CHECOTAH, OKLAHOMA

CODE OF ORDINANCES
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Chapter 1. GENERAL PROVISIONS

Sec. 1-1. Designation and citation of Code.

The chapters, articles, divisions and sections embraced in this Code shall constitute and be designated as "The Code of Ordinances of the City of Checotah, Oklahoma," and may be so cited. This Code may also be cited as the "Checotah City Code."

(Code 1997, § 1-1)

Sec. 1-2. Definitions and rules of construction.

The following definitions and rules of construction shall apply to this Code and to all ordinances and resolutions unless the context requires otherwise:

Generally. When provisions conflict, the specific shall prevail over the general. All provisions shall be liberally construed so that the intent of the city council may be effectuated. Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings. This Code shall be interpreted and applied so as to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare.

City. The term "city" means the City of Checotah, McIntosh County, Oklahoma.

City council. The term "city council" means the city council of the City of Checotah, Oklahoma.

Code. The term "Code" means The Code of Ordinances of the City of Checotah, Oklahoma, as designated and cited in section 1-1.

Computation of time. In computing any period of time, 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 is to be included unless it is a Saturday, Sunday, legal holiday, or a day on which the city office in which the act is to be done is closed during regular business hours. In any event, the period runs until the end of the next day that is not a Saturday, Sunday, legal holiday or day on which the city office in which the act is to be done is closed. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, legal holidays and days on which the city office is closed shall be excluded from the computation.

Conjunctions. In a provision involving two or more items, conditions, provisions or events which are connected by the conjunction "and," "or" or "either . . . or," the conjunction shall be interpreted as follows, except that the terms "and" and "or" may be interchangeable:

A. "And" indicates that all the connected terms, conditions, provisions or events apply.

B. "Or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.

C. "Either…or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

County. The term "county" means McIntosh County, Oklahoma.

Delegation of authority. Whenever a provision appears in this Code requiring a city officer or city employee to do some act or make certain inspections, it is to be construed to authorize such officer or employee-designate, delegate and authorized subordinates to perform the required act or make the required inspection.

Easement. The term "easement" means a right, liberty, privilege or advantage without profit which the owner of one parcel of land may have in the lands of another. The term "easement" includes a right of the owner of one parcel of land, by reason of such ownership, to use the land of another for a special purpose not inconsistent with a general property right of the owner.

Gender. Words of one gender include all other genders.

Includes. The term "includes" does not limit a term to a specified example.

In the city. The words "in the city" or "in this city" mean and include any territory within the corporate limits of the city and the police jurisdiction thereof, and any other territory over which regulatory power has been conferred on the city by general or special act, except as otherwise specified.

Joint authority. Words purporting to give authority to three or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise specifically declared.

Law. The term "law" means any statute, ordinance or regulation promulgated by the United States, the state, the county, the city or any agency thereof, as well as the rules and regulations of other bodies politic that may be appropriate.

May. The term "may" is to be construed as being permissive and not mandatory.

May not. The term "may not" states a prohibition and has a prohibitory effect.

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

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

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

Official time standard. Whenever certain hours are named in this Code, they mean standard time or daylight savings time as may be in current use in the city.

Officials, employees, boards, commissions, etc. Whenever reference is made to officials, employees, boards, commissions or other agencies of the city by title only, such as "mayor," "clerk," "chief of police," etc., they shall be

deemed to refer to the officials, employees, boards, commissions or other agencies of the city.

O.S. The abbreviation "O.S." refers to the latest edition of the Oklahoma Statutes, as amended.

Owner. The term "owner" shall, when applied to a property, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of such property.

Person. The term "person" means any human being, any governmental or political subdivision or public agency, any public or private corporation, any partnership, any firm, association or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing, or any other legal entity.

Personal property. The term "personal property" means any property other than real property.

Preceding, following. The terms "preceding" and "following" means the next before and the next after, respectively.

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

Public place. The term "public place" means any public way, park, cemetery, school yard or open space adjacent thereto, any public lake or stream, and any place or business open to the use of the public in general, open to public view or to which the public has access.

Public way. The term "public way" means any street, alley, boulevard, parkway, highway, sidewalk or other public thoroughfare.

Real property. The term "real property" shall include lands, tenements and hereditaments.

Reasonable time. In all cases where any section of this Code or city ordinance shall require any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall be deemed to mean such time only as may be necessary for the prompt performance of such duty, or compliance with such notice.

Residence. The term "residence" means the place adopted by a person as his place of habitation and to which, whenever he is absent, he has the intention of returning. When a person eats at one place and sleeps at another, the place where such person sleeps shall be deemed to be his residence.

Roadway. The term "roadway" means that portion of a street improved, designed or ordinarily used for vehicular traffic.

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

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

Signature or subscription by mark. The terms "signature" and subscription" include a mark when the signer or subscriber cannot write. In such situations, such person's name shall be written near the mark by a witness who writes his own name near such person's name.

State. The term "the state" or "this state" means the State of Oklahoma.

Statutory references. The abbreviation "O.S." means the Oklahoma Statutes, and such term or any other reference to the statutes of the state means such statutes as now or hereafter amended, supplemented or recodified.

Street. The term "street" means and include public streets, avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges, public ways and approaches thereto and other public thoroughfares in the city devoted to public use.

Tenant, occupant. The terms "tenant" and "occupant," as applied to premises, include any person holding a written or oral lease or who actually occupies the whole or any part of such premises, alone or with others.

Tense. The present tense includes the past and future tenses. The future tense includes the present tense.

Writing, written. The terms "writing" and "written" shall include any form of recorded message capable of comprehension by ordinary visual means.

Year. The term "year" means a calendar year.

(Code 1997, §§ 1-2, 1-3)

Sec. 1-3. Catchlines of sections; history notes and references.

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

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

C. All references to chapters or sections are to chapters or sections of this Code unless otherwise specified.

(Code 1997, §§ 1-5--1-7(1))

Sec. 1-4. Effect of repeals.

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

B. The repeal or amendment of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor does such repeal or amendment affect any suit, prosecution or proceeding pending at the time of such repeal or amendment.

(Code 1997, § 1-13)

Sec. 1-5. Amendments, additions and repeals of Code.

A. All ordinances passed subsequent to the adoption of 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 herein.

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

C. In the event a new section not heretofore existing in the Code is to be added, the following language shall be used: "The Code of Ordinances of the City of Checotah, Oklahoma, is hereby amended by adding a section (chapter, article, division or subdivision, as appropriate), to be numbered _____, which said section (chapter, article, division or subdivision, as appropriate) reads as follows: . . . ." The new section shall then be set out in full as desired.

D. All provisions desired to be repealed should be repealed by section, subdivision, division, article or chapter number, as appropriate, or by setting out the repealed provisions in full in the repealing ordinance. Portions of this Code repealed by subsequent ordinances may be excluded from this Code by omission from reprinted pages affected thereby.

Sec. 1-6. Altering Code.

It shall be unlawful for any person to change or amend, by additions or deletions, any part or portion of this Code, to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the city to be misrepresented thereby; provided that supplementation of this Code by authorized persons shall be permitted.

(Code 1997, § 1-9)

Sec. 1-7. Supplementation of Code.

A. Supplements to this Code shall be prepared and printed whenever authorized or directed by the city. A 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 the supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete. The new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

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

C. When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as necessary to do so in order to embody them into a unified Code. For example, the person may:

   1. Arrange the material into appropriate organizational units.

   2. Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in the Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in the Code.

   3. Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to the Code.

   4. Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.

   5. Change the words "this ordinance" or similar words to "this chapter," "this article," "this division," "this subdivision," "this section" or "sections _____ to _____" (inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated in the Code).

   6. Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the Code.

Sec. 1-8. General penalty; continuing violations.

A. For the purposes of this section, the term "violation of this Code" means any of the following:

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

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

   3. Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, a violation or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.

B. The term "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.

C. Except as otherwise provided by law or ordinance, a person convicted of a violation of this Code shall be punished as follows, provided that no penalty, including fine and costs, shall be greater than that established by statute for the same offense, and that

no penalty shall be less than that established by statute for the same offense, and the specific penalty or punishment shall be determined by a schedule adopted by the city council and maintained in the offices of the city clerk and the municipal court clerk, and such schedule shall provide the prescribed punitive measures for violations of this Code:

1. For speeding or illegal parking, by a fine or deferral fee in lieu of a fine not exceeding $200.00.

2. For alcohol-related or drug-related offenses, by a fine or deferral fee in lieu of a fine not exceeding $800.00.

3. For offenses pertaining to the pretreatment of wastewater or regulating stormwater discharges, by a fine not exceeding $1,000.00 and costs or imprisonment not exceeding 90 days, or both such fine and imprisonment.

4. For all other offenses, by a fine or deferral fee in lieu of a fine not exceeding $750.00.

D. A person who is charged with such an offense that carries a possible imprisonment penalty shall have a right to a jury trial.

E. Except as otherwise provided by law or ordinance:

1. As to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense; and

2. As to other violations, each act is a separate offense.

F. Any person fined for a violation of this Code who is financially able but refuses or neglects to pay the fine or costs may be compelled to satisfy the amount owed by working on the streets, alleys, avenues, areas and public grounds of the city, subject to the direction of the mayor or his designee, at the minimum rate allowed by statute for useful labor, or at a rate prescribed by ordinance, until the fine or costs are satisfied.

G. The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.

H. Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief.

I. The city shall not have authority to enact any ordinance making unlawful any act or omission declared a felony by state statute.

(Code 1997, §§ 1-10, 1-11)

Sec. 1-9. Severability of parts of Code.

The sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared invalid, unenforceable or unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such invalidity, unenforceability or unconstitutionality shall not affect the validity of any of the remaining phrases, clauses, sentences, paragraphs or sections of this Code, since the sections or parts of sections would have been enacted by the council without and irrespective of any unconstitutional or otherwise invalid section, subsection, paragraph, sentence, clause or word being incorporated into this Code.

(Code 1997, § 1-12)

Sec. 1-10. Continuation of existing ordinances.

The provisions of this Code, so far as they are the same as ordinances existing at the time of adoption of this Code, shall be considered as a continuation thereof and not as new enactments.

Sec. 1-11. Prior acts, obligations or uses unaffected.

A. Nothing in this Code or the ordinance adopting this Code affects any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

B. The adoption of this Code does not authorize or permit any use or the continuance of any use of a structure or premises in violation of any ordinance of the city in effect on the date of adoption of this Code.

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

A. Nothing in this Code or the ordinance adopting this Code affects the validity of any ordinance or portion of an ordinance:

1. Annexing property into the city or describing the corporate limits.

2. De-annexing property or excluding property from the city.

3. Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.

4. Authorizing or approving any contract, deed or agreement.

5. Making or approving any appropriation or budget.

6. Granting any right or franchise.

7. Providing for salaries or other officer or employee benefits not codified in this Code.

8. Adopting or amending the comprehensive plan.

9. Levying or imposing any special assessment.

10. Dedicating, accepting or vacating any plat or subdivision.

11. Naming, renaming, creating, establishing, locating, relocating, opening, dedicating, vacating, closing, paving, widening, repairing, or

providing traffic control for specific streets, alleys or other public ways.

12. Establishing the grade of any street or sidewalk.

13. Levying, imposing or otherwise relating to taxes not codified in this Code.

14. Amending the zoning map or zoning atlas, or rezoning specific property.

15. That is temporary, although general in effect.

16. That is special, although permanent in effect.

17. The purpose of which has been accomplished.

B. The ordinances designated in subsection (A) of this section shall continue in full force and effect to the same extent as if published at length in this Code.

Chapter 2. ADMINISTRATION

Article I. In General

Sec. 2-1. Police power extended to city property.

The police power of the city is hereby extended to include all lands or property owned or leased by the city or any agency of the city, and the general ordinances of the city shall be applicable on such property.

(Code 1997, § 1-8)

Sec. 2-2. Material adopted by reference.

All standard codes, rules, regulations, and other subject matter herein or hereafter properly incorporated by reference, together with subsequent amendments thereto, pursuant to state law, and future incorporations by reference shall be kept and preserved in the office of the city clerk. All material incorporated by reference shall be available for inspection by the public in the city clerk's office during regular business hours. The city clerk shall keep copies of the ordinances, codes, or compilations for distribution or sale at a reasonable price.

(Code 1997, § 1-4)

Secs. 2-3--2-22. Reserved.

Article II. Council

Sec. 2-23. Regular meetings.

The regular meeting of the city council shall be held on the second Monday of each month. Said council meetings shall commence at 6:00 p.m., with the city public works authority meeting to begin immediately following adjournment of the council meeting.

(Code 1997, § 2-21; Ord. No. 188, § 1, 5-20-1915; Ord. No. 486, § 1, 12-2-1991; Ord. No. 507, § 1, 5-12-1997; Ord. No. 526, § 1, 11-22-1999)

Sec. 2-24. Special meetings.

The mayor or any three council members may call special meetings. The call for special meetings must be in writing and specify the subjects to be considered. No business other than that specified in the call shall be transacted at the special meeting.

(Code 1997, § 2-22; Ord. No. 1, § 3, 10-29-1898)

Sec. 2-25. Robert's Rules of Order.

Except as may be otherwise specifically provided by law, the meetings of the council shall be governed by the current edition of Robert's Rules of Order, Newly Revised.

(Code 1997, § 2-2; Ord. No. 1, § 1, 10-29-1898)

Secs. 2-26--2-53. Reserved.

Article III. Officers and Employees

Sec. 2-54. Bonds.

A. The following officers of the city shall post the indicated bond for the faithful performance of their duties as follows:

1.	Mayor:	$5,000.00.
2.	City treasurer:	$5,000.00.
3.	City clerk:	$5,000.00.

B. The bonds required by this section shall be obtained within ten days after election or appointment.

C. The cost of the bonds required by this section shall be paid by the city.

D. All bonds shall be filed with the city clerk.

(Code 1997, § 2-66; Ord. No. 355, 4-17-1967)

Sec. 2-55. Compensation of elective officers.

The salaries of the following elected officials are hereby set in the amounts opposite their respective office:

Council Members	$400.00
City Marshall/Police Chief	$52,000.00 per year
Mayor	$60,000.00 per year
Street Commissioner	$1.00 per year
City Clerk:	$1.00 per month
City Treasurer:	$200.00

Sec. 2-56. Deputy City Clerk.

A. There is hereby created the office of deputy city clerk.

B. The deputy city clerk shall be appointed or removed by the city clerk with the consent of the city council.

C. The deputy city clerk shall act as city clerk during the absence, disability or suspension of the city clerk and, while so acting in the place of the city clerk, shall have all the power, rights, privileges and duties of the city clerk.

Secs. 2-57--2-85. Reserved.

Article IV. Employee Benefits

Sec. 2-86. Establishment.

A. Pursuant to the authority conferred by the laws of the state, and for the purpose of encouraging continuity and meritorious service on the part of city employees and thereby promoting public efficiency, there is hereby authorized, created, established, and approved and adopted, effective as of January 1, 2011, the amended and restated plan designated the "Employee Retirement System of the City of Checotah, Oklahoma, Defined Benefit Plan,"

hereinafter referred to as "system," executed counterparts of which are marked exhibit "A" and exhibit "B." Copies of the plan and exhibits are incorporated by reference as if published herein and kept on file for public inspection in the office of the city clerk.

B. For the purpose of administration of the system, there is hereby established a retirement committee, which shall be the members of the city council as now existing or as from time to time duly elected or appointed and constituted. The powers and duties of the committee shall be as set forth in the system instrument incorporated by reference as exhibit "A."

C. A fund is hereby provided for the exclusive use and benefit of the persons entitled to benefits under the system. All contributions to such fund shall be paid over to and received in trust for such purpose by the City. Such Fund shall be pooled for purposes of management and investment with similar funds of other incorporated cities, towns, and municipal trusts in the State of Oklahoma as a part of the Oklahoma Municipal Retirement Fund in accordance with the trust agreement of the Oklahoma Municipal Retirement Fund, a public trust. The City shall hold such contributions in the form received, and from time to time pay over and transfer the same to the Oklahoma Municipal Retirement Fund, as duly authorized and directed by the Board of Trustees. The Fund shall be nonfiscal and shall not be considered in computing any levy when the annual estimate is made to the County Excise Board.

D. The City of Checotah, Oklahoma, is hereby authorized to incur the necessary expenses for the establishment, operation, and administration of the System, and to appropriate and pay the same. In addition, the City of Checotah, Oklahoma, is hereby authorized to appropriate annually such amounts as are required in addition to employee contributions to maintain the System and the Fund in accordance with the provisions of the Defined Benefit Plan. Any appropriation so made to maintain the System and Fund shall be for deferred wages or salaries, and for the payment of necessary expenses of operation and administration to be transferred to the trustees of the Oklahoma Municipal Retirement Fund for such purposes and shall be paid into the Fund when available, to be duly transferred to the Oklahoma Municipal Retirement Fund.

E. The Mayor and City Clerk be and they are each hereby authorized and directed to execute (in counterparts, each of which shall constitute an original) the System instrument, and to do all other acts and things necessary, advisable, and proper to put said System and related trust into full force and effect, and to make such changes therein as may be necessary to qualify the same under Sections 401(a) and 501(a) of the Internal Revenue Code of the United States. The counterpart attached hereto as Exhibit “A” and Exhibit “B”, which has been duly executed as aforesaid simultaneously with the passage of this Ordinance and made a part hereof, is hereby ratified and confirmed in all respects.

F. This Committee is hereby authorized and directed to proceed immediately on behalf of the City of Checotah, Oklahoma, to pool and combine the Fund into the Oklahoma Municipal Retirement Fund as a part thereof, with similar funds of such other cities and towns, for purposes of pooled management and investment.

(Ord. No. 539, §§ 1--5, 7-8-2002)

Secs. 2-87--2-115. Reserved.

Article V. Finance

Sec. 2-116. Payment of claims.

Any claim against the city must be presented in writing and verified in the manner provided by law. No account or claim may be paid by the city unless it has been audited and allowed by the council and an entry of the account or claim is made in the proper books kept for that purpose. Monies may be drawn from the city treasury only upon a proper warrant as provided by law. In lieu of issuing such warrant, the city may process payment by check, wire transfer, direct payroll deposit, or other instrument or method of disbursement through the Federal Reserve System.

(Code 1997, § 2-1; Ord. No. 22, § 1, 10-29-1898)

Sec. 2-117. Actions against city.

No costs may be recovered against the city in any action brought against it for any unliquidated claim which has not been presented to the council for auditing, nor for claims allowed in part unless the recovery shall be for a greater sum than the amount allowed with the interest due. No action may be maintained against the city in exercising or failing to exercise any corporate power or authority where such action would not lie against a private individual under like circumstances.

(Code 1997, § 2-2)

Sec. 2-118. Liability for voting unlawful claims.

Any council member who intentionally votes to appropriate money or to allow any bill or claim which is not authorized by law shall be personally liable to the city for the amount of such money appropriated, or bills or claims allowed, with costs of suit, in an action before any court of competent jurisdiction.

(Code 1997, § 2-3)

Sec. 2-119. Police department law enforcement training fund.

A. There is hereby created the city police department law enforcement training fund.

B. Ten dollars from each and every fine collected by the city shall be deposited in such fund.

C. Such fund shall be exclusively used for law enforcement training and the expenses directly related thereto.

D. The expenditures from such fund shall be at the discretion of the mayor and chief of police with approval of the city council.

(Ord. No. 504, §§ 1--4, 10-14-1996)

Chapter 3. RESERVED

Chapter 4. ADVERTISING

Sec. 4-1. Posting generally.

No person shall post any bills, signs, posters or advertisements on any buildings, fences, poles or other property belonging to another without the consent of the owner thereof.

(Code 1997, § 3-1)

Sec. 4-2. Destroying lawful posters prohibited.

