imprisonment for not more than one year in the county jail, or both such fine and imprisonment. Each

day a violation continues to exist shall constitute a separate violation. In addition, the joint airport zoning board may institute in any court of competent jurisdiction, an action to prevent, restrain, correct, or abate any violation of this division, or of any airport zoning regulations adopted under this division, or of any order or ruling made in connection with their administration or enforcement, and the court shall adjudge to the plaintiff such relief, by way of injunction or otherwise, as may be proper under all the facts and circumstances of the case, in order to fully effectuate the purpose of this division and of the regulations adopted and orders and rulings made pursuant thereto. (Ord. No. 01-A14, §12, 9-27-2001)

§ 122-638 CONFLICTING REGULATIONS.

In any case in where a conflict in regulations established by this division arises, the provisions of 3 O.S. §100 et seq., the Airport Zoning Act, shall take precedence. (Ord. No. 01-AI4, §13, 9-27-2001)

§ 122-639 ACQUISITION OF AIR RIGHTS.

In any case in which:

1. It is desired to remove, lower, or otherwise terminate a nonconforming structure or use;

2. The approach protection necessary cannot, because of constitutional limitations, be provided under this division; or

3. It appears advisable that the necessary approach protection be provided by acquisition of the property rights rather than by airport zoning regulations. The political subdivision within which the property or nonconforming use is located, or by the city, as owner of the airport may acquire, by purchase, grant, or condemnation in the manner provided under the law for such public purposes, such air rights, aviation easements, or other estate or interest in the property of a nonconforming structure or use in question as may be necessary to effectuate the purpose of this division. (Ord. No. 01-A14, §14, 9-27-2001)

§§ 122-640 – 122-670 RESERVED.

ARTICLE III

NEIGHBORHOOD PLANS PROGRAM*

***Editor's note*: Article III of this chapter has been deleted at the direction of the city. See section 94-321 et seq. regarding the Neighborhood Plans Program.**

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