It shall be unlawful for any person to wrongfully and maliciously tear down, deface or cover up any posted advertisement or bill of any person when the same is lawfully posted and put up and during the time such sign or advertisement shall be of value.

(Code 1997, § 3-2; Ord. No. 69, 9-22-1902)

Sec. 4-3. Signs, banners across streets.

No person shall erect or place any sign or banner of wood, cloth, metal or other material across any street or sidewalk in the city without permission of the mayor.

(Code 1997, § 3-3)

Sec. 4-4. Marking on streets, sidewalks prohibited.

It shall be unlawful for any person to advertise or attempt to advertise by marking or painting on any of the streets or sidewalks within the city.

(Code 1997, § 3-4)

Sec. 4-5. Civic, etc., signs in public rights-of-way.

Signs, banners, billboards and similar structures and objects directly relating to charitable, historical, religious or other civic services and nonprofit activities may be installed in the public rights-of-way upon obtaining a permit issued by the mayor.

(Code 1997, § 3-5)

Chapter 5. RESERVED

Chapter 6. ALCOHOLIC BEVERAGES AND BEER

Article I. In General

Sec. 6-1. Occupation tax.

A. There is hereby levied an occupational tax upon the following occupations in the following sums:

1. Mixed beverage license:

i. Initial: $1,005.00.

ii. Renewal: $905.00.

B. Such occupational tax is not transferable.

C. The occupational tax for those service organizations or fraternal beneficiary societies which are exempt under section 501(c)(19), (8) or (10) of the Internal Revenue Code for mixed beverage licenses shall be $500.00 per year.

(Code 1997, § 4-81; Ord. No. 474, § 4, 11-20-1989)

Secs. 6-2--6-20. Reserved.

Article II. Alcoholic Beverages

Sec. 6-21. 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, and all words, terms and phrases used in this chapter and not defined herein shall be interpreted and construed in accordance with the definitions of the same set forth in the Oklahoma Alcoholic Beverage Act (37 O.S. § 502 et seq.), a copy of which shall be available for inspection by the public in the city clerk's office during regular business hours and copies of which shall be kept by the city clerk for distribution or sale at a reasonable price, with the same force and effect as if set forth in full herein, and such definitions are hereby made a part hereof by reference:

Occupation means, as used in connection with "occupation tax," the sites occupied as places of business of mixed beverage licensees.

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

(Code 1997, § 4-1; Ord. No. 474, § 1, 11-20-1989)

Sec. 6-22. Furnishing to minors, other certain persons.

No person in the city shall sell, give away, dispose of, exchange or deliver, or permit the sale, gift, delivery or procuring of any alcoholic beverage to any minor, any intoxicated person, or any person who has been adjudged insane or mentally deficient.

(Code 1997, § 4-2; Ord. No. 323, § 1, 10-5-1959)

Sec. 6-23. Consumption, drunkenness in public.

A. No person within the city shall drink any alcoholic beverage in any public place, unless authorized by the Oklahoma Alcoholic Beverage Control Act (37A O.S. § 1-101 et seq.), nor shall any person be intoxicated in a public place within the city.

B. A violation of subsection (A) of this section shall be an offense against the city and, upon conviction, shall be punishable by a fine not to exceed $200.00, by imprisonment for not more than 30 days, or by both such fine and imprisonment.

(Code 1997, § 4-3; Ord. No. 323, § 2, 10-5-1959; Ord. No. 474, § 2, 11-20-1989)

Sec. 6-24. Transportation of containers.

It shall be unlawful for any person to transport any alcoholic beverage in any vehicle upon a public highway, street or alley, except in the original container, which shall not have been opened and the seal upon which shall not have been broken, and from which the original cap or cork shall not have been removed, unless the opened container is in the trunk or a closed compartment, out of public view and out of reach of the driver or any occupant of the vehicle.

(Code 1997, § 4-4; Ord. No. 323, § 3, 10-5-1959)

Sec. 6-25. Possession of containers.

It shall be unlawful for any person to have on or about his person any alcoholic beverage while in or upon any public highway, street or alley, or in any of the places described or defined in section 6-23, except in the original container, which shall not have been opened and the seal upon which shall not have been broken, and from which the original cap or cork shall not have been removed.

(Code 1997, § 4-5; Ord. No. 323, § 4, 10-5-1959)

Sec. 6-26. Sale of alcoholic beverages; when permitted.

No alcoholic beverage 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., provided that no alcoholic beverage may be sold, dispensed, served or consumed on the premises of a mixed beverage licensee between the hours of 2:00 a.m. and 12:00 midnight on the first day of the week, commonly known as Sunday. No alcoholic beverage may be sold, dispensed, served or consumed on the premises of a mixed beverage licensee on the day of any national, state, county or city election, including primary elections, during the hours the polls are open, or on Memorial Day, Independence Day, Labor Day, Thanksgiving Day, or Christmas Day.

(Code 1997, § 4-83; Ord. No. 474, § 4, 11-20-1989)

Sec. 6-27. Selling or handling of alcoholic beverages by certain persons.

No person under the age of 21 years shall be employed in the selling or handling of alcoholic beverages, provided that a mixed beverage licensee may employ servers who are at least 18 years of age, except persons under 21 years of age may not serve in designated bar or lounge areas, and a mixed beverage licensee may employ or hire musical

bands who have musicians who are under 21 years of age if each such musician is either accompanied by a parent or legal guardian or has on their person, to be made available for inspection upon demand by any law enforcement officer, a written, notarized affidavit from the parent or legal guardian giving the underage musician permission to perform in designated bar or lounge areas.

(Code 1997, § 4-84; Ord. No. 474, § 4, 11-20-1989)

Sec. 6-28. Mayor or manager may sign certificates of compliance.

The mayor or manager or his designee is hereby designated and authorized to sign certificates of compliance with zoning laws, safety and health codes and fire codes, in conjunction with applications for licenses issued pursuant to the Oklahoma Alcoholic Beverage Control Act.

(Code 1997, § 4-85; Ord. No. 474, § 4, 11-20-1989)

Secs. 6-29--6-59. Reserved.

Article III. Beer

Sec. 6-60. Drinking beer in public unlawful; exception.

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. *Beer* means and includes beverages containing more than 0.5 percent alcohol by volume.

B. It shall be unlawful to consume beer in or upon any public street, alley, road, highway or any other place in which the public has access, excepting businesses properly licensed to sell beer allowing consumption on premises by the state and in or upon property owned by the city.

(Code 1997, § 4-6; Ord. No. 448, § 1, 7-5-1982)

Sec. 6-61. Sunday sales prohibited.

It shall be unlawful for any person to sell beer for consumption on the seller's premises between the hours of 2:00 a.m. on Sunday and 7:00 a.m. of the following Monday.

(Code 1997, § 4-66; Ord. No. 284, § 1, 5-3-1948; Ord. No. 365, § 1, 1-15-1968)

Sec. 6-62. Sale to minors.

It shall be unlawful for any person to sell, barter, or give any beer to any person under 21 years of age.

(Code 1997, § 4-67)

Sec. 6-63. Possession by minors in public places.

It shall be unlawful for any minor to be in possession of any beer while such minor is on any public street, alley, road or highway or in any public building or place.

(Code 1997, § 4-68)

Sec. 6-64. Permitting minors to loiter in sales premises.

It shall be unlawful for any person maintaining a place of business where any beer is sold for consumption on the premises to permit any minor to loiter in such place of business.

(Code 1997, § 4-69)

Sec. 6-65. Permitting intoxicated persons to enter or loiter around sales premises.

It shall be unlawful for any person maintaining a place of business where any beer is sold for consumption on the premises to permit any intoxicated person to loaf or loiter or be in or about such place of business.

(Code 1997, § 4-70)

Chapter 7. RESERVED

Chapter 8. AMUSEMENTS AND ENTERTAINMENTS

Article I. In General

Sec. 8-1. Operation of music machines restricted.

No music or juke box shall be played, operated, or permitted to be played or operated after the hour of 12:00 midnight and before the hour of 6:00 a.m., nor in a loud or unusual manner, nor so as to disturb the quiet, peace, comfort and repose of the citizens of the city.

(Code 1997, § 5-1; Ord. No. 346, § 2, 7-18-1966)

Secs. 8-2--8-20. Reserved.

Article II. Pool Halls and Billiard Parlors

Sec. 8-21. 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:

Pool hall means a room, hall, place or building within the city in which any billiard or pool or combination billiard and pool tables are or may be kept or operated for hire.

(Code 1997, § 5-16)

Sec. 8-22. Responsibility of owner or manager.

It shall be unlawful for the owner, manager or other person in charge or control of any pool hall to knowingly permit any violations of this article in such hall.

(Code 1997, § 5-23)

Sec. 8-23. Generally.

It shall be unlawful for any person to engage in, maintain or permit in a pool hall any conduct or condition which disturbs, injures or endangers the comfort, repose, health or safety of others.

(Code 1997, § 5-17)

Sec. 8-24. Contests of strength or agility.

It shall be unlawful for any person to engage in any disorderly conduct or practice in a pool hall, or to engage or participate in any fight, boxing contest, wrestling match or other contest of physical strength or agility in a pool hall.

(Code 1997, § 5-19)

Sec. 8-25. Noise and profanity.

It shall be unlawful for any person to create any loud, boisterous or unusual noise or use any profane, obscene, violent or insulting language toward or about another person in a pool hall, which action or language, in its common acceptation, is calculated to disturb or arouse to anger the person about or to whom it is spoken or addressed or to cause a breach of the peace or an assault.

(Code 1997, § 5-20)

Sec. 8-26. Gambling.

It shall be unlawful for any person to gamble in any manner or to participate in any game of chance or lottery in a pool hall.

(Code 1997, § 5-21)

Chapter 9. RESERVED

Chapter 10. ANIMALS

Article I. In General

Sec. 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:

At large means off the premises and not controlled by the owner or his immediate family by leash, cord, chain or otherwise.

Domesticated animals means animals which are kept as pets, such as dogs and cats.

Owner or *keeper* means any person owning, keeping, maintaining or harboring, or having care or custody of an animal or animals or fowl.

Provoke or *provocation* means, with respect to an attack by an animal, that the animal was hit, kicked or struck by a person with an object or part of a person's body or that any part of the animal's body is pulled, pinched or squeezed by a person.

Undomesticated animals means horses, cattle, mules, donkeys, goats, swine and/or pigs, sheep, gees, chickens, ducks, turkeys, guineas, rabbits and other animals which are not domesticated.

Vicious animal means an animal which is not only of a disposition to attack every person or animal it may meet, but includes as well a natural fierceness or disposition to mischief as might occasionally lead it to attack human beings or animals without provocation.

Without provocation means, with respect to an attack by an animal, that the animal was not teased, tormented or abused, and also means where the animal was not protecting its owner or owner's property from criminal activity by a perpetrator of a crime.

(Code 1997, § 6-1; Ord. No. 523, 10-25-1999)

Sec. 10-2. Keeping restricted.

It shall be unlawful for any person, firm or corporation, to keep or maintain or suffer to be kept or maintained any undomesticated animal upon any property or premises within the City; EXCEPT, upon property zoned for agricultural use or Industrial use or upon public school property pursuant to an approved agriculture program. All such property shall be maintained in a sanitary condition and not offensive or dangerous to the public health.

(Code 1997, § 6-2; Ord. No. 337, § 6, 4-5-1965)

Sec. 10-3. Running at large.

No person shall allow any undomesticated animal or fowl to roam, run or be at large or on the premises of another within the city.

(Code 1997, § 6-3; Ord. No. 337, § 7, 4-5-1965)

Sec. 10-4. Disturbing the peace.

It shall be unlawful for any person to keep or harbor within the city any animal which, by barking, howling, fighting, destruction of property, or otherwise, causes danger or annoyance to or disturbs the peace and quiet of any person.

(Code 1997, § 6-4; Ord. No. 337, § 10, 4-5-1965; Ord. No. 531, § 4, 8-13-2001)

Sec. 10-5. Nuisance.

The keeping or maintaining of any animal or fowl in violation of the terms of this chapter is hereby declared to be a public nuisance against the public health of the city, and such public nuisances shall be subject to abatement as such.

(Code 1997, § 6-5; Ord. No. 337, § 8, 4-5-1965)

Sec. 10-6. Cruelty.

It shall be unlawful for any person to willfully abuse, cruelly beat, injure or neglect any animal or fowl within the city.

(Code 1997, § 6-6)

Sec. 10-7. Destruction of dangerous or vicious domesticated animals.

Any dangerous, vicious or fierce domesticated animal or any domesticated animal having dangerous, vicious or fierce propensities and tendencies found at large after the owner thereof has previous knowledge or notice that such domesticated animal is dangerous, vicious or fierce or has dangerous, vicious or fierce propensities and tendencies may be killed by any police officer of the city without such officer having to catch or impound such domesticated animal.

(Code 1997, § 6-7)

Sec. 10-8. Unlawful to own vicious domesticated animals.

It shall be unlawful for any person to own or keep any dangerous, vicious or fierce domesticated animal, including, but not limited to, any dogs bred or trained for fighting, within the city limits.

(Code 1997, § 6-8; Ord. No. 531, § 1, 8-13-2001)

Sec. 10-9. Penalty for violation.

Any owner or person responsible for bringing or keeping such vicious animal in the city limits shall be guilty of a misdemeanor and subject to the penalty provisions of section 1-8.

(Code 1997, § 6-9; Ord. No. 531, § 2, 8-13-2001)

Secs. 10-10--10-36. Reserved.

Article II. Impoundment

Sec. 10-37. Authority.

It shall be the duty of the police department to seize and impound, subject to the provisions of this article, all animals, whether domesticated or undomesticated, found in violation of the provisions of this chapter within the city, whether such animal shall be in the immediate presence of its owner or custodian or otherwise. Pound master has the authority to spay/neuter any animal impounded by the City.

3rd Offense: Animal must be spayed/neutered before being released back to owner.

(Code 1997, § 6-54; Ord. No. 337, §§ 2, 11, 23, 4-5-1965; Ord. No. 588, 9-9-2019)

Sec. 10-38. Registry of impounded animals.

The poundmaster, upon impounding or receiving any animal under the provisions of this article, shall make a complete registry of such animal, entering the breed, color and sex of the animal and whether the animal has been vaccinated, and the time and place of taking such animal into custody.

(Code 1997, § 6-55; Ord. No. 337, § 15, 4-5-1965)

Sec. 10-39. Right to redeem.

The owner of any animal which has been impounded under the provisions of this article shall have the right to redeem the same upon the payment of any and all fees which may be due and payable for the impoundment of such animal; provided, however, that the payment of such impoundment fees shall not bar the imposition of any fine which may be imposed for the violation of this chapter.

(Code 1997, § 6-56; Ord. No. 337, § 12, 4-5-1965)

Sec. 10-40. Time for redemption.

All impounded animals shall be redeemed within three days after being impounded. Any such animal not redeemed within such time may be sold, destroyed or otherwise disposed of.

(Code 1997, § 6-57; Ord. No. 337, §§ 13, 24, 4-5-1965)

Sec. 10-41. Fees.

A. The following fees shall be charged for the impoundment of any animal under the provisions of this article:

    1. First redemption within calendar year:

        i. $ 25.00.

    2. Second redemption within calendar year:

        i. $35.00.

    3. Third redemption within calendar year:

        i. 55.00.

B. Whenever any animal is impounded, an additional fee of $2.00 shall be charged for each day or fraction thereof of impoundment for feeding and caring for such animal.

(Code 1997, § 6-58; Ord. No. 337, § 5, 4-5-1965; Ord. No. 588, 9-9-2019)

Sec. 10-42. Redemption of unvaccinated animal.

The owner of any impounded domesticated animal which has not been vaccinated as required by this chapter, upon satisfactory proof of ownership, may redeem his animal by making a deposit of $10.00 with the poundmaster and be allowed 24 hours to get such animal vaccinated. If such owner fails to procure a vaccination certificate within such 24 hours, the deposit shall be forfeited and the animal shall be impounded again. Upon presentation within such period of time of a certificate of vaccination issued under this chapter, the deposit shall be refunded.

(Code 1997, § 6-59)

Sec. 10-43. Redemption by person other than owner.

If the owner of any animal impounded under this article shall fail to redeem his animal within the time allowed for redemption, any other person may, upon complying with all provisions of this article, redeem the animal from the pound and be the lawful owner of the animal thereafter.

(Code 1997, § 6-60; Ord. No. 337, §§ 14, 24, 4-5-1965)

Sec. 10-44. Disposition of funds.

All monies received and collected under the provisions of this article shall be deposited in the general fund of the city.

(Code 1997, § 6-61; Ord. No. 337, § 25, 4-5-1965)

Sec. 10-45. Reports.

The poundmaster shall file such reports of his activities under the provisions of this article, under oath, as are required by the mayor and council.

(Code 1997, § 6-62)

Sec. 10-46. Peddling Unlawful.

It shall be unlawful for any owner or person to peddle or sell any domesticated or undomesticated animal in the City other than a registered breeder.

(Ord. No. 588, 9-9-2019)

Secs. 10-47--10-63. Reserved.

Article III. Dogs

Division 1. Generally

Sec. 10-64. Strict liability of owner or keeper.

The owner of any dog shall be liable for damages to the full amount of any damages sustained when such dog, without provocation, bites or injures any person while such person is in or on a place he has a lawful right to be.

(Code 1997, § 6-10; Ord. No. 531, § 3, 8-13-2001)

Sec. 10-65. Running at large.

A. For the purposes of this section, the phrase "run at large" means any dog not under the control of the owner either by a leash, chain, cord or other suitable material attached to a collar or harness, or restrained securely within an enclosure or fence.

B. It shall be unlawful for any owner to allow or permit his animal to run at large upon any public or private property within the city.

No peddling of domesticated animals inside the City Limits.

(Code 1997, § 6-21; Ord. No. 337, § 22, 4-5-1965; Ord. No. 588, 9-9-2019)

Sec. 10-66. Vaccination.

It shall be unlawful for the owner of any domesticated animal to keep or maintain such domesticated animal within the city unless it shall have been vaccinated by a licensed veterinary surgeon with anti-rabies vaccine within one year preceding the date on which such domesticated animal is kept or maintained. The owner of every domesticated animal shall provide a tag issued by a licensed veterinarian, attached to a collar worn by each domesticated animal, showing that such domesticated animal has been vaccinated, with the date of said vaccination appearing on said tab.

(Code 1997, § 6-22; Ord. No. 337, § 18, 4-5-1965)

Sec. 10-67. Transfer of tag.

It shall be unlawful for the owner or person having control over or custody of any dog or cat to transfer a vaccination tag from the animal for which tag was issued to any other animal.

(Code 1997, § 6-23; Ord. No. 588, 9-9-2019)

Secs. 10-68--10-92. Reserved.

Division 2. License

Sec. 10-93. Required.

It shall be unlawful for any person to own, keep, harbor or maintain more than four (4) domesticated animals over the age of three (3) months within the City.

(Code 1997, § 6-35; Ord. No. 337, § 1-, 4-5-1965; Ord. No. 588, 9-9-2019)

Sec. 10-94. Application.

It shall be the duty of each owner, keeper or person harboring any dog or cat within the city to apply to the city clerk for a license required by the provisions of this division within 30 days from the date such dog or cat is acquired by such person or within 30 days from the date such dog or cat attains the age of three months.

(Code 1997, § 6-36; Ord. No. 337, § 21, 4-5-1965; Ord. No. 588, 9-9-2019)

Sec. 10-95. Evidence of vaccination.

Along with the application for a license required by this division, the owner shall present evidence that the dog or cat to be licensed hereunder has been vaccinated as required by the provisions of this article.

(Code 1997, § 6-37; Ord. No. 337, § 21, 4-5-1965; Ord. No. 588, 9-9-2019)

Sec. 10-96. Tax imposed.

License tax on each dog in the City shall be $10.00 for the life of the animal.

(Code 1997, § 6-38; Ord. No. 336, § 20, 4-5-1965; Ord. No. 588, 9-9-2019)

Sec. 10-97. When payment due.

The tax imposed by this division shall become due and payable on or before April 1 of each year, in advance.

(Code 1997, § 6-39; Ord. No. 337, § 20, 4-5-1965)

Sec. 10-98. Issuance.

Upon compliance with this division, the city clerk shall issue a license to each person applying therefor.

(Code 1997, § 6-40; Ord. No. 337, § 21, 4-5-1965)

Sec. 10-99. Expiration.

Each license issued under this division shall expire on the April 1 following its date of issuance.

(Code 1997, § 6-41; Ord. No. 337, § 21, 4-5-1965)

Sec. 10-100. Renewal.

It shall be the duty of each owner of a dog licensed under this division to renew such license on or before April 1 of each year as long as such owner retains ownership of such dog.

(Code 1997, § 6-42; Ord. No. 337, § 21, 4-5-1965)

Chapter 11. RESERVED

Chapter 12. BUILDINGS AND BUILDING REGULATIONS

Article I. In General

Sec. 12-1. Fire limits.

The fire limits of the city shall be the city limits.

(Code 1997, § 7-1; Ord. No. 371, § 8, 7-1-1968)

Sec. 12-2. Dilapidated buildings.

A. For the purpose of this section, the term "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 to be an unsecured building, as defined by 11 O.S. § 22-112.1, more than three times within any 12-month period;

4. A structure which has been boarded and secured, as defined by 11 O.S. § 22-112.1, for more than 36 consecutive months; or

5. A structure declared by the city council to constitute a public nuisance.

B. A hearing by the city council to determine whether a property is dilapidated and has thereby become detrimental to the health, safety or welfare of the general public and the community or creates a fire hazard to the danger of other property shall be held after at least ten days' notice by the city to the property owner as follows:

1. By posting such notice on the property within the limits of the city;

2. By sending written notice to the owner thereof by mail to the address shown by the current year's tax rolls in the county treasurer's office;

3. By mailing the notice 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 holder, the city shall obtain a receipt of mailing from the postal service which shall indicate the date of mailing and the name and address of the mailee; or

4. If neither the property owner nor mortgage holder can be located, by posting a copy of such 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.

C. Upon a finding that the condition of the property constitutes a detriment or a hazard and that the property would be benefited by the removal of such conditions, the city council may cause the dilapidated buildings to be torn down and removed and shall fix reasonable dates for the commencement and the completion of such 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. Any action to challenge the order of the city council shall be filed within 30 business days from the date of the order.

D. The city council shall determine the actual cost of dismantling and removal of dilapidated buildings and such other expenses as may be necessary in connection therewith, including the cost of notice and mailing. The city clerk shall mail to the property owner, at the address shown by the current year's tax rolls in the county treasurer's office and to any mortgage holder as shown by the records in the office of the county clerk to the last known address of the mortgagee, a statement of the actual cost and demand for payment thereof. 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 shall indicate the date of mailing and the name and address of the mailee. If dismantling and removal of dilapidated buildings is done on a private contract basis, it shall be awarded to the lowest bidder. If dismantling and removal of dilapidated buildings is done by the city, the cost to the property owner shall not exceed the actual cost of the labor, maintenance and equipment required for dismantling and removal of the dilapidated buildings.

E. If payment is not made within six months from the date of the mailing, the city clerk shall forward a certified statement of the amount of 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. 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 liens shall continue until the cost is fully paid.

(Code 1997, § 7-2; Ord. No. 461, 6-2-1986; Ord. No. 548, §§ 1--3, 1-9-2006)

Sec. 12-3. Adoption of International Property Maintenance Code.

There is hereby adopted by the city those certain health and housing standards known as the 2003 edition of the International Property Maintenance Code, recommended by the International Code Council, of which not less than three copies have been and are now filed in the office of the city clerk, and the same is hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling on all dwellings and premises within the corporate limits of the city. The city clerk shall keep copies of such code for distribution or sale at a reasonable price.

(Code 1997, § 14-16; Ord. No. 369, § 1, 7-1-1968)

Secs. 12-4--12-24. Reserved.

Article II. Construction Standards

Division 1. Generally

Sec. 12-25. Adoption of International Building Code.

There is hereby adopted by the city, for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, including permits and penalties, that certain building code known as the 2003 edition of the International Building Code, recommended by the International Code Council, and the whole thereof, save and except such portions as are hereinafter deleted, modified, or amended, and of which not less than three copies have been and now are filed in the office of the city clerk, is hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling in the construction of all buildings and structures therein contained within the corporate limits of the city. The city clerk shall keep copies of the code for distribution or sale at a reasonable price.

(Code 1997, § 7-16; Ord. No. 371, § 1, 7-1-1968)

Sec. 12-26. Adoption of International Residential Code.

There is hereby adopted by the city, for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of one-family and two-family dwellings, including permits and penalties, that certain building code known as the International Residential Code, 2003 edition, recommended by the International Code Council, and the whole thereof, save and except such portions as are hereinafter deleted, modified, or amended, and of which not less than three copies have been and now are filed in the office of the city clerk, is hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling in the construction of all buildings and structures therein contained within the corporate limits of the city. The city clerk shall keep copies of such code for distribution or sale at a reasonable price.

Sec. 12-27. Adoption of International Mechanical Code.

There is hereby adopted by the city, for the purpose of establishing minimum regulations for building systems design and installation, that certain building code known as the International Mechanical Code, 2003 edition, recommended by the International Code Council, and the whole thereof, save and except such portions as are hereinafter deleted, modified, or amended, and of which not less than three copies have been and now are filed in the office of the city clerk, is hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling in the construction of all buildings and structures therein contained within the corporate limits of the city. The city clerk shall keep copies of such code for distribution or sale at a reasonable price.

Section 12-28. Minimum Size for New Construction.

A. In addition to any and all other requirements which may be imposed by this Code, no new home shall be constructed or installed within the City limits, and no permit authorizing the same shall be issued, unless such home meets the following minimum standards:

B.

C. NUMBER OF BEDROOMS	D. MINIMUM SQUARE FOOTAGE
E. One or Two Bedrooms	F. Minimum of 1100 square feet of habitable space under roof not counting any space attributable to a garage or similar structure
G. Three Bedrooms	H. Minimum of 1300 square feet of habitable space under roof not counting any space attributable to a garage or similar structure

I.

J. As used herein, “home” means any structure principally intended to serve as a place of habitation for a single family which are not mobile homes.

Secs. 12-29--12-57. Reserved.

Division 2. Electrical Regulations

Subdivision I. In General

Sec. 12-58. 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:

Electrical wiring means an installation of electrical conductors, fittings, fixtures, equipment, motors, appliances or apparatus intended for use in connection with electricity for any purpose.

(Code 1997, § 11-1)

Sec. 12-59. Liability.

The provisions of this division shall not be construed to relieve from or to lessen the responsibility or liability of any party owning, operating, controlling or installing any

electrical wiring for damages to person or property caused by any defect therein, nor shall the city be held as assuming any such liability by reason of the inspection authorized herein or certificate of approval issued as herein provided.

(Code 1997, § 11-2)

Sec. 12-60. Right of entry.

The code enforcer shall have the authority to enter all buildings in the city in the performance of his duties at any reasonable time, upon presentation of proper credentials, for the purpose of enforcing the provisions of this chapter.

(Code 1997, § 11-28; Ord. No. 372, § 3, 7-1-1968)

Sec. 12-61. Hazardous connections.

When, in his opinion, electrical wiring is in a dangerous condition as a result of existing life and/or fire hazards, the code enforcer shall order, in writing, the electrical service to be discontinued, and service shall not be renewed until after the hazards have been eliminated and the wiring placed in a reasonably safe condition as determined by inspection by such officer.

(Code 1997, § 11-29; Ord. No. 372, § 3, 7-1-1968)

Sec. 12-62. Work by individuals.

Any individual desiring to perform his own electrical work personally shall not be required to make the required bond or to obtain the required license, but shall be required to obtain the regular permit for that particular job. Such work done by an individual must be done by him personally on his own particular job, shall not be a way of performing a service to the public generally, and shall comply with the provisions of this division.

(Code 1997, § 11-3; Ord. No. 372, § 13, 7-1-1968)

Sec. 12-63. Disconnection of service.

Upon failure of any person to comply with this division, the code enforcer shall have authority, after due notice, to cut electric current in the locality concerned.

(Code 1997, § 11-4; Ord. No. 372, § 11, 7-1-1968)

Secs. 12-64--12-84. Reserved.

Subdivision II. License Registration

Sec. 12-85. Required.

Every person, before engaging in the work of installing, repairing or removing electrical wiring and equipment, shall secure a registration of license so to do from the electrical inspector, and such registration shall be issued to the person who qualifies for the same and shall comply with each and every section of this division, except as otherwise provided.

(Code 1997, § 11-46; Ord. No. 372, § 7, 7-1-1968)

Sec. 12-86. Application.

Any person desiring an electrician's registration of license shall make an application in writing to the electrical inspector requesting approval for such registration.

(Code 1997, § 11-47)

Sec. 12-87. Fee.

The annual license fee for an electrician's registration of license shall be as determined from time to time by the city council and on file in the city clerk's office, and such fee shall be paid before the registration of license shall become effective.

(Code 1997, § 11-48; Ord. No. 372, § 7, 7-1-1968)

Sec. 12-88. Bond required.

Every person doing electrical business in the city shall execute and deliver to the city a bond with a surety bonding company in the sum of $5,000.00 to indemnify the city or any citizen for any damage caused by the failure of such person doing the electrical work to comply strictly with the provisions of this division.

(Code 1997, § 11-49; Ord. No. 372, § 8, 7-1-1968)

Sec. 12-89. Possession of license required.

No registration of license shall be issued under the provisions of this subdivision until the party applying for such has given satisfactory evidence to the electrical inspector of his possession of a contractor's or journeyman's license to do electrical work in the state.

(Code 1997, § 11-50; Ord. No. 372, § 9, 7-1-1968)

Sec. 12-90. Prerequisite for permit.

No permit for the installation or alteration of any electrical wiring, devices, motors, appliances or apparatuses shall be issued until the applicant therefor has acquired the registration of license required by the provisions of this subdivision.

(Code 1997, § 11-51; Ord. No. 372, § 9, 7-1-1968)

Sec. 12-91. Responsibilities of licensee.

Every licensee registered in accordance with this division shall be responsible for any defect of any construction, insofar as correction thereof is concerned, installed by him until such time as a certificate of approval has been issued and for any and all defects that may have been concealed by such person and discovered by the electrical inspector after a certificate of approval has been issued. After the issuance of the certificate of approval, the person in whose name the meter is contracted shall be responsible for all defects caused by any additional work, extension or alteration except as provided by this division.

(Code 1997, § 11-52)

Sec. 12-92. Term.

All registrations of license issued under the provisions of this subdivision shall expire 12 months after the date of issuance thereof.

(Code 1997, § 11-53)

Sec. 12-93. Renewal.

All registrations of license issued under the provisions of this subdivision shall be renewed on the expiration date thereof.

(Code 1997, § 11-54)

Sec. 12-94. Unlawful use of electrician's name.

It shall be unlawful for any licensed electrician registered under the provisions of this subdivision to allow his name to be used by any person for the purpose of either obtaining permits or doing any work under his license.

(Code 1997, § 11-55)

Sec. 12-95. Suspension; revocation.

Any registration of license issued under the provisions of this subdivision may be revoked or suspended by the mayor and city council for the violation by the licensee of any applicable provision of this Code, state law or city ordinance, rule or regulation.

(Code 1997, § 11-56)

Secs. 12-96--12-118. Reserved.

Subdivision III. Permits and Inspections

Sec. 12-119. Required.

No installation, alteration or removal shall be made in or of the electrical wiring of any building or structure for light, heat or power or to increase the load of energy carried by such wires or equipment, nor shall any building or structure be wired for electric lights, appliances, motors, apparatuses, or heating devices or any alterations made thereto without a written permit therefor being first obtained from the city clerk by the person having direct charge of such installation.

(Code 1997, § 11-68; Ord. No. 372, § 4, 7-1-1968)

Sec. 12-120. Fees.

The amount of fees or charges to be made for the issuance of permits and the inspections required by the provisions of this subdivision shall be as fixed and determined by the city council from time to time and on file in the office of the city clerk.

(Code 1997, § 11-69; Ord. No. 372, § 5, 7-1-1968)

Sec. 12-121. Concealment of work.

It shall be unlawful for any person to conceal or cause to be concealed, in such manner that the electrical inspector cannot satisfy himself that the provisions of this division have been complied with, any electrical wiring until after the wiring has been inspected and approved by the electrical inspector.

(Code 1997, § 11-70)

Sec. 12-122. Inspections required.

Upon the completion of any electrical wiring installation, and before the same may be connected to a source of electrical service, the same shall be inspected and approved by the electrical inspector as being in compliance with the provisions of this division.

(Code 1997, § 11-71; Ord. No. 372, § 5, 7-1-1968)

Sec. 12-123. Certificate of approval.

Upon approval of an electrical wiring installation, the electrical inspector shall issue a certificate of approval therefor.

(Code 1997, § 11-72; Ord. No. 372, § 5, 7-1-1968)

Sec. 12-124. Temporary connections.

Permission may be granted by the electrical inspector for temporary service for a period of time not exceeding 30 days for the connection of electrical service to any electrical wiring installation.

(Code 1997, § 11-73)

Secs. 12-125--12-146. Reserved.

Subdivision IV. Technical Standards

Sec. 12-147. Adoption of National Electrical Code.

There is hereby adopted by the city, for the purpose of establishing rules and regulations for the construction, alteration, removal and maintenance of electric wiring and apparatuses, including permits and penalties, that certain electric code known as National Electrical Code, 2002 edition, recommended by the National Fire Protection Association, and the whole thereof, save and except such portions as are hereinafter deleted, modified, or amended, and of which not less than three copies have been and now are filed in the office of the city clerk, is hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling in the construction, alteration, maintenance or removal of all electric wiring and apparatuses within the corporate limits of the city. The city clerk shall keep copies of such code for distribution or sale at a reasonable price.

(Code 1997, § 11-86; Ord. No. 372, § 1, 7-1-1968)

Sec. 12-148. Standards for approval.

All electrical construction, all materials, appliances, motors, heating devices, and apparatuses used in connection with electrical work, and the operation of all electrical apparatus within the city shall conform to the rules and requirements of the electrical code when work is performed or equipment and apparatuses are installed; provided, however, that the necessity, good service and said results often require larger sizes of wire, more branch circuits, and better types of equipment than the minimum specified in the electrical code, and therefore, the electrical inspector supervising the enforcement of the electrical code will have the responsibility and authority for making interpretations of the rules, for deciding upon the approval of equipment materials and construction, and for granting the special permission contemplated in a number of the rules, and the electrical inspector, where necessary, shall follow the electrical code procedure for securing official interpretations of the electrical code.

(Code 1997, § 11-87; Ord. No. 372, § 6, 7-1-1968)

Sec. 12-149. Penalties.

A. Any person who shall violate any of the provisions of the electrical code adopted by this subdivision, who shall fail to comply therewith, who shall violate or fail to comply with any order made thereunder, who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder or any certificate or permit issued thereunder and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the city council or by a court of competent jurisdiction within the time fixed herein shall severally, for each and every violation and noncompliance, respectively, be guilty of a misdemeanor, punishable as provided in section 1-8. 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; and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

B.

C. The application of the penalty in subsection (A) of this section shall not be held to prevent the enforced removal of prohibited conditions.

(Code 1997, § 11-89)

Sec. 12-150. Conflicts.

In the event of any conflict between the provisions of the electrical code adopted by the provisions of this subdivision and applicable provisions of this Code, state law or city ordinances, rules or regulations, the provisions of this Code shall prevail and be controlling.

(Code 1997, § 11-90)

Sec. 12-151. Modification of requirements.

The city council shall have power to modify any of the provisions of the electrical code adopted by this subdivision 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 electrical code, provided that the spirit of the electrical code shall be observed and substantial justice done. The particulars of such modification, when granted or allowed, and the decision of the city council thereupon shall be entered upon the records of the department, and a signed copy shall be furnished to the applicant.

(Code 1997, § 11-91)

Sec. 12-152. Appeals.

Whenever the code enforcer shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the electrical code adopted by this subdivision do not apply or that the true intent and meaning of the electrical code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the code enforcer to the board of adjustment, whose decision shall be final, within 30 days from the date of the decision.

(Code 1997, § 11-92)

Sec. 12-153. Quality of work.

All electrical work of any kind and all systems shall satisfactorily fulfill the purpose for which it is installed and work shall be executed in a neat and workmanlike manner. Slipshod work not in keeping with good electrical practice shall be classed as defective and shall be immediately corrected by the persons causing the same.

(Code 1997, § 11-93)

Secs. 12-154--12-174. Reserved.

Division 3. Plumbing Regulations

Sec. 12-175. State license required.

It shall be unlawful for any person to engage in business within the city as a plumber or gas fitter unless such person is licensed therefor by the state.

(Code 1997, § 19-1)

Sec. 12-176. Bond.

Every master plumber doing business in the city shall execute and deliver to the city a bond with a surety bonding company in the sum of $1,000.00 to indemnify the city or any citizen for any damage caused by the failure of such master plumber to comply strictly with the provisions of this division. No plumbing permit shall be issued to any master plumber unless this bond has been delivered to the city and is in full force and effect.

(Code 1997, § 19-2; Ord. No. 373, § 4, 7-1-1968)

Sec. 12-177. International Plumbing Code--Adopted.

The provisions and regulations of the International Plumbing Code, 2003 edition, recommended by the International Code Council, are made a part of this Code by reference and shall extend over and govern the installation of all plumbing installed, altered or repaired within or without the city, wherever water and/or sewage service originating from the municipal water and/or sewer system is furnished. Three certified copies of such code shall be on file in the office of the city clerk, and the city clerk shall keep copies of such code for distribution or sale at a reasonable price.

(Code 1997, § 19-21; Ord. No. 373, § 1, 7-1-1968)

Sec. 12-178. Same--Amendments.

The International Plumbing Code adopted by reference in section 12-177 is hereby amended as follows:

A. Schedule 40 or better quality plastic pipe shall be allowed to be placed in concrete slab for sewer lines in residential dwellings.

(Code 1997, § 19-24; Ord. No. 421, § 1, 9-8-1977)

Secs. 12-179--12-209. Reserved.

Article III. Street Numbering

Sec. 12-210. Duty of owner or occupant.

The owner or, if the owner fails to do so, the occupant of each house, place of business or part of a house in the city, where such part of a house is separately occupied, shall erect or post thereon, or upon the lot or premises on which said house, place of business or part of a house is situated, in a conspicuous place near the entrance, not more than 40 feet from the street line, the official number of such house, place of business or part of house, said official number being designated by the city clerk.

(Code 1997, § 21-21; Ord. No. 206, § 1, 5-14-1917)

Sec. 12-211. Height of permanent or standard numbers.

The permanent number or standard number to be placed as required by this article shall be not less than 2 1/2 inches in height.

(Code 1997, § 21-21; Ord. No. 206, § 4, 5-14-1917)

Sec. 12-212. System of numbering.

For the purpose of house numbering, a numbering system is hereby adopted, placed on file in the office of the city clerk and made the system of numbering in the city. All numbers assigned shall be assigned in accordance with the procedure of said system.

(Code 1997, § 21-21; Ord. No. 318, 3-16-1959)

Sec. 12-213. Assignment of numbers.

The city clerk shall assign all existing and new numbers under this article.

(Code 1997, § 21-24)

Chapter 13. RESERVED

Chapter 14. BUSINESSES

Article I. In General

Sec. 14-1. Retail Package Stores.

A. 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:

B. Retail Package Store: means a retail shop that sells pre-packaged alcoholic beverages typically in bottles and intended to be consumed off the store's premises.

C. Location

1. No retail package store or any other business licensed by the City of Checotah shall be located or operated at any place except at locations permitted by the town's zoning or planning laws. The location of the retail package store is specifically prohibited within three hundred feet (300') of any public or private school or church property primarily and regularly used for worship services and religious activities.

2. 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 retail package store which has been licensed to sell alcoholic beverages.

3. If any school or church shall be established with three hundred feet (300') of any retail package store subject to the provisions of this section after such retail package store 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.

4. When any retail package store changes ownership or the operator thereof is changed and such change of 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 or she is otherwise qualified.

D. Violations and Penalty: Any person who knowingly violates this ordinance is guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as set forth by the City of Checotah.

E. Enforcement: The State, County or Local Police Department shall, at a minimum, do the following in order to prevent the locating of retail package stores less than three hundred feet (300') from a church or school in the City of Checotah:

1. Inspect sites prior to the establishment being erected or inhabited for proof of a survey completed by a professional survey company.

2. Inspect sites as part of the established renewal process for issuing licenses.

Secs. 14-2--14-18. Reserved.

Article II. Peddlers and Solicitors

Division 1. Generally

Sec. 14-19. 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:

Peddler means any individual, whether a resident of the city or not, traveling by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, or from street to street, for the sale of, as well as the selling, offering for sale or taking or attempting to take orders for the sale of, goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether or not he is collecting advance payments on such sales. The term "peddler" includes any person who, for himself or for another person, hires, leases, uses, or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery. The term "peddler" includes the terms "canvasser," "solicitor," "transient or itinerant merchant or vendor" or "transient or itinerant photographer."

(Code 1997, § 17-1)

Sec. 14-20. Nonapplicability.

The provisions of this article shall not apply to the following:

A. Sales made to dealers or permanent merchants by commercial travelers selling in the usual course of business;

B. Sheriffs, constables, bona fide assignees, receivers or trustees in bankruptcy or other public officers selling goods, wares and merchandise according to law;

C. Bona fide residents of the state selling fruits, vegetables, dressed meats, fowl or farm products which were produced on land within the state owned or controlled by such vendor;

D. Solicitations, sales or distributions made by charitable, educational or religious organizations which have their principal place of activity within the city.

(Code 1997, § 17-2; Ord. No. 395, § 4, 2-19-1973)

Sec. 14-21. Entrance to premises restricted.

It shall be unlawful for any peddler to enter upon any private premises when such premises are posted with a sign stating, "No Peddlers Allowed" or "No Solicitations Allowed" or other words to such effect.

(Code 1997, § 17-3)

Sec. 14-22. Refusing to leave.

Any peddler who enters upon premises owned, leased or rented by another and refuses to leave such premises after having been notified by the owner or occupant of such premises or his agent to leave the same and not return to such premises shall be deemed guilty of an offense punishable as provided in section 1-8.

(Code 1997, § 17-4)

Sec. 14-23. Misrepresentation.

It shall be unlawful for any peddler to make false or fraudulent statements concerning the quality of his goods, wares, merchandise or services for the purpose of inducing another to purchase the same.

(Code 1997, § 17-5)

Sec. 14-24. Hours of operation.

It shall be unlawful for any peddler to engage in the business of peddling within the city between the hours of 9:00 p.m. and 9:00 a.m. the following morning, except by specific appointment with or invitation from the prospective customer.

(Code 1997, § 17-6)

Secs. 14-25--14-51. Reserved.

Division 2. Permit

Sec. 14-52. Required.

It shall be unlawful for any person to engage in business as a peddler within the city without first obtaining a permit to do so.

(Code 1997, § 17-21; Ord. No. 395, § 1, 2-19-1973)

Sec. 14-53. Application.

Applicants for a permit under this article shall file with the city clerk a sworn application, in writing, in duplicate, on a form to be furnished by the city clerk, which shall give the following information:

A. The name and a description of the applicant;

B. The permanent home address and full local address of the applicant;

C. A brief description of the nature of the business and the goods to be sold;

D. If employed, the name and address of the employer, together with credentials establishing the exact relationship;

E. The length of time for which the right to do business is desired;

F. The place where the goods or property proposed to be sold or orders taken for the sale thereof are manufactured or produced, where such goods or products are located at the time the application is filed, and the proposed method of delivery;

G. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor;

H. Whether the applicant, upon any sale or order, shall demand, accept or receive payment or deposit of money in advance of final delivery;

I. The last five municipalities wherein the applicant has worked before coming to the city; and

J. Such other relevant information as may be required by the investigation of the applicant.

(Code 1997, § 17-22)

Sec. 14-54. Driver's license.

At the time of filing his application for a permit required by this article, the applicant shall present his driver's license or photo identification to the city clerk.

(Code 1997, § 17-23)

Sec. 14-55. False information.

It shall be unlawful for any person to give any false or misleading information in connection with his application for a permit required by this division.

(Code 1997, § 17-24)

Sec. 14-56. Reserved.

Sec. 14-57. Fee.

Before any permit shall be issued under the provisions of this division, the applicant therefor shall pay a fee based upon the duration he desires to engage in business in the city, as follows:

A. Per day . . . . . $ 25.00.

B. Per week . . . . . 100.00.

C. Per month . . . . . 200.00.

D. Per three months . . . . . 300.00.

E. Per six months . . . . . 600.00.

F. Per 12 months . . . . . 900.00.

(Code 1997, § 17-26; Ord. No. 395, § 3, 2-19-1973; Ord. No. 518, 4-26-1999)

Sec. 14-58. Bond.

A. Every applicant not a resident of the city or who is a resident of the city and represents a firm whose principal place of business is located outside the state shall file with the city clerk a surety bond running to the city in the amount of $1,000.00, with surety acceptable to and approved by the mayor, conditioned that the applicant shall comply fully with all the applicable provisions of this Code, the ordinances of the city and state law regulating and concerning the business of peddling, and

guaranteeing to any citizen of the city that all money paid as a down payment will be accounted for and applied according to the representations of the peddler, and further guaranteeing to any citizen of the city doing business with such peddler that the property purchased will be delivered according to the representations of such peddler. Action on such bond may be brought in the name of the city to the use or benefit of the aggrieved person.

B. If the applicant is an agent, employee, canvasser or solicitor of a corporation authorized to do business in the state or registered under the fictitious name act of the state, such corporation or fictitiously named business may furnish one bond in the amount of $1,000.00 for any and all of its agents, employees, canvassers or solicitors.

(Code 1997, § 17-27)

Sec. 14-59. Service of process.

Before any permit shall be issued under this division, there shall also be filed with the city clerk an instrument in writing, signed by the applicant under oath, nominating and appointing the city clerk his true and lawful agent, with full power and authority to acknowledge service of notice of process for and on the behalf of such applicant, and service of summons in any action brought upon the applicant's bond shall be deemed made when served on the city clerk.

(Code 1997, § 17-28)

Sec. 14-60. Investigation.

Upon receipt of an application for a permit required by this division, the original shall be referred to the chief of police, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good. The chief of police or his designee shall complete his investigation within one week of receiving the application.

(Code 1997, § 17-29)

Sec. 14-61. Denial.

If, as a result of investigation, the applicant's character or business responsibility is found to be unsatisfactory, the chief of police shall endorse on the application his disapproval and his reasons for the same and return the application to the city clerk, who shall notify the applicant that his application is disapproved and that no permit shall be issued.

(Code 1997, § 17-30)

Sec. 14-62. Issuance.

If, as a result of investigation, the character and business responsibility of the applicant are found to be satisfactory, the chief of police shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for and return the permit, along with the application, to the city clerk, who shall, upon payment of the required fee, deliver the permit to the applicant.

(Code 1997, § 17-31; Ord. No. 395, § 2, 2-19-1973)

Sec. 14-63. Contents.

Each permit issued under this division shall contain the signature and seal of the issuing officer and shall show the name and address of the permittee, the class of permit issued and the kind of goods to be sold thereunder, the amount of fees paid, the date of issuance and the length of time the same shall be operative, as well as the permit number and other identifying description of any vehicle used in such business.

(Code 1997, § 17-32)

Sec. 14-64. Record.

The city clerk shall keep a permanent record of all permits issued under this division.

(Code 1997, § 17-33)

Sec. 14-65. Display.

Every peddler having a permit issued under the provisions of this division and doing business within the city shall display his permit upon the request of any person, and failure to do so shall be deemed a misdemeanor.

(Code 1997, § 17-34)

Sec. 14-66. Duration.

Every permit issued under the provisions of this division shall be valid for the period of time stated therein, but in no event shall any such permit be issued for a period of time in excess of 12 months.

(Code 1997, § 17-35)

Sec. 14-67. Revocation.

Any permit issued under the provisions of this division may be revoked by the city council for the violation by the permittee of any applicable provision of this Code, state law or city ordinance, rule or regulation.

(Code 1997, § 17-36)

Secs. 14-68--14-99. Reserved.

Article III. Medical Marijuana

Section 14-100. Definitions.

A. Medical Marijuana Dispensary: Any retail medical marijuana establishment licensed by the State of Oklahoma and the City of Checotah to sell or dispense medical marijuana or medical marijuana products.

B. Commercial Medical Marijuana Growing and/or Processing Facilities: Any medical marijuana growing or processing facility licensed by the State of Oklahoma to grow or process medical marijuana in excess of twelve (12) plants. Growing includes the cultivation, manufacturing, processing, packaging, and distribution of marijuana and marijuana products. Processing includes including but not limited to: drying, cleaning, curing, packaging, and extraction of active ingredients to create medical marijuana, medical marijuana products or concentrates.

C. Medical Marijuana Wholesale and/or Storage Facility: Any wholesale or storage establishment licensed by the State of Oklahoma and the City of Checotah that acquires, possesses, stores, delivers, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to the holder of a valid medical marijuana dispensary license.

D. Medical Marijuana Growing for Personal Use: Any individual licensed by the State of Oklahoma and the City of Checotah to grow up to twelve (12) plants within a single residence for personal use.

E. The City hereby adopts all other terms and definitions as established by State law or Department of Health regulations. In the event of a conflict between any definitions contained herein, the definition promulgated by the State or the Department of Health shall prevail.

Section 14-101. General Requirements.

A. Applicants for any license contained herein shall be required to possess a valid State of Oklahoma issued medical marijuana license prior to making application for the city license.

B. The license outlined in this ordinance will be subject to property inspection by an authorized City Inspector prior to issuance to insure compliance with all codes of the City.

C. The property inspection will occur at a time scheduled and approved by both the applicant and the City Inspector. Any adverse decision by the City Inspector may be appealed to the Board of Adjustment within ten business days of the adverse decision by filing a Notice of Appeal with the City Clerk.

D. The applicant will be required to be present during the inspection.

E. All structures, equipment and apparatuses shall comply with all building and fire codes adopted by the State of Oklahoma and the City of Checotah.

F. A Medical Marijuana Business License Application shall be filled out and signed by the property and business owner and submitted to the City Clerk prior to scheduling an inspection.

G. A nonrefundable license fee, as established in this Chapter, shall be paid at the time the application is submitted.

H. The license fee shall be set according to and used to offset municipal expenses covering costs related to licensing, inspection, administration and enforcement of this Article.

I. For the distance requirements outlined in this ordinance, the distances described shall be computed by direct measurement in a straight line from the nearest property line of the parcel of land on which the use described in herein is located to the nearest property line of the building or unit in which the proposed retail marijuana establishment would be located.

J. All Medical Marijuana Dispensary, Commercial Medical Marijuana Growing and/or Processing Facilities, and Medical Marijuana Wholesale and/or Storage Facility establishments shall be located within an entirely enclosed and secure structure, as required by the Rules and Regulations of the Department of Health, as may be amended from time to time.

K. License holder shall remit all required State and City sales taxes.

L. The City issued license must be conspicuously posted at the place of business.

M. It is the intent of the City of Checotah that nothing in the Medical Marijuana Ordinance be construed to:

1. Allow persons to engage in conduct that endangers the health, safety, or welfare of the Citizens of the City of Checotah, or causes a public nuisance;

2. Allow the use of marijuana for non-medical purposes; or

3. Allow any activity that is otherwise illegal and not permitted by state law.

N. Additional Regulations:

1. The smell of noxious odor emitted from smoking or consumption of medical marijuana by a person possessing a valid state issued medical marijuana license shall constitute a public nuisance.

2. Smoking and vaping marijuana shall be prohibited on all city property including vehicles, buildings, parks or other facilities.

3. Revocation or suspension of Municipal issued marijuana license; Hearing.

i. The Mayor/City Council or designee shall revoke or suspend a license issued under this section on any of the following grounds:

a) The license was procured by fraudulent conduct or false statement of a material fact or a fact concerning the applicant was not disclosed at the time of his application, and such fact would have constituted just cause for refusal to issue the license;

b) Violation of City Ordinance, State Law, or Department of Health regulations governing medical marijuana.

ii. Prior to suspension or revocation, the permittee shall be given notice of the proposed action to be taken and shall have an opportunity to be heard before the Mayor/City Council. If an employee has been designated by the Mayor/City Council, such employee shall make a report to the Mayor/City Council together with a recommendation as to whether the license should be suspended or revoked.

4. Any person or entity applying for or issued a license by the City of Checotah shall comply with all State law and Department of Health rules and regulations, as may be amended from time to time.

5. Revocation of the State issued license shall result in immediate revocation of the City issued license.

Section 14-102. Medical Marijuana Dispensary.

Medical Marijuana Dispensaries are hereby allowed within the municipal boundaries of Checotah, Oklahoma upon compliance with Section 14-101, issuance of a Retail Medical Marijuana Dispensary Business License and the following additional provisions.

A. A Medical Marijuana Dispensary shall only be located within one of the following zoning districts.

   1. Commercial Zoned Property.

B. Medical Marijuana Dispensary Business License shall not be granted to any applicant where the proposed location would be located within one thousand (1000) feet of any public or private school entrance.

C. Conditions of Operation:

   1. Buildings where medical marijuana is stored or dispensed must be equipped with ventilation/air filtration systems so that no odors are detectable off premises.

   2. The retail establishment must maintain a valid sales tax permit issued by the State of Oklahoma.

   3. No on premises use of marijuana or its derivatives shall be allowed.

   4. Any violations of this section will result in the revocation of the Retail Medical Marijuana Business license.

D. There shall be a business license fee and an annual renewal fee as set forth in schedule A. The annual business license will expire on June 30th and shall be renewed prior to July 1st each year. Failure to renew will result in a penalty of fifty percent (50%) of the annual fee and shall require reinspection as required by City Code.

Section 14-103. Commercial Medical Marijuana Growing And/or Processing Facilities.

Commercial Medical Marijuana Growing and/or Processing Facilities are hereby allowed within the municipal boundaries of Checotah, Oklahoma upon compliance with Section 14-101, issuance of a Commercial Medical Marijuana Growing and/or Facility License and the following additional provisions.

A. Commercial Medical Marijuana Growing and/or Processing Facility shall only be located within one of the following zoning districts.

   1. Agricultural Zone District;

   2. Industrial District; or

   3. Commercial District.

B. Conditions of Operation:

   1. The facility shall be secure with limited access.

   2. The establishment must maintain a valid sales tax permit issued by the State of Oklahoma.

   3. The facility must be constructed in such a manner that the growing of the medical marijuana plants cannot be seen by the public from the public right of way.

   4. The growing area including any lighting, plumbing or electrical components used shall comply with all building and fire codes adopted by the State of Oklahoma and the City of Checotah.

   5. The growing area must be properly ventilated so as not to create humidity, mold or other related problems.

   6. Growing medical marijuana shall not be conducted in a manner that constitutes a public nuisance. A public nuisance may be deemed to exist if growing marijuana produces light, glare, heat, noise, odor or vibration that is detrimental to public health, safety or welfare or interferes with reasonable enjoyment of life and property.

C. There shall be a business license fee and an annual renewal fee as set forth in schedule A. The annual business license will expire on June 30th and shall be renewed prior to July 1st each year. Failure to renew will result in a penalty of fifty percent (50%) of the annual fee and shall require reinspection as required by City Code.

Section 14-104. Medical Marijuana Wholesale And/or Storage Facilities.

Medical Marijuana Wholesale and/or Storage Facilities are hereby allowed within the municipal boundaries of Checotah, Oklahoma upon compliance with Section 14-101, issuance of a Medical Marijuana Wholesale and/or Storage Facility License and the following additional requirements.

A. Medical Marijuana Wholesale or Storage Facility shall only be located within one of the following zoning districts.

   1. Agricultural District;

   2. Industrial District;

B. Conditions of Operations:

   1. The facility shall be secure with limited access.

   2. Buildings where medical marijuana is stored or dispensed must be equipped with ventilation/air filtration systems so that no odors are detectable off premises.

3. The retail establishment must maintain a valid sales tax permit issued by the State of Oklahoma.

C. There shall be a business license fee and an annual renewal fee as set forth in schedule A. The annual business license will expire on June 30th and shall be renewed prior to July 1st each year. Failure to renew will result in a penalty fee of fifty percent (50%) of the annual fee.

Section 14-105. Penalty.

In addition license revocation or suspension, a violation of any of the provisions contained in this chapter shall also be deemed an offense and punishable, as provided in City Code.

Article IV. Garage Sales

Section 14-401. Intent and Purpose.

The city council finds and declares that:

A. The intrusion of nonregulated garage sales is causing annoyance to citizens in residential areas of the city and congestion of the street in residential areas in the city;

B. The provisions contained in this article are intended to prohibit the infringement of any business in any established residential areas by regulating the term and frequency of garage sales, so as not to disturb or disrupt the residential environment of the area; and

C. The provisions and prohibitions hereinafter contained are enacted not to prevent but to regulate garage sales for the safety and welfare of the city's citizens.

Section 14-402. Definitions.

As used in this Article IV, 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. Garage sale: means all general sales, open to the public, conducted from or on a residential premises in any residential zone, as defined by the city's zoning regulations, for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage", "lawn," "yard," "attic," "porch," "room," "backyard," "patio," "flea market," or "rummage" sale. This definition shall not include a situation where no more than five specific items are held for sale and all advertisement of such sale specifically names items to be sold.

B. Personal property: means property which is owned, utilized and maintained by an individual or members of his residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

Section 14-403. Sales Permitted.

A. It is unlawful for any individual to sell or offer for sale, under authority granted by this article, property other than personal property. Such sales may only be conducted upon the issuance of a permit by the city for the designated place and time. Provided, if inclement weather or other emergency beyond the control of the applicant prevents the sale from occurring as planned, the applicant may request that the sale be conducted on alternative times. Such request shall not be unreasonably withheld by the city.

B. The application shall pay a fee of $10.00 as an administrative fee for the processing of a garage sale permit.

Section 14-404. Display of Sale Property.

Personal property offered for sale may be displayed within the residence, in a garage, carport, or in a rear yard, but only in such areas. No personal property offered for sale at a garage shall be displayed in the front yard or side yard areas of any such premises or in any public right-of-way. However, a vehicle offered for sale may be displayed on a permanently constructed driveway within such front or side yards.

Section 14-405. Number of Sales.

No more than five garage sales will be allowed to one residence or family household during any calendar year.

Section 14-406. Hours of Operations.

Such garage sales shall be limited in time to no more than the daylight hours of three consecutive days, excluding Sunday.

Section 14-406. Advertising Signs.

A. Only the following specified signs may be displayed in relation to a pending garage sales:

1. Three signs of not more than four square feet shall be permitted to be displayed on the property of the residence where the garage sale is being conducted but not on utility poles within the public right-of-way; and

2. Three signs of not more than two square feet each are permitted, provided that the premises upon which the garage sales is conducted is not on a major thoroughfare, and written permission to erect signs is received from the property owners upon whose property such signs are to be placed.

B. No sign or other form of advertisement shall be exhibited for more than one day prior to the day that such sale is to commence.

C. Signs must be removed each day at the close of the garage sales activities or by the end of daylight, whichever occurs first.

D. Each sign in violation of this article shall constitute a separate offense and each day of violation shall constitute a separate offense.

Section 14-407. Public Nuisance.

The individual conducting the sale and owner or tenant of the premises on which such sale or activity is conducted shall be jointly and severally responsible for the

maintenance of good order and decorum on the premises during all hours of such sale or activity. No other individual shall permit any loud or boisterous conduct on the premises nor permit vehicles to impede the passage of traffic on any roads or streets in the area of such premises. All such individuals shall obey the reasonable orders of any member of the police department, fire department, or code enforcement department of the city in order to maintain the public health, safety and welfare.

Section 14-408. Compliance Checks.

A police officer or any other official designated by any city ordinance to make inspections under the building or zoning regulations shall have the right of entry to any premises showing evidence of a garage sale for the purpose of enforcement or inspection and may close the premises from such a sale for a violation of the provisions of this article.

Section 14-409. Parking.

All parking of vehicles shall be conducted in compliance with all applicable laws and ordinances. The police department may enforce such temporary controls to alleviate any special hazards or congestion created by a garage sale.

Section 14-410. Exemptions.

The provisions of this article shall not apply to or affect the following:

A. Persons selling goods pursuant to an order or process of court of competent jurisdiction;

B. Persons acting in accordance with their powers and duties as public officials;

C. Any sale conducted by any merchant or mercantile or other business establishment from or at a place of business wherein such sale would be permitted by the zoning regulations of the city or under the protection of the nonconforming use section thereof or any other sale conducted by a manufacturer, dealer or vendor and which sale would be conducted from properly zoned premises and not otherwise prohibited in other ordinances; or

D. Any bona fide charitable, educational, cultural or governmental institution or organization when the proceeds from the sale are used directly for the institution or organization's charitable purposes and the goods or articles are not sold on consignment basis.

Section 14-411. Separate Violations.

Every article sold and every day a sale is conducted in violation of this article shall constitute a separate offense.

Article V. Home Sharing.

Section 14-501. Definitions.

A. "Home Sharing" means lodging accommodations that are provided in a dwelling or room(s) in a dwelling for rent for a temporary period of time not to exceed more than 30 consecutive days per guest; provided if the dwelling is located within a Historic Preservation District, a special exception must be obtained from the Board of Adjustment. This term does not include a "hotel" or other facility specifically defined in this Code.

B.

C. "Guest" means a person who rents a home sharing accommodation.

D.

E. "Host" means a property owner or a tenant with the written authorization of the property owner, who is engaged in providing home sharing accommodations.

F.

G. "Rent" means all payments, except deposits and damages, to be made to the host under the rental agreement or contract for temporary occupancy.

H.

Section 14-502. Permit Required.

A. No person shall manage/operate a home sharing accommodation without a permit, as provided herein, issued by the City. Said permit shall expire one year from the date of issuance. Permits may be renewed on an annual basis upon filing a renewal application with the City.

B.

C. No permit shall be issued or renewed to any home sharing accommodation where taxes levied pursuant to this Code are delinquent and are owed by the operator of the property.

D.

E. No person shall offer or engage in home sharing in or on any part of the property not approved for residential occupancy, including but not limited to, a vehicle parked on the property, a storage shed, trailer or garage or any temporary structure such as a tent.

F.

G. No person shall offer or engage in home sharing without complying with applicable building or fire codes adopted by the City.

H.

I. No person shall offer or engage in home sharing except in a zoning district zoned either commercial or residential. Provided, notwithstanding any other provision of this Division, no permit shall be issued for home sharing without a current, valid special exception granted by the Board of Adjustment.

J.

K. A separate permit shall be required for each property being offered for home sharing.

L.

Section 14-503. Application Required.

Applicants for a permit under this Division shall file with the City a verified application in writing on a form to be furnished by the City, which shall contain the following information:

1. The name, street address, mailing address, and telephone number of the host of the property;

M.

1. Number of bedrooms being offered for rent;

N.

1. The name, street address, mailing address, and telephone number of a local contact if the host lives outside of the City or State;

O.

1. Verification that the property is in compliance with the City's minimum property maintenance, building, electrical, mechanical and plumbing codes;

P.

1. Verification that the dwelling has working smoke detectors as required by the City codes, a working carbon monoxide detector and a functioning fire extinguisher.

Q.

1. Proof of ownership of the property;

R.

1. Proof of authorization from the property owner, if applicant is a tenant.

S.

1. A 24-hour emergency contact number for the owner/operator.

T.

1. Proof of any and all applicable tax permit issued by the Oklahoma Tax Commission.

U.

1. Proof of property insurance covering the property with limits of not less than the fair market value of the property.

V.

1. Proof of general commercial liability insurance covering bodily injury and property damage at the property with limits of not less than $25,000.00 per occurrence and $250,000.00 in the aggregate.

W.

Section 14-504. Display of a Permit Required.

No host shall advertise a home sharing accommodation without a City-issued home sharing permit prominently displayed at the location in question.

Section 14-505. Fee.

A person who is required by the provisions of this Division to obtain a permit shall pay to the City the sum of Two Hundred Dollars ($200.00) as a fee for the annual issuance of the permit.

Section 14-506. Suspension or Revocation of Permit.

Any of the following may be caused by the City for the suspension or revocation of the permit required by this Division:

1. Failure of the permittee to strictly comply with the provisions of this Code relating specifically to the person, business, or activity covered by the permit;

X.

1. Failure of the permittee to substantially comply with all provisions of this Code for the regulation and maintenance of the public order, welfare, peace, health or safety;

Y.

1. Conviction of an offense involving misconduct, fraud, dishonesty, or moral turpitude;

Z.

1. Conviction of a felony; or
2.
3. Procuring a permit or renewal of same by fraud, misrepresentation, false or misleading statements, evasion or suppression of material facts.

AA.

BB. Upon suspicion of the occurrence of any of the foregoing, the City shall investigate the matter and may cause the permit to be suspended or revoked.

CC.

Section 14-507. Penalty.

Any person who is required by any provision of this Division to obtain a permit prior to engaging in conduct that is regulated by this Division, and who fails or neglects to obtain such a permit, or who fails to exhibit such a permit upon request, or otherwise fails to comply with the requirements of this Division shall be guilty of an offense. Upon conviction, a person shall be punished by a fine of not less than Five Hundred Dollars ($500.00). Each day of operations in violation of this Division shall constitute a separate offense.

Chapter 15. RESERVED

Chapter 16. CEMETERIES

Article I. In General

Secs. 16-1--16-18. Reserved.

Article II. Greenlawn Cemetery

Sec. 16-19. Penalties and fines.

Persons violating the provisions of this article shall be punished by a fine not exceeding $100.00 or 30 days in jail or any combination thereof.

Sec. 16-20. Cemetery described; name; scope of article.

A. The city cemetery shall be all of that portion or parcel of land described as SW 1/4 of SW 1/4 of section 5, township 11 North, range 17 East, McIntosh County, Oklahoma, being 40 acres, more or less, and as designated by plat thereof now on file in the office of the city clerk, and the same shall be known as "Greenlawn Cemetery."

B. This article shall apply to Greenlawn Cemetery.

(Code 1997, § 8-16; Ord. No. 419, § 1, 5-2-1977)

Sec. 16-21. Use restricted.

The city cemetery shall be used only for the purpose of the interment and burial of the dead.

(Code 1997, § 8-17; Ord. No. 419, § 2, 5-2-1977)

Sec. 16-22. Rules and regulations.

No person shall bury or caused to be buried or interred any body in the city cemetery without first complying with the rules and regulations prescribed by the city council. The mayor and council shall be and are hereby empowered to make and establish such rules and regulations as may be deemed necessary to govern said cemetery, including the price at which lots are to be sold by the city, provided such rules and regulations do not conflict with the laws of the state. A copy of said rules and regulations shall be available to the general public upon request.

(Code 1997, § 8-18; Ord. No. 419, § 3, 5-2-1977)

Sec. 16-23. Conveyances of lots.

Lots in the city cemetery shall be conveyed by certificate of title thereto, to be signed by the mayor and countersigned by the city clerk under the seal of the city. The certificate of title to a lot shall be issued only upon payment to the city clerk of the price thereof as prescribed in the rules and regulations governing the cemetery, and said certificate shall specify that the purchaser to whom the same is issued is the owner of the lot described therein by number as laid down on said plat, for the purpose of interment, and such certificate shall vest in the purchaser or his heirs and assigns a right in fee simple to such lot for the sole purpose of interment or burial under the rules and regulation prescribed by the city council. Such certificate shall be entitled to be recorded in the office of the register of deeds of the county without further acknowledgement, and such description of lots shall be deemed and recognized as sufficient description thereof.

(Code 1997, § 8-19; Ord. No. 419, § 4, 5-2-1977)

Chapter 17. RESERVED

Chapter 18. EMERGENCY MANAGEMENT AND EMERGENCY SERVICES

Article I. In General

Sec. 18-1. Conformity to Oklahoma Emergency Management Act of 2003.

A. *Adopted.* The Oklahoma Emergency Management Act of 2003 (63 O.S. § 683.1 et seq.), and any revisions or amendments thereto, is hereby adopted as the emergency management code of the city and made a part hereof as if fully set out in this article.

B. *Authority to declare local emergencies.* In carrying out the provisions of the Act adopted by reference in subsection (A) of this section, the city shall have the authority to declare a local emergency and the power to enter into contracts and incur obligations necessary to combat any disaster in order to protect the health and safety of persons and property and provide emergency assistance to the victims of such disaster.

C. *Authority of city.* The city is authorized to exercise the powers vested under this section in the light of the exigencies of the extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law (excepting mandatory constitutional requirements) pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, and the appropriation and expenditure of public funds.

Secs. 18-2--18-20. Reserved.

Article II. Civil Emergencies

Sec. 18-21. Authority.

Notwithstanding any other provision of law to the contrary, an emergency may be declared to exist within the city whenever conditions arise by reason of war, conflagration, flood, heavy snow storm, blizzard, catastrophe, disaster, riot or civil commotion, or act of God, including, but not limited to, those which impair transportation, food or fuel supplies, medical care, fire, health or police protection or other vital facilities of the city.

(Code 1997, § 9-52)

Sec. 18-22. Proclamation.

Whenever, in the judgment of the mayor or, in the event of his inability to act as the civil defense director, the president of the council, it is determined that an emergency exists within the city, such official shall have power to impose by proclamation any regulations necessary to preserve the peace and order of the city.

(Code 1997, § 9-53; Ord. No. 333, § 5, 2-4-1963)

Sec. 18-23. Notice to council.

After proclamation of an emergency or any order thereunder, the mayor or other person authorized to do so under this article shall forthwith provide for notice thereof to be given to members of the council.

(Code 1997, § 9-54)

Sec. 18-24. Restriction of activities.

In the event an emergency is proclaimed under the provisions of this article, the mayor shall have the power and authority to:

A. Impose a curfew upon all or any portion of the city thereby requiring all persons in such designated curfew areas to forthwith remove themselves from the public streets, alleys, parks or other public places; provided, however, that physicians, nurses and ambulance operators performing medical services, firemen and city-authorized or city-requested law enforcement officers and personnel may be exempted from such curfew. No person who is not a resident of the city, as evidenced by a current address on his driver's license or other valid identification, shall be arrested or prosecuted for violation of a curfew without first being given a reasonable opportunity to continue through or otherwise leave the area which is under a state of emergency. Any person who is given a reasonable opportunity to leave such area and does not do so is subject to arrest and prosecution.

B. Order the closing of any business establishments anywhere within the city for the period of the emergency, including, but not limited to, those selling intoxicating liquors, cereal malt beverages, gasoline or firearms.

C. Designate any public street, thoroughfare or vehicle parking areas closed to motor vehicles and pedestrian traffic.

D. Call upon regular and auxiliary law enforcement agencies and organizations within or without the city to assist in preserving and keeping the peace within the city.

E. Issue such other orders as are necessary for the protection of life and property or to bring the emergency under control.

(Code 1997, § 9-55)

Sec. 18-25. When proclamation effective.

The proclamation of emergency provided for by this article shall become effective upon its issuance and dissemination to the public by appropriate news media.

(Code 1997, § 9-56)

Sec. 18-26. Termination.

A curfew or order authorized by this article may be amended or rescinded in like manner by the mayor or other authorized person during the pendency of the emergency, but shall cease to be in effect upon the declaration by the mayor or his lawful designee that the emergency no longer exists, or when superseded by action of the council.

(Code 1997, § 9-57)

Sec. 18-27. Penalty.

Any person who shall violate any condition or restriction imposed pursuant to the provisions of this article shall be

deemed guilty of a misdemeanor and subject to the provisions of section 1-8.

(Code 1997, § 9-58)

Chapter 19. RESERVED

Chapter 20. ENVIRONMENT

Article I. In General

Sec. 20-1. Trimming of trees, shrubs.

A. The owner of any premises abutting on any street or alley of the city shall trim all grass, trees and shrubbery growing in the parking between the sidewalks and the roadway of any such street or alley 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.

B. When such premises are occupied by some person other than the owner, such occupant shall trim the grass, trees and shrubbery in the same manner as hereinbefore required of the owner or as directed by section 20-2.

C. Such trees and shrubbery shall be trimmed so that the lowest branches or foliage shall not be lower than ten feet above the roadway of a street or alley or lower than eight feet above the sidewalk.

D. Any owner or occupant who fails, refuses or neglects to trim grass, trees and shrubbery as provided in this section, after receiving ten days' notice from the mayor or street commissioner to do so, is guilty of an offense against the city. Every day that the owner or occupant fails, refuses or neglects to trim such trees or shrubbery after the expiration of ten days' notice shall be a separate offense.

(Code 1997, § 21-6)

Sec. 20-2. Cleaning and mowing of property.

A. *Definitions.* 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:

B. *Cleaning* means the removal of trash from property.

C. *Owner* means the owner of record, as shown by the most current tax rolls of the county treasurer.

D. *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.

E. *Weed* means and includes, but is not limited to, poison ivy, poison oak, or poison sumac and all vegetation at any state of maturing which:

1. Exceeds eight 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 said weeds;

2. Regardless of height, harbors, conceals, or invites deposits or accumulation of refuse or trash;

3. Harbors rodents or vermin;

4. Gives off unpleasant or noxious odors;

5. Constitutes a fire or traffic hazard; or

6. Is dead or diseased.

F. *Action by city.* The code enforcement officer of the city may cause property within the municipal limits to be cleaned of trash and weeds or may cause grass on such property to be cut or mowed in accordance with the following procedure:

1. At least ten 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 and by posting a copy of the notice on the property before any action is taken. 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 days 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 code enforcement officer 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. The notice shall further state that any accumulations of trash or excessive weeds or grass growth on the owner's property occurring within six months from and after the date of the notice may be summarily abated by the city; 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 his right to a hearing or appeal to the city.

3. The code enforcement officer shall 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. The property owner shall have the right to appeal to the city council from any order of the code enforcement officer. Such appeal shall be taken by filing written notice of appeal with the city clerk within ten days after the order is rendered.

5. 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.

6. The code enforcement officer shall determine the actual costs of such cleaning and mowing and any other expense 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 a statement of such actual costs and demanding payment.

7. If payment is not made within 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.

G. That real property located within the City Limits having a zoning classification of Agricultural (A-1) [pursuant to Section 48-138] and all property contained within the North Industrial Tract and the South Industrial Tract are exempt from the eight (8) inch height requirement as set forth in this section.

(Code 1997, § 21-7; Ord. No. 547, § B, 7-11-2005)

Sec. 20-3. Abandoned, junked or discarded vehicles.

A. *Definitions.* 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:

B. *Junk vehicle* means any vehicle which is wrecked, dismantled, partially dismantled, inoperative, deteriorated, decayed, lacking necessary repairs or maintenance, abandoned or discarded, bearing no state license plate, or bearing a state license plate that is more than three months out of date.

C. *Owner* means any person having a legal or equitable interest in the property, including an officer, guardian, executor, administrator, mortgagee in possession, or managing or leasing agent of such person.

D. *Private property* means any real property which is not public.

E. *Public property* means property which is dedicated to the public use and over which the federal, state or municipal government or any political subdivision thereof exercises control and dominion.

F. *Vehicle* means a device in, upon, or by which any person or property is or may be transported or drawn upon a highway or street, including, but not limited to, automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, boats, trailers and recreational vehicles and campers.

G. Prohibited; nuisance declared.

1. It shall be unlawful and an offense for any person to park, store, leave or permit the parking, storing or leaving of any junk vehicle of any kind, whether attended or not, upon any public or private property within the city for a period of time in excess of 72 hours. The presence of junk vehicles or parts thereof on private or public property is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this section.

2. The provisions of subsection (B)(1) of this section shall not apply to any vehicle enclosed within a building on private property or to any vehicle held in connection with a lawful business enterprise on property operated in the appropriate zone pursuant to chapter 48.

H. Notice to remove.

1. The city or its designee shall give notice of removal to the owner of the private property where a nuisance, as defined by this section, is located. At least ten 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 takes action. It shall constitute sufficient notice when, at the time of mailing of the 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. The city shall also post a copy of the notice in some conspicuous place on the premises upon which the vehicle is located or upon the vehicle at least ten days prior to any abatement action by the enforcement official.

2. The notice shall order the property owner to abate the nuisance and shall further state that unless such abatement is performed within ten days of the date of the notice, the nuisance may be abated by the city.

I. Hearing.

1. The owner may give written consent authorizing the city to abate the nuisance under this section. Such consent shall waive the right to a hearing under subsection (D)(2) of this section.

2. At any time within ten days from the date of the notice and order provided for in this section, the owner may request, in writing to the city, a hearing to be conducted for the purpose of contesting the determination that a nuisance exists upon his property. The city shall conduct such hearing at the next available council meeting.

3. If the city, after such hearing, shall determine that the junk vehicle constitutes a growing blight or a substantial detriment to the health and safety of the residents of the community, an order that such nuisance be abated within ten days shall be issued.

J. Responsibility for removal.

1. After proper notice and opportunity to be heard, the owner of the private property on which the junk vehicle is located shall be responsible for its removal. In the event of removal and disposition by the city or its designee, the owner of the private property where the vehicle is located shall be liable for the expenses incurred.

2. The owner shall pay the designated wrecker service all reasonable costs of towing and storage liens which shall have accrued to such vehicle. If the vehicle is not reclaimed within 30 days, it may be sold by the city, giving notice of public sale not less than ten days prior to the date of the proposed sale.

K. *Removal of motor vehicle from property.* If the violation described in the notice served pursuant to this section has not been remedied with the ten-day period of compliance, or in the event that a notice requesting a hearing has not been filed in a timely manner and the existence of the violation is affirmed by the city, then the city or its designee may continue to recommend prosecution of criminal charges on a daily basis for failure to abate the nuisance and/or shall have the right to take possession of the inoperative or junk vehicle and remove it from the premises.

L. *Noninterference.* It shall be unlawful for any person to interfere, hinder or to refuse to allow the representative of the city to enter upon private property for the purpose of removing a vehicle under the provisions of this section.

(Code 1997, § 15-15; Ord. No. 550, § 7, 3-13-2006)

Secs. 20-4--20-24. Reserved.

Article II. Nuisances

Sec. 20-25. 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:

Nuisance means the unlawful doing of an act, the omission of performance of a duty, or 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 highway; or

D. In any way renders other persons insecure in life or in the use of property, provided, this subsection shall not apply to preexisting agricultural activities.

Private nuisance means every nuisance not defined as a public nuisance.

Public nuisance means a nuisance which 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.

(Code 1997, § 15-1)

Sec. 20-26. Illustrative enumeration.

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

A. Noxious weeds and other rank vegetation.

B. Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things.

C. Any condition which provides harborage for rats, mice, snakes and other vermin.

D. Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.

E. All unnecessary or unauthorized noises and annoying vibrations, including animal noises.

F. All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.

G. The carcasses of animals or fowl not disposed of within a reasonable time after death.

H. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, or industrial wastes or other substances.

I. Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.

J. Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.

K. Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.

L. The operation or use of any electrical apparatus or machine which materially and unduly interferes with radio or television reception by others.

M. 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 obstructs traffic thereon, except as may be authorized by law or ordinance.

N. 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.

O. Any pit, hole or other thing which is so constructed, formed, conditioned, or situated as to endanger the public safety.

P. Any motor vehicle, whether in operating condition or not, or any trailer without a current vehicle plate as

required by law for vehicles used on the public highways, when stored or kept in a residence district.

(Code 1997, § 15-2)

Sec. 20-27. Prohibited.

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance.

(Code 1997, § 15-3)

Sec. 20-28. Procedures cumulative.

The various procedures for abating nuisances prescribed by this article and by other provisions of law and ordinance shall be cumulative one to the other, and the city may elect to follow any such procedure which is applicable in abating any particular nuisance.

(Code 1997, § 15-4)

Sec. 20-29. Person responsible.

Every successive owner of property who neglects to abate a continuing nuisance upon or in the use of such property that was created by a former owner is liable therefor in the same manner as the one who first created it.

(Code 1997, § 15-5)

Sec. 20-30. Time lapse not legalizing.

No lapse of time can legalize a public nuisance amounting to an actual obstruction of public right.

(Code 1997, § 15-6)

Sec. 20-31. Remedies--Public nuisances.

The remedies against a public nuisance are:

A. Prosecution on complaint before the municipal court;

B. Prosecution on information or indictment before another appropriate court;

C. Civil action; or

D. Abatement, either:

1. By the person injured, as provided in 50 O.S. § 12; or

2. By the city, in accordance with law or ordinance.

(Code 1997, § 15-7)

Sec. 20-32. Same--Private nuisances.

The remedies against a private nuisance are:

A. Civil action; or

B. Abatement, either:

1. By the person injured, as provided in 50 O.S. §§ 14 and 15; or

2. By the city, in accordance with law or ordinance.

(Code 1997, § 15-8)

Sec. 20-33. Notice to abate--Required.

Whenever a nuisance is found to exist within the city or within the city's extraterritorial jurisdiction, the health officer or some other duly designated officer of the city shall give written notice to the owner or occupant of the property upon which such nuisance exists or upon the person causing or maintaining the nuisance.

(Code 1997, § 15-9)

Sec. 20-34. Same--Contents.

The notice to abate a nuisance issued under the provisions of this article shall contain:

A. An order to abate the nuisance or to request a hearing within a stated time, which shall be reasonable under the circumstances.

B. The location of the nuisance, if the same is stationary.

C. A description of what constitutes the nuisance.

D. A statement of acts necessary to abate the nuisance.

E. A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the city will abate such nuisance and assess the cost thereof against such person.

(Code 1997, § 15-10)

Sec. 20-35. Same--Service.

The notice to abate a nuisance shall be served as any other legal process may be served pursuant to law.

(Code 1997, § 15-11)

Sec. 20-36. Abatement by city.

Upon the failure of the person to whom a notice to abate a nuisance was served pursuant to the provisions of this article to abate the same, the health officer or other duly designated officer of the city shall proceed to abate such nuisance and shall prepare a statement of costs incurred in the abatement thereof.

(Code 1997, § 15-12)

Sec. 20-37. City's costs declared lien.

Any and all costs incurred by the city in the abatement of a nuisance under the provisions of this article shall constitute a lien against the property upon which such nuisance existed, and such lien shall be filed, proven and collected as provided by law. Such lien shall be notice to all persons from the time of its recording and shall bear interest at the legal rate thereafter until satisfied.

(Code 1997, § 15-13)

Sec. 20-38. 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 as provided in 50 O.S. § 17.

(Code 1997, § 15-14)

Chapter 21. RESERVED

Chapter 22. FIRE PREVENTION AND PROTECTION

Article I. In General

Sec. 22-1. Fireworks.

A. It shall be unlawful for any person to offer for sale or to display any fireworks within the corporate limit of the city at any time during the year except between June 15 until July 6 or the first Sunday after July 4th, whichever is later, and from December 15 until January 2 of each year; provided, however, nothing herein shall permit the use of any fireworks within the fire zone of the city or within 300 feet of a hospital, public meeting place, place of religious worship, fireworks stand or flammable agricultural crop. All fireworks storage and sales areas shall be conspicuously posted with signage reading "FIREWORKS – NO SMOKING". Sales of fireworks may only be made properly licensed locations and the license holder shall be responsible for the safe operations of retail sales to the public.

B. It shall be unlawful for any person to sell fireworks within the corporate limits of the city without first making application to the city clerk, and payment of a permit fee of $35.00. Each application shall give the location and a complete description of the place from which fireworks shall be sold. Each permit issued shall be approved by the mayor and shall impose such restrictions as, in the opinion of the fire chief or police chief, shall be necessary to properly safeguard life and property in each case. Each permittee will be required to present proof of liability insurance with a minimum of $500,000.00. A permit shall be refused by the city council if the place is so closely surrounded by buildings and structures, trees, shrubs, or other inflammable articles as to constitute a fire hazard.

C. It shall be an offense for any person to have a pyrotechnic fireworks display without written authorization of the mayor. Applications for permits for display fireworks must be submitted in writing to the city clerk five days prior to date of display. The request for authorization shall give the location of the proposed display and the character and size of the fireworks to be used. Each authorization shall be supervised by the chief or his authorized agent for the protection of persons and property incidental to the display.

D. It shall be an offense for any person to discharge, ignite or in any manner aid, assist or abet in the discharging or igniting any of the following within the city limits except between June 20 and July 5; provided, however, that such restrictions shall be in effect at all times within the business district of the city:

1. Firecrackers of any size, type or description;
2. Skyrockets;
3. Torpedoes;
4. Roman candles;
5. Flash salutes;
6. Flash crackers;
7. Balloons or fireworks or substances designed and intended for pyrotechnic displays; or
8. Small display ground pieces, cones, cannons or other appliances using caps containing chlorate or potash mixtures.

E. Any person who shall fail to do any thing required by this section, who shall otherwise violate any provision of this section, or who shall violate any lawful regulation or order made by any officers provided for in this section shall be guilty of an offense and, upon conviction thereof, shall be punished by a fine in any amount not to exceed $100.00, excluding costs, and/or imprisonment not to exceed 30 days.

(Code 1997, § 12-1; Ord. No. 471, § 1-304, 6-5-1989; Ord. No. 545, 5-9-2005)

Secs. 22-2--22-20. Reserved.

Article II. Volunteer Fire Department

Sec. 22-21. Composition.

The fire department of the city shall be composed of not more than two full-time, salaried firemen, and not less than 12 or more than 25 volunteer firemen.

(Code 1997, § 12-16; Ord. No. 363, 12-4-1967)

Sec. 22-22. Fire chief.

A. The chief shall be at the head of the volunteer fire department, subject to the laws of the state, ordinances of the city, and the rules and regulations herein adopted. The chief shall be appointed in the manner provided by law applicable to the city for the appointment of city officers.

B. The chief shall be held 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 by law or the city.

C. The chief may inspect or cause to be inspected by members of the department, the fire hydrants, cisterns and other sources of water supply of the city at least twice each year.

D. The 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.

E. The chief shall make every effort to attend all fires and direct the officers and members in the performance of their duties.

F. The chief shall see that the citizens are kept informed on fire hazards in the community and on the activities of the department.

G. The 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 such case of suspicious incendiarism.

H. The chief shall file the appropriate activity report forms with the office of the state fire marshal in Oklahoma City on an annual basis. The activity report forms shall be designed by the state fire marshal and shall include, but not be limited to, the amount of property and vehicle fire loss, types of fires, inspections and investigations. The report shall include notification of all fire-related civilian deaths and injuries in the respective jurisdiction, of firefighter deaths in the line of duty, and of firefighter injuries in the line of duty requiring the services of a hospital or physician or both.

(Code 1997, § 12-17; Ord. No. 364, art. 1, 12-4-1967)

Sec. 22-23. Assistant chief.

In the absence of the chief, the assistant chief on duty shall command the volunteer fire department and be held responsible therefor in all respects with the full powers and responsibilities of the chief.

(Code 1997, § 12-18; Ord. No. 364, art. 2, 12-4-1967)

Sec. 22-24. Company officers.

The company officers of the volunteer fire department shall be selected upon their ability to meet the following requirements:

A. Their knowledge of firefighting.

B. Their ability to lead men.

C. Their knowledge of firefighting equipment.

(Code 1997, § 12-19; Ord. No. 364, art. 3, 12-4-1967)

Sec. 22-25. Secretary-treasurer.

One member elected by the volunteer fire department shall be secretary-treasurer. His duties shall consist of the following:

A. Calling the roll at the opening of each meeting.

B. Keeping the minutes of each meeting.

C. Collecting any money due the department by the members.

(Code 1997, § 12-20; Ord. No. 364, art. 4, 12-4-1967)

Sec. 22-26. New members.

A. All new members of the volunteer fire department shall be on probation for one year after their appointment.

B. New volunteer members, upon completion of their probation period, must be approved by the majority of the fire department.

(Code 1997, § 12-21; Ord. No. 364, art. 5, 12-4-1967)

Sec. 22-27. Bylaws.

The bylaws of the volunteer fire department shall include, but shall not be limited to, the following:

A. All volunteer firefighters are required, when notified, to respond to alarms of fire and other emergencies.

B. A volunteer firefighter is required to be present at all regular meetings, called meetings and schools presented for the benefit of the firefighters.

C. There shall be at least one regular business meeting each month.

D. 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.

E. Volunteer firefighters leaving the city for an extended period of time will be required to notify the chief.

F. Any volunteer firefighter refusing to attend training classes provided for him will be dropped from the fire department rolls.

G. Any volunteer member of the fire department shall be dropped from the rolls for the following offenses:

1. Conduct unbecoming a firefighter.

2. Any act of insubordination.

3. Neglect of duty.

4. Any violation of rules and regulations governing the fire department.

5. Conviction of a felony.

(Code 1997, § 12-22; Ord. No. 364, art. 6, 12-4-1967)

Secs. 22-28--22-57. Reserved.

Article III. Fire Prevention Code

Sec. 22-58. Adoption.

For the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the International Fire Prevention Code, 2003 edition, with modifications, as adopted by the office of the state fire marshal, thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended, is hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling within the limits of the city. Not less than three copies of such code have been and now are filed in the office of the city clerk, and the city clerk shall keep copies of such code for distribution or sale at a reasonable price.

(Code 1997, § 12-34; Ord. No. 370, § 1, 7-1-1968)

Sec. 22-59. Enforcement.

The International Fire Prevention Code adopted by reference in section 22-58 shall be enforced by the chief of the fire department.

(Code 1997, § 12-35; Ord. No. 370, § 2, 7-1-1968)

Sec. 22-60. Modifications.

The chief of the fire department shall have power to modify any of the provisions of the International Fire Prevention Code adopted by the provisions of this article 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 such code; provided that the spirit of such 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 chief of the fire department thereon shall be entered upon the records of the department, and a signed copy shall be furnished the applicant.

(Code 1997, § 12-37; Ord. No. 370, § 5, 7-1-1968)

Sec. 22-61. Appeals.

Whenever the chief of the fire department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the International Fire Prevention Code adopted by the provisions of this article do not apply or that the true intent and meaning of such code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief of the fire department to the council within 30 days from the date of the decision appealed.

(Ord. No. 370, § 6, 7-1-1968)

Sec. 22-62. Penalties.

A. Any person who shall violate any of the provisions of the International Fire Prevention Code adopted by reference in this article, who shall fail to comply therewith, who shall violate or fail to comply with any order made thereunder, who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder or any certificate of permit issued thereunder and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the council or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance, respectively, be guilty of a misdemeanor, punishable as provided in section 1-8. 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, and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

B. The application of the penalty specified in subsection (a) of this section shall not be held to prevent the enforced removal of prohibited conditions.

(Ord. No. 370, § 7, 7-1-1968)

Chapter 23. RESERVED

Chapter 24. FLOODS

Article I. In General

Secs. 24-1--24-18. Reserved.

Article II. Flood Damage Prevention

Division 1. Generally

Sec. 24-19. 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:

Appeal means a request for a review of the city clerk's interpretation of any provision of this article or a request for a variance.

Area of shallow flooding means a designated AO zone on the city's flood insurance rate map (FIRM) with base flood depths from one to three feet. This condition occurs where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard means the land in the floodplain within the city subject to a one percent or greater chance of flooding in any given year.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Existing mobile home park or mobile home subdivision means a parcel or contiguous parcels of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which any mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before July 26, 1977.

Expansion to an existing mobile home park or mobile home subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed, including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets.

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.

Flood hazard boundary map (FHBM) means an official map of the city, issued by the Federal Insurance Administration, where the areas within the boundaries of special flood hazard have been designated as zone A.

Flood insurance rate map (FIRM) means an official map of the city on which the Federal Insurance Administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the city.

Flood insurance study means the official report provided by the Federal Insurance Administration. The report contains flood profiles, the water surface elevation of the base flood, as well as the flood hazard boundary-floodway map.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Habitable floor means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. The term "habitable floor" does not include a floor used for storage purposes only.

Mean sea level means the average height of the sea for all stages of the tide.

Mobile home means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "mobile home" does not include recreational vehicles or travel trailers.

New mobile home park or mobile home subdivision means a parcel or contiguous parcels of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which any mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after July 26, 1977.

Start of construction means the first placement of permanent construction of a structure, other than a mobile home, on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation.

A. For the purpose of this definition, the term "permanent construction" does not include land preparation such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, excavation for a basement, footings, piers or foundations or the erection of temporary forms, or the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not as part of the main structure.

B. For a structure other than a mobile home without a basement or poured footings, the term "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation.

C. For mobile homes not within a mobile home park or mobile home subdivision, the term "start of construction" means the affixing of the mobile home to its permanent site.

D. For mobile homes within mobile home parks or mobile home subdivisions, the term "start of construction"

means the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

Structure means a walled and roofed building that is principally above ground, as well as a mobile home.

Substantial improvement means any repair, reconstruction or improvement of a structure the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. Substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term "substantial improvement" does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

Variance means a grant of relief to a person from the requirements of this article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this article.
(Code 1997, § 18-48; Ord. No. 420, art. 2, 7-26-1977)

Sec. 24-20. 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 losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed, or otherwise protected from flood damage.

(Code 1997, § 18-49; Ord. No. 420, art. 1, § B, 7-26-1977)

Sec. 24-21. Purpose.

It is the purpose of this article to promote the public health, safety and general welfare and to minimize public harm and private losses in special flood hazard areas with provisions designed to:

A. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood or that cause excessive increases in flood heights or velocities;

B. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction;

C. Control, in the sense of providing authoritative guidance, the alteration of natural floodplains, their protective barriers and stream channels;

D. Prevent the construction of barriers which will divert floodwaters and subject other lands to greater flood hazards;

E. Control, in the sense of authoritative guidance, development which would cause greater erosion or potential flood damage such as grading, dredging and excavation.

(Code 1997, § 18-50; Ord. No. 420, art. 1, § C, 7-26-1977)

Sec. 24-22. Objectives.

The objectives of this article are:

A. To protect human life and property exposed to the hazards of flooding;

B. To ensure that potential property owners are notified if property is in a special flood hazard area;

C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

D. To minimize prolonged business interruptions;

E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in special flood hazard areas; and

F. To minimize expenditure of future public money for costly flood control projects.

(Code 1997, § 18-51; Ord. No. 420, art. 1, § D, 7-26-1977)

Sec. 24-23. Interpretation.

In the interpretation and application of the provisions of this article, all provisions shall be:

A. Considered as minimum requirements;

B. Liberally constructed in favor of the city council; and

C. Deemed neither to limit nor repeal any other powers granted under state statutes.

(Code 1997, § 18-52; Ord. No. 420, art. 3, § F, 7-26-1977)

Sec. 24-24. Application of article.

The provisions of this article shall apply to all areas of special flood hazard within the jurisdiction of the city.

(Code 1997, § 18-53; Ord. No. 420, art. 3, § A, 7-26-1977)

Sec. 24-25. Disclaimer of liability.

The degree of flood protection required by the provisions of this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by manmade or natural causes. This article does not imply that land

outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

(Code 1997, § 18-54; Ord. No. 420, art. 3, § G, 7-26-1977)

Sec. 24-26. Compliance required.

No structure or land shall hereafter be located, altered or have its use changed without full compliance with the terms of this article and other applicable regulations.

(Code 1997, § 18-55; Ord. No. 420, art. 3, § D, 7-26-1977)

Sec. 24-27. Conflicts.

The provisions of this article are not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Code 1997, § 18-56; Ord. No. 420, art. 3, § E, 7-26-1977)

Sec. 24-28. Areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration on its flood hazard boundary map (FHBM) #H-01, dated August 13, 1976, and any revisions thereto are hereby adopted by reference and declared to be a part of this article. Such map shall be available for inspection or purchase, for a reasonable charge, by the public in the city clerk's office during regular business hours.

(Code 1997, § 18-57; Ord. No. 420, art. 3, § B, 7-26-1977)

Secs. 24-29--24-59. Reserved.

Division 2. Administration and Enforcement

Sec. 24-60. Local administrator--Designated.

The city clerk is hereby appointed to administer and implement the provisions of this article.

(Code 1997, § 18-66; Ord. No. 420, art. 4, § A, 7-26-1977)

Sec. 24-61. Same--Duties, responsibilities.

The duties and responsibilities of the city clerk in the administration of the provisions of this article shall include, but not be limited to:

A. Maintaining and holding open for public inspection all records pertaining to the provisions of this article;

B. Reviewing and either approving or denying all applications for development permits required by section 24-62;

C. Reviewing permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required;

D. Making necessary interpretations wherever interpretation is needed as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions);

E. Notifying adjacent communities and the state water resources board prior to any alteration or relocation of a watercourse, and submitting evidence of such notification to the Federal Insurance Administration;

F. Assuring that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;

G. Obtaining, reviewing, and reasonably utilizing any base flood elevation data available from a federal, state, or other source in order to administer the provisions of Division 3 of this article whenever base flood elevation data has not been provided in accordance with section 24-28.

(Code 1997, § 18-67; Ord. No. 420, art. 4, § B, 7-26-1977)

Sec. 24-62. Development permit required.

A. A development permit shall be required to ensure conformance with the provisions of this article.

B. Application for a development permit shall be presented to the city clerk on forms furnished by him and may include, but shall not be limited to, plans, in duplicate and drawn to scale, showing the location, dimensions and elevation of proposed landscape alterations, existing and proposed structures, 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 proposed 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 section 24-87;

   4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

C. Approval or denial of a development permit by the city clerk shall be based on all of the provisions of this article and the following relevant factors:

   1. The danger to life and property due to flooding or erosion damage;

   2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

   3. The danger that materials may be swept onto other lands to the injury of others;

4. The compatibility of the proposed use with existing and anticipated development;

5. The safety of access to the property in times of flood for ordinary and emergency vehicles;

6. The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;

7. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters 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.

(Code 1997, §§ 18-69--18-71; Ord. No. 420, art. 3, § C, art. 4, § C, 7-26-1977)

Sec. 24-63. Variances.

A. The city council shall hear and render judgment on requests for variances from the requirements of this article.

B. The city council 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 city clerk in the enforcement or administration of this article.

C. Any person aggrieved by the decision of the city council may appeal such decision in the courts of competent jurisdiction.

D. The city clerk shall maintain a record of all actions involving an appeal and shall report variances to the Federal Insurance Administration 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 section.

F. Generally, 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, provided the relevant factors in section 24-62(c) have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

G. Upon consideration of the factors noted in this section and the intent of this article, the city council may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article.

H. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

I. Prerequisites for granting variances shall be as follows:

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:

i. A showing of good and sufficient cause;

ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or cause conflict with existing local laws or ordinances.

3. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation two feet below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(Code 1997, § 18-68; Ord. No. 420, art. 4, § D, 7-26-1977)

Secs. 24-64--24-84. Reserved.

Division 3. Flood Hazard Reduction

Sec. 24-85. General standards.

In all areas of special flood hazard, the following provisions are required:

A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;

B. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

C. All new construction or substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

D. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

E. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharges from the systems into floodwaters; and

F. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Code 1997, § 18-81; Ord. No. 420, art. 5, § A, 7-26-1977)

Sec. 24-86. Specific standards--Residential construction.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in sections 24-28, 24-61(G) or 24-89(C), new construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation. A registered professional engineer, architect or land surveyor shall submit a certification to the city clerk that the standard of this section, as proposed in section 24-62, is satisfied.

(Code 1997, § 18-82; Ord. No. 420, art. 5, § B, 7-26-1977)

Sec. 24-87. Same--Nonresidential construction.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in sections 24-28, 24-61(G), or 24-89(C), new construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation, or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall submit a certification to the city clerk that the standards of this section, as proposed in section 24-62, are satisfied.

(Code 1997, § 18-83; Ord. No. 420, art. 5, § B, 7-26-1977)

Sec. 24-88. Same--Mobile homes.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in sections 24-28, 24-61(G), or section 24-89(C), the following provisions shall apply:

A. No mobile home shall be placed in a floodway or, if applicable, a coastal high hazard area, except in an existing mobile home park or existing mobile home subdivision.

B. All mobile homes shall be anchored to resist flotation, collapse, or lateral movement. Specific requirements shall be as follows:

1. Over-the-top ties at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, and mobile homes less than 50 feet long shall require one additional tie per side;

2. Frame ties at each corner of the home, with five additional ties per side at intermediate points, and mobile homes less than 50 feet long shall require four additional ties per side;

3. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds;

4. Any additions to the mobile home shall be similarly anchored.

(Code 1997, § 18-84; Ord. No. 420, art. 5, § B, 7-26-1977)

Sec. 24-89. Subdivision standards.

A. All subdivision proposals shall be consistent with sections 24-20, 24-21 and 24-22.

B. All proposals for the development of subdivisions shall meet development permit requirements of section 24-62 and the provisions of this division.

C. Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of 50 lots or five acres, if not otherwise provided pursuant to sections 24-28 or 24-61(G).

D. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

E. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(Code 1997, § 18-85; Ord. No. 420, art. 5, § C, 7-26-1977)

Secs. 24-90 – 24-99. Reserved.

Article III. Flood Damage Prevention Ordinance

Division 1. Statutory Authorization, Findings of Fact, Purpose and Methods

Section 24-100. Statutory Authorization.

The Legislature of the State of Oklahoma has in Oklahoma Floodplain Management Act, Sections 1601 through 1620.1 of Title 82 of the Oklahoma Statutes delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Checotah, Oklahoma, does ordain these Flood Damage Prevention Ordinances as follows.

Section 24-101. Findings of Fact.

A. The flood hazard areas of Checotah are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

B. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

Section 24-102. Statement of Purpose.

It is the purpose of these Flood Damage Prevention Ordinances 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:

A. Protect human life and health;

B. Minimize expenditure of public money for costly flood control projects;

C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

D. Minimize prolonged business interruptions;

E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

F. 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

G. Insure that potential buyers are notified that property is in a flood area.

Section 24-103. Methods of Reducing Flood Losses.

In order to accomplish its purposes, these Flood Damage Prevention Ordinances use the following methods:

A. 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;

B. Require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;

C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

D. Control filling grading, dredging and other development, which may increase flood damage;

E. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

Secs. 24-104- 24-109. Reserved.

Division 2. Definitions

Section 24-110. Definitions.

Unless specifically defined below, words or phrases used in these Flood Damage Prevention Ordinances shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

ALLUVIAL FAN FLOODING – means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

APEX – means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

APPEAL BOARD – means the City Council of City of Checotah.

APPURTENANT STRUCTURE – means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

AREA OF FUTURE CONDITIONS FLOOD HAZARD – means the land area that would be inundated by the 1-percent-annual chance (100 year) flood based on future conditions hydrology.

AREA OF SHALLOW FLOODING – means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 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.

AREA OF SPECIAL FLOOD HAZARD – is the land in the floodplain within a community subject to a 1 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 rate-making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

BASE FLOOD – means the flood having a 1 percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION – the elevation shown on the Flood Insurance Rate Map (FIRM) and found in accompanying Flood Insurance Study (FIS) for zones A, AE, AH, A1-A30 and AR that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year – also called the base flood.

BASEMENT – means any area of the building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL – means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

CRITICAL FEATURE – means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

DEVELOPMENT – means any man-made change to 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.

ELEVATED BUILDING – means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

EXISTING CONSTRUCTION - means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the :floodplain management regulations adopted by a community.

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).

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.

FLOOD ELEVATION STUDY -means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mud:flow) and/or flood-related erosion hazards.

FLOOD HAZARD BOUNDARY MAP (FHBM) - means an official map of a community, issued by the Administrator, where the boundaries of the flood, mudslide (i.e., mud:flow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.

FLOOD INSURANCE RATE MAP (FIRM) - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) - see Flood Elevation Study

FLOODPLAIN OR FLOOD-PRONE AREA- means any land area susceptible to being inundated by water from any source (see definition of :flooding).

FLOODPLAIN MANAGEMENT - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS - means zoning 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.

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 area 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.

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.

FLOODWAY - see Regulatory Floodway

FUNCTIONALLY DEPENDENT USE - means a use, which 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.

HIGHEST ADJACENT GRADE - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE - means any structure that is:

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:

E. By an approved state program as determined by the Secretary of the Interior or;

F. Directly by the Secretary of the Interior in states without approved programs.

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.

LEVEE SYSTEM - means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

MANUFACTURED HOME - means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

NEW CONSTRUCTION - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

RECREATIONAL VEHICLE - means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self- propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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.

RIVERINE - means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

SPECIAL FLOOD HAZARD AREA- see Area of Special Flood Hazard

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 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE - means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

VARIANCE - means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

VIOLATION - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(l0), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION - means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Secs. 24-111 – 24-119. Reserved.

Division 3. General Provisions

Section 24-120. Lands to Which This Ordinance Applies.

These Flood Damage Prevention Ordinances shall apply to all areas of special flood hazard within the jurisdiction of the Checotah.

Section 24-121. Basis for Establishing the Areas of Special Flood Hazard.

The areas of special flood hazard identified by FEMA in a scientific and engineering report entitled" the Flood Insurance Study (FIS) for Mcl11tosh and incorporated areas dated
04-08-2019 with accompanying Flood Insurance Rate Map (FIRM) panel number _ are hereby adopted by reference and declared to part of these Flood Damage Prevention Ordinances.

Section 24-122. Establishment of Development Permit.

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this ordinance.

Section 24-123. Compliance.

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

Section 24-124. Abrogation and Greater Restrictions.

These Flood Damage Prevention Ordinances are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these ordinances and other ordinances, easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section 24-125. Interpretation.

In the interpretation and application of these Flood Damage Prevention Ordinances, 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.

Section 24-126. Warning and Disclaimer or Liability.

The degree of flood protection required by these Flood Damage Prevention Ordinances 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. These Flood Damage Prevention Ordinances do 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. These Flood Damage Prevention Ordinances 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 this ordinance or any administrative decision lawfully made hereunder.

Secs. 24-127 – 24-129. Reserved.

Division 4. Administration

Section 24-130. Designation of the Floodplain Administrator.

The Board of Trustees of the Checotah designates the Mayor or his/her designee as the Floodplain Administer to administer and implement the provisions of these Flood Damage Prevention Ordinances and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

Section 24-131. Duties & Responsibilities of the Floodplain Administrator.

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

A. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.

B. Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.

C. Review, approve or deny all applications for development permits required by adoption of these Flood Damage Prevention Ordinances.

D. 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 is required.

E. 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 make the necessary interpretation.

F. Notify, in riverine situations, adjacent communities and 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.

G. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

H. When base flood elevation data has not been provided in accordance with Chapter 3, Section 3.2, 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 Chapter 5.

I. Become accredited by the OWRB in accordance with Title 82 O.S. §§ 1601-1620, as amended.

J. After a disaster or other type of damage occurrence to structures in the community of Checotah determine if the residential and non-residential structures and manufactured homes have been substantially damaged, and enforce the substantial improvement requirement.

K. Maintain a record of all actions involving an appeal from a decision of the Board of Trustees.

Section 24-132. Permit Procedures.

A. Application for a Floodplain 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 Chapter 5, Section 5.2.

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 Chapter 4, Section 4.2

B. Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;

2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

3. The danger that materials may be swept onto other lands to the injury of others;

4. The compatibility of the proposed use with existing and anticipated development;

5. The safety of access to the property in times of flood for ordinary and emergency vehicles;

6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;

7. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters 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.

Section 24-133. Variance Procedures.

A. The Appeal Board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this ordinance.

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 these Flood Damage Prevention Ordinances.

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 these Flood Damage Prevention Ordinances.

F. Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section 4.3 (2) of this chapter have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

G. Upon consideration of the factors noted above and the intent of these Flood Damage Prevention Ordinances, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of these Flood Damage Prevention Ordinances (Chapter 1, Section 1.3).

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. Prerequisites 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: (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) 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 or ordinances.

3. Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor 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 (i) the criteria outlined in Chapter 4, Section 4.4 (1)-(9) are met, and (ii) 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.

Secs. 24-134 – 24-139. Reserved.

Division 5. Provisions for Flood Hazard Reduction

Section 24-140. General Standards.

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

A. 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;

B. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

C. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

D. 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.

E. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

F. 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,

G. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Section 24-141. Specific Standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Chapter 3, Section 3.2, (ii) Chapter 4, Section 4.2 (8), or (iii) Chapter 5, Section 5.3 (3), the following provisions are required:

A. Residential Construction - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), at or 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 Chapter 4, Section 4.3 (1) a., is satisfied.

B. Nonresidential Construction - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) at or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

C. 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:

1. A minimum of two openings on separate walls having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.

2. The bottom of all openings shall be no higher than 1 foot above grade.

3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters .

D. Manufactured Homes -

1. Require that all manufactured homes to be placed within Zone A on a community's FIRM shall be installed using methods and practices that minimize flood damage. 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 resisting wind forces.

2. Require that manufactured homes that are placed or substantially improved within Zones Al-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) 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 is elevated at or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. The manufactured home shall be installed by a licensed installer according to Oklahoma State law and compliance herewith shall be certified in writing to the Floodplain Administrator by said installer prior to habitation of the manufactured home.

3. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones Al-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:

i. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

E. Recreational Vehicles- Require that recreational vehicles placed on sites within Zones A, Al-30, AH and AE on the McIntosh FIRM either:

1. Be on a site for fewer than 180 consecutive days,

2. Be fully licensed and ready for highway use, or

3. Meet the permit requirements of Chapter 4, Section 4.3, and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by a quick disconnect type utilities and security devices and has no permanently attached additions.

F. Accessory Structure- Accessory structures to be placed on sites within Zones A and AE on the McIntosh FIRM shall comply with the following:

1. The structure shall be used only for parking and limited storage;

2. The structure shall not be used for human habitation. Prohibited activities or uses include but are not limited to working, sleeping, living, cooking, or restroom use;

3. The structure shall be unfinished on the interior.

4. Structures shall be small in size, not exceed 600 square feet in size.

5. Structures exceeding 600 square feet in size will be required to meet all applicable standards of Chapter 3 Section 3.3, Chapter 4, Section 4.3, Chapter 5 Section 5.1 & 5.2 including relevant subsections.

6. Service facilities such as electrical and heating equipment must be elevated to or above the BFE;

7. The structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

8. The structure shall be considered low in value, designed to have low flood damage potential and constructed with flood resistance materials;

9. The structure shall be firmly anchored to prevent flotation, collapse, and lateral movement;

10. Floodway requirements must be met in the construction of the structure;

11. Openings to relieve hydrostatic pressure during a flood shall be provided below the BFE; and be placed on opposing walls with the net area of not less than 1 square inch for every square foot of the size of the footprint of the structure (Flood Vents);

12. The Openings (Flood Vents) shall be located no higher than 1 foot above grade;

13. The openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

Section 24-142. Standards for Subdivision Proposals.

A. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Chapter 1, Sections 1.2, 1.3, and 1.4 of these Flood Damage Prevention Ordinances.

B. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of Chapter 3, Section 3.3; Chapter 4, Section 4.3; and the provisions of Chapter 5 of these Flood Damage Prevention Ordinances.

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 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Chapter 3, Section 3.2 or Chapter 4, Section 4.2 (8) of these Flood Damage Prevention Ordinances.

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.

Section 24-143. Severability.

If any section, clause, sentence, or phrase of these Flood Damage Prevention Ordinances are held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of these Flood Damage Prevention Ordinances.

Section 24-144. Checotah Floodplain Management Fee Schedule.

The Checotah Board of Trustees establishes the following fee schedule not to exceed $500.00 for any one service:

A. Notice of Intent Fee- $25 maximum

B. Floodplain Development Permit Application Review- $100.00

C. Floodplain Development Permit Fee- $25.00

D. Inspection Fee-per inspection- $25.00

E. Variance Request Filing Fee- $25.00

Section 24-145. Penalties for Non-Compliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this court order and other applicable regulations. Violation of the provisions of this court order 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 court order or fails to comply with any of its requirements shall upon conviction thereof be fined not more than$ 500.00 or imprisoned for not more than one (1) year, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Each day the violation continues shall be deemed a new violation. Nothing herein contained shall prevent Checotah from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 24-146. Certification of Adoption.

It is hereby found and declared by the Checotah that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program, and in order to effectively remedy the situation described herein an emergency is hereby declared to exist, and this ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect and after its passage and approval

Chapter 25. RESERVED

Chapter 26. HISTORICAL PRESERVATION

Article I. In General

Sec. 26-1. 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:

Adaptive use means the restrained alteration of a historical or architectural resource to accommodate uses for which the resource was not originally constructed, but in such a way so as to maintain the general historical and architectural character.

Architectural resources means districts, structures, buildings, monuments, sites, or landscaping that possess local interest or artistic merit, which are particularly representative of their class or period, or which represent achievements in architecture, engineering technology, design, or scientific research and development.

Building materials means the physical characteristics which create the aesthetic and structural appearance of the resource, including, but not limited to, a consideration of the texture and style of the components and their combinations, such as brick, stone, shingle, wood, concrete, or stucco.

Certificate of appropriateness means the official document issued by the historical preservation and landmark commission approving any application for permission to construct, erect, demolish, relocate, reconstruct, restore, or alter any structures designated by the authority of this chapter.

Commission means the historical preservation and landmark commission of the city.

Conservation means the sustained use and appearance of a resource essentially in its existing state.

Detail means architectural aspects which, due to particular treatment, draw attention to certain parts or features of a structure.

Height means the vertical dimension of a given structure, building or monument.

Historic and preservation district means a geographically definable area with a concentration or linkage of significant sites, buildings, structures, or monuments that are unified historically or architecturally. The terms "historic district," "historical district," "historical preservation district" and "preservation district" and any variant thereof are synonymous.

Historical resources means sites, districts, structures, buildings, or monuments that represent facets of history in the locality, state or nation, places where significant historical or unusual events occurred, or places associated with a personality or group important to the past.

Landmark means an individual structure, building site, or monument which contributes to the historical or architectural heritage of the city.

Ordinary maintenance and repair means any work for which a building permit or any other city permit or certificate is not required and where the purpose of such work is stabilization, and further, where such work will not noticeably change the exterior appearance of the resource. Any work not satisfying all such requirements shall not be considered ordinary maintenance and repair. The application of paint to previously unpainted brick or masonry shall not be considered maintenance and repair, nor shall the construction or enlargement of a driveway or parking area be considered ordinary maintenance and repair.

Preservation means the adaptive use, conservation, protection, reconstruction, restoration, rehabilitation, or stabilization of sites, buildings, districts, structures, or monuments significant to the heritage of the people of the city, state and nation.

Proportion means the relative physical sizes within and between buildings and building components.

Protection means the security of a resource as it exists through the establishment of the mechanisms of this chapter.

Reconstruction means the process of recreating or reproducing, by new construction, all or part of the form and detail of a vanished resource as it appeared at a specified period in time.

Rehabilitation means the process of returning a historical or architectural resource to a state of efficiency or soundness by repair or alteration designed to encourage its continued use but without noticeably changing the exterior appearance of the resource.

Restoration means the process of accurately recovering all or a part of the form and detail of a resource and its setting as it appeared at a particular period of time by means of the removal of later work and the replacement of missing earlier work.

Rhythm means a regular pattern of shapes, including, but not limited to, windows, doors, projections and heights, within a building, structure or monument or a group of the same.

Scale means the harmonious proportion of parts of a building, structure, or monument to one another and to the human figure.

Setting means the surrounding buildings, structures, or monuments, or landscaping which provide visual aesthetic, or auditory quality of the historic or architectural resources.

Shape means the physical configuration of structures of buildings, or monuments and their component parts including, but not limited to roofs, doors, windows, and facades.

Significant characteristics of historical or architectural resources means those characteristics which are important to or expressive of the historical, architectural, or cultural quality and integrity of the resource and its setting, including, but not limited to, building material, detail, height, mass, proportion, rhythm, scale, setback, setting, shape, street accessories and workmanship.

Stabilization means the process of applying measures designated to halt deterioration and to establish the structural stability of an unsafe or deteriorated resource while maintaining the essential form as it presently exists without noticeably changing the exterior appearance of the resource.

Street accessories means those sidewalk or street fixtures which provide cleanliness, comfort, direction, or safety and which are compatible in design to their surroundings, including, but not limited to, trash receptacles, benches, signs, lights, hydrants, and landscaping (including, but not limited to, trees, shrubbery, and planters).

Structure means anything constructed or erected the use of which requires permanent location on the ground or which is attached to something having a permanent location on the ground. The term "structure" includes, but is not limited to, buildings, fences, walls, driveways, sidewalks, and parking areas.

(Code 1997, § 18-102; Ord. No. 490, § 2, 11-1973; Ord. No. 541, § 18-102, 2-10-2003)

Sec. 26-2. Purpose.

The city hereby declares that the historical, architectural, cultural, and aesthetic features of the city represent some of the finest and most valuable resources of the city, and such resources are the embodiment of the heritage of the people of the city, state and nation. Therefore, it is hereby declared that the purposes of this chapter shall be as follows:

A. To promote the creation of historic districts and landmarks for the educational, cultural, economic, and general welfare of the public through the preservation, protection, and regulation of buildings, sites, monuments, structures, and areas of historic interest or importance within the city;

B. To safeguard the heritage of the city by preserving and regulating historic landmarks and districts which reflect elements of its cultural, social, economic, political and architectural history;

C. To preserve and enhance the environmental quality of the neighborhoods of the city;

D. To strengthen the city's economic base by the stimulation of conservation and reuse;

E. To establish and preserve property values;

F. To foster economic development;

G. To ensure the harmonious, orderly and efficient growth and development of the city;

H. To promote the use of historic landmarks and districts for the culture, prosperity, education, and welfare of the people of the city and visitors to the city;

I. To establish a preservation plan to accomplish the goals of this chapter.

(Code 1997, § 18-101; Ord. No. 490, § 1, 11-1973; Ord. No. 541, § 18-101, 2-10-2003)

Sec. 26-3. Penalties.

A. Any person violating any provision of this chapter shall be subject to revocation of his certificate of appropriateness by the historic preservation commission with approval of the city council.

B. Violation of any provision of this chapter is an offense and shall be punished as provided in section 1-8.

(Code 1997, § 18-128; Ord. No. 490, § 3, 11-1973; Ord. No. 541, § 18-128, 2-10-2003)

Secs. 26-4--26-24. Reserved.

Article II. Administration and Enforcement

Division 1. Generally

Secs. 26-25--26-51. Reserved.

Division 2. Historical Preservation and Landmark Commission

Sec. 26-52. Creation.

There is hereby created the historical preservation and landmark commission of the city, to be composed of five members, who shall be appointed by the mayor with the consent and approval of the city council. The director of finance shall serve as an ex officio nonvoting member. Whenever possible, at least two members should be professionals in the fields of law, history, architecture and archaeology.

(Code 1997, § 18-103; Ord. No. 490, § 3, 11-1973; Ord. No. 541, § 18-103, 2-10-2003)

Sec. 26-53. Eligibility.

The commission members shall be interested in the history and heritage of the city and in the preservation of the same.

(Code 1997, § 18-104; Ord. No. 490, § 4, 11-1973; Ord. No. 541, § 18-104, 2-10-2003)

Sec. 26-54. Terms of membership.

The terms of membership shall be five years. The members first appointed shall be as follows: two members shall serve for a term of three years; two members shall serve for a term of four years; and one member shall serve for a term of five years. If there is any vacancy occurring in the commission, such vacancy shall be filled by appointment by the mayor with consent of the council to serve the unexpired term. All members shall serve at the pleasure of the mayor and the council, and one member as appointed shall be a member of the city council at the time of appointment.

(Code 1997, § 18-105; Ord. No. 490, § 5, 11-1973; Ord. No. 541, § 18-105, 2-10-2003)

Sec. 26-55. Removal of members.

Members of the commission may be removed by the mayor and the council for neglect of duty or malfeasance.

(Code 1997, § 18-106; Ord. No. 490, § 6, 11-1973; Ord. No. 541, § 18-106, 2-10-2003)

Sec. 26-56. Meetings and rules.

The commission may be empowered to adopt rules for the conduct of its business. The mayor shall appoint a chairman, who shall serve for one year and who shall be eligible for reappointment. All meetings of the commission shall be open to the public. Any person or such person's duly appointed representative shall be entitled to appear and be heard on any matter before the commission. The commission shall keep a record of its proceedings, a copy of which shall be filed for public view in the office of the city clerk. A majority of the voting members of the commission shall constitute a quorum, and action taken at any meeting shall require the affirmative vote of a majority of the voting members of the commission.

(Code 1997, § 18-107; Ord. No. 490, § 7, 11-1973; Ord. No. 541, § 18-107, 2-10-2003)

Sec. 26-57. Duties.

Unless otherwise specified in this article, the duties of the historical preservation and landmark commission shall be as follows:

A. Preparing or causing to be prepared a comprehensive inventory of historical and architectural resources within the city.

B. Preparing or causing to be prepared a general historical preservation plan to be incorporated within the comprehensive plan.

C. Preparing findings of fact relating to the recommendation for designation of historical and architectural resources.

D. Preparing findings of fact pursuant to action taken by the commission relating to certificates of appropriateness.

E. Making recommendations to the city council concerning the acquisition of development rights, facade easements, and the development of historical preservation plans.

F. Making recommendations to the city council concerning grants from federal and state agencies, private groups and individuals and the utilization of budgetary appropriations to promote the preservation of historic or architectural resources, and, when so directed by the council, the commission may oversee historical projects or programs.

G. Recommending to the city council the need for employing staff and making contracts with technical experts for the furtherance of the commission's work.

H. Promulgating rules governing the meetings of the commission and the standards for how material is presented to the commission.

I. Increasing public awareness of the value of historic, architectural or archaeological resources by developing and participating in public information programs, by recommending the update of the preservation program, by the giving of advice to owners or residents of such resources as to the problems and techniques of preservation work, and further, by placing monuments and markers at historical sites as chosen by the commission.

J. Keeping minutes and records of all meetings and proceedings, including voting records, attendance, resolutions, findings of fact, determinations and decisions.

K. Making recommendations to the city council regarding historic designations, certificates of appropriateness, and amendment and enforcement of this article.

L. Commenting and making recommendations concerning actions undertaken by other city agencies or actions of other governmental units with respect to the effect of such actions upon historical, architectural, and archaeological resources.

M. Conducting a periodic review of the status of designated landmarks and historic districts and providing periodic reports on the findings of said review, along with any resolution for action as considered appropriate, to the city council.

N. Any other functions imposed by this article or which may be specified by the city council.

(Code 1997, § 18-108; Ord. No. 490, § 8, 11-1973; Ord. No. 541, § 18-108, 2-10-2003)

Sec. 26-58. Review.

All matters regarding property or sites situated within the historical preservation district or the historical landmark district shall be reviewed and considered by the historical preservation and landmark commission prior to final action by the planning commission, the board of adjustment, or the city council.

(Code 1997, § 18-120; Ord. No. 490, § 20, 11-1973; Ord. No. 541, § 18-120, 2-10-2003)

Sec. 26-59. Appeals.

Any person aggrieved by a decision of the commission shall have such right of appeal as may be otherwise provided by law.

(Code 1997, § 18-121; Ord. No. 490, § 21, 11-1973; Ord. No. 541, § 18-121, 2-10-2003)

Secs. 26-60--26-76. Reserved.

Article III. Historical Preservation or Landmark Districts

Division 1. Generally

Sec. 26-77. Property owned by public agencies.

The requirements, provisions, and purposes of this article shall apply to all property owned by the city or any other public agency; provided, however, that designation pursuant to this article shall not affect the validity of prior actions of the city council approving plans, programs or authorizations for public trusts, agencies or authorities of the city without an express amendment of such plan, program or authority.

(Code 1997, § 18-123; Ord. No. 490, § 23, 11-1973; Ord. No. 541, § 18-123, 2-10-2003)

Sec. 26-78. Taxes.

Nothing in this article shall be construed as a reason for an increased valuation of property for purposes of ad valorem taxation because of historical designation.

(Code 1997, § 18-122; Ord. No. 490, § 22, 11-1973; Ord. No. 541, § 18-122, 2-10-2003)

Secs. 26-79--26-99. Reserved.

Division 2. Establishment Procedures

Sec. 26-100. Creation of historical and preservation districts.

Historical landmark and preservation zoning districts may be created or enlarged upon recommendation of the commission. The property or area so created or enlarged must satisfy at least one of the following criteria:

A. Exemplifies or reflects the board, cultural, political, economic or social history of the nation, state or community;

B. Is identified with historic persons or with important events in national, state or local history;

C. Embodies the distinguishing characteristics of an architectural type inherently valuable for the study of a period, style or method of construction or of indigenous materials or craftsmanship;

D. Is representative of the notable work of a master builder, designer or architect whose work influenced his age or development in the nation, state, region or local area; or

E. Has yielded or is likely to yield information important in history or prehistory.

(Code 1997, § 18-109; Ord. No. 490, § 9, 11-1973; Ord. No. 541, § 18-109, 2-10-2003)

Sec. 26-101. District identification.

Tracts, buildings or sites within designated historical landmark or preservation districts shall be identified on the official zoning map of the city. The historic preservation commission shall notify in writing all property owners within the area of a proposed historic district or property owners of a proposed historic property in order to inform them of the subject area, time, date and place of the public hearing at which historic designation will be considered. The notice shall be mailed not less than 15 days prior to the meeting. At least 15 days prior to the public hearing, the notice shall be published in the legal notice section of a newspaper of general circulation in the area.

(Code 1997, § 18-110; Ord. No. 490, § 10, 11-1973; Ord. No. 541, § 18-110, 2-10-2003)

Secs. 26-102--26-130. Reserved.

Division 3. Certificate of Appropriateness

Sec. 26-131. When required.

A certificate of appropriateness shall be required in the following instances before the commencement of work upon any structure or site located within the historical landmark district or the historical preservation district:

A. Whenever such work requires a building or fence permit issued by the city.

B. Whenever such work includes the application of paint to a previously unpainted brick or masonry exterior surface or the construction or enlargement of a driveway or parking area.

C. Whenever such work includes the erection, moving, demolition, reconstruction, restoration, or alteration of the exterior of any structure or site, except when such work satisfies all the requirements for ordinary maintenance and repair.

(Code 1997, § 18-116; Ord. No. 490, § 16, 11-1973; Ord. No. 541, § 18-116, 2-10-2003)

Sec. 26-132. General provisions and procedure.

A. No building or fence permit shall be issued by the city clerk for any structure or site located within the historical landmark preservation district until the application for such permit has been reviewed by the commission and a certificate of appropriateness approved by the commission.

B. When applying for such a permit, the applicant shall furnish two copies of all detailed plans, elevations, perspectives and specifications, and the city building official shall forward to the commission such application for a building permit within five days of receipt thereof. Any applicant may request a meeting with the commission before submitting an application and may consult with the commission during the review of the permit application.

C. Upon review of the application, the commission shall determine whether the proposed work is of a nature which will adversely affect any historical or architectural resource and whether such work is appropriate and consistent with the spirit and intent of this article and the designating ordinances. The commission shall apply the criteria established by this article and, based thereon, shall approve or disapprove such certificate of appropriateness. If the commission disapproves such a certificate of appropriateness, no permit shall be issued and the applicant shall not proceed with the proposed work.

D. The commission shall develop such guidelines as it may find necessary to supplement the provisions of this article and to inform owners, residents, and the general public of those techniques which are considered most proper for undertaking work relating to historical and architectural resources. The commission shall have the opportunity to advise the city council concerning provisions in the building, electrical, plumbing, heat and air and housing codes and other codes which affect preservation work.

E. It is not the intent of this article to limit new construction to any one period or architectural style, but to preserve the integrity of historic and architectural resources and to insure the compatibility of new work constructed in the vicinity. In the case of the disapproval of plans by the commission, the commission shall state in writing the reasons for such disapproval and may include its suggestions in regard to actions the applicant might take to secure the approval of the commission as to the issuance of a certificate of appropriateness.

F. The commission may approve certificates of appropriateness subject to certain conditions. Work shall be performed pursuant to the requirements of such certificate, if any. It shall be the duty of the city building official to inspect, from time to time, any work performed pursuant to a certificate of appropriateness to assure such compliance. In the event that such work is not in compliance, the city building official shall issue a stop work order. The commission may request, by resolution, that the city building official inspect the work and issue a stop work order.

(Code 1997, § 18-117; Ord. No. 490, § 17, 11-1973; Ord. No. 541, § 18-117, 2-10-2003)

Sec. 26-133. Review criteria.

The commission shall be guided by the following criteria:

A. The purpose and intent of this article.

B. The degree to which the proposed work may destroy or alter all or part of a resource.

C. The degree to which the proposed work would serve to isolate the resource from its historical or architectural surroundings or would introduce visual, audible, vibratory, or polluting elements that are out of character with the resource and its setting or that adversely affect the physical integrity of the resource.

D. The compatibility of the building materials with the aesthetic and structural appearance of the resource, including, but not limited to, the consideration of texture, style, color or the components and their combinations of elements and their combinations of elements such as brick, stone, concrete, shingle, wood or stucco.

E. The compatibility of the proposed design to the significant characteristics of the resource, including, but not limited to, a consideration of the harmony of materials, details, height, mass, proportion, rhythm, scale, setback, shape, street accessories, and workmanship.

(Code 1997, § 18-118; Ord. No. 490, § 18, 11-1973; Ord. No. 541, § 18-118, 2-10-2003)

Sec. 26-134. Miscellaneous provisions and minimum maintenance.

Designated landmarks or structures, buildings or monuments within landmark districts shall be maintained to meet the minimum requirements of all codes and ordinances governing the public health, safety and welfare. The commission, on its own initiative, may file a resolution with the appropriate officers requesting said officers to proceed under the appropriate codes to require correction of defects or initiation of repairs. All persons in charge of a landmark or a structure, building, or monument within a historic district shall keep in good repair all of the exterior portions of such resource, including appropriate landscaping.

(Code 1997, § 18-119; Ord. No. 490, § 19, 11-1973; Ord. No. 541, § 18-119, 2-10-2003)

Secs. 26-135--26-151. Reserved.

Division 4. General Restrictions and Requirements

Sec. 26-152. Ordinary maintenance or repair.

Nothing in the division shall be construed to prevent ordinary maintenance or repair of any structure except exterior changes.

(Code 1997, § 18-112; Ord. No. 490, § 12, 11-1973; Ord. No. 541, § 18-112, 2-10-2003)

Sec. 26-153. District regulations.

The regulations shall be applicable to the historical landmark and preservation districts and shall control the use of all properties within such districts:

A. The erection, moving, demolition, reconstruction, restoration, or alteration of any structure is prohibited unless a certificate of appropriateness is granted by the historical preservation commission.

B. All structures and grounds shall be maintained in good condition in keeping with the historical nature of the site designated.

C. All interior portions of structures shall be kept in such good repair to the extent necessary to prevent structural deterioration.

D. There shall be full compliance with all provisions of this article.

(Code 1997, § 18-111; Ord. No. 490, § 11, 11-1973; Ord. No. 541, § 18-111, 2-10-2003)

Sec. 26-154. Signs.

Signs within the historical landmark and preservation districts shall be subject to the following:

A. Signs shall be pedestrian-oriented in size and shape. Lettering and symbols should be simple and bold.

B. The area of all signs on a building should not exceed an area of two square feet for each foot of street frontage occupied by the building and should in no event exceed a total of 100 square feet on each street frontage.

C. Roof-mounted signs should be discouraged.

D. A sign should not project perpendicularly beyond the property line more than six feet. Projecting signs for each establishment should be limited to one 18-square foot, double-space sign on each street frontage occupied by the establishment. Faces of double-sided signs should be parallel.

E. The tops of all signs should be placed entirely below the level of the lowest cornice or strong horizontal element located above the ground story of the building, but in no event higher than three feet above the top of the ceiling level of the ground story, with the exception of simple black or gold letters, which may be applied to windows above the first floor. Lettering should be contemporary to the period in which the building or structure was built.

F. Nothing herein shall prohibit flashing, moving or animated signs, provided that all provisions and conditions stated herein are met.

G. Preservation of commercial graphics painted on the sides of certain buildings should be encouraged.

H. All requests for historical signs not conforming to the provisions of this section shall be accompanied by documentary evidence that signs of such size and advertising such a business were in use in the area prior to 1930. Historical signs should conform in size, shape, design, material, coloring, lighting and location to the pre-1930 period. Documentary evidence must be approved by the planning commission.

I. Signs in existence on the effective date of the ordinance from which this article is derived which do not conform to the provisions of the historic district but which were constructed, erected, affixed or maintained in compliance with all previous regulations shall be regarded as nonconforming signs and treated in accordance with chapter 48. In the event signs become nonconforming by amendments to the sign regulations of the historic district, such signs shall be treated in a similar manner, beginning with the date they become nonconforming.

J. Nonconforming signs and/or parts thereof, including sign supports, may be declared public nuisances and abated as prescribed by this Code.

(Code 1997, § 18-113; Ord. No. 490, § 13, 11-1973; Ord. No. 541, § 18-113, 2-10-2003)

Sec. 26-155. Streetscapes.

A. The streetscape of the historic district can be developed by using similar landscaping, street furniture, signage and architecture. At each point or intersection where a new zoning district begins, careful consideration should be taken so that there is an easy flow or transition from one zoning district to the next.

B. In a historic district, standard period lamps are one way to tie the district together. These, along with the street furniture, can begin to make the downtown an interesting and active place for shopping and visiting.

C. Sidewalks and curbs should be kept in good condition in the downtown historic district to allow pedestrians easy access to each store. Corners should be well kept, with handicapped ramps and well-marked crossings.

D. Landscaping the downtown area can give a fresh, new appearance to the streetscape. Trees and planters are a useful addition to city blocks, with trees providing a canopy of shade for pedestrians to enjoy as they shop downtown, as well as a windbreak and dust filter to improve outside weather conditions.

E. Public signage is also important in the streetscape. Streets and the location of public facilities should be well marked and the type of sign and lettering compatible with the downtown theme.

F. All open spaces, street, sidewalks, street furniture, street signs, lighting installation and any other structures or monuments shall conform to the overall purpose of the historic districts, and shall meet all applicable provisions, conditions and standards established herein.

(Code 1997, § 18-114; Ord. No. 490, § 14, 11-1973; Ord. No. 541, § 18-114, 2-10-2003)

Sec. 26-156. Permitted uses.

Property located within the historical landmark and preservation districts may be used for any purpose and only those purposes permitted within the basic zoning district in which such property is located, subject to compliance with all regulations imposed by such basic zoning districts and subject to compliance with all provisions of this article.

(Code 1997, § 18-115; Ord. No. 490, § 15, 11-1973; Ord. No. 541, § 18-115, 2-10-2003)

Secs. 26-157--26-180. Reserved.

Article IV. Regulation of Demolition

Sec. 26-181. Approval and certificate of appropriateness required.

No structure or site within any historical landmark district or historical preservation district shall be demolished or removed unless such demolition shall be approved by the commission and a certificate of appropriateness for such demolition shall be granted. Applications for demolition permits shall be filed with the city clerk.

(Code 1997, § 18-124; Ord. No. 490, § 24, 11-1973; Ord. No. 541, § 18-124, 2-10-2003)

Sec. 26-182. Procedure and postponement orders.

A. The commission shall hold a public hearing for the purpose of considering certificates of appropriateness for demolition or removal. After such hearing the commission may approve the certificate of appropriateness thereby authorizing the demolition or may postpone the demolition for a period of time not to exceed 180 days.

B. At the conclusion of such period of postponement as specified in the commissioner's order, the commission may, within 45 days thereafter, hold a second public hearing for the purpose of considering whether or not the commission should recommend to the city council that additional postponement of demolition be ordered.

C. In the event the commission should make such recommendation of additional postponement to the city council, the city council shall hold a public hearing

for the purpose of considering such additional postponement of demolition.

D. After such public hearing the city council may enter an order approving the demolition or may enter an order postponing demolition of an additional period not to exceed 120 days from the date of such order. At the conclusion of this final period of postponement, the city council shall issue a permit approving the demolition permit.

(Code 1997, § 18-125; Ord. No. 490, § 25, 11-1973; Ord. No. 541, § 18-125, 2-10-2003)

Sec. 26-183. Criteria for review of demolitions.

The commission and the city council shall be guided by the following criteria in considering certificates of appropriateness and authorizations for demolition of structures or sites within the historical landmark and preservation district:

A. The purpose and intent of this article.

B. The degree to which the proposed removal of the historical resource would serve to destroy the integrity and continuity of the historical landmark or historical preservation district of which it is a part.

C. The nature of the resource as a representative type or style of architecture, socioeconomic development, historical association or other element of the original designation criteria applicable to such structure or site.

D. The condition of the resource from the standpoint of structural integrity and the extent of work necessary to stabilize the structure.

E. The alternatives available to the demolition applicant, including:

1. Donation of the subject structure or site to a public or benevolent agency.

2. Donation of a part of the value of the subject structure or site to a public or benevolent agency, including the conveyance of development rights and facade easements.

3. The possibility of sale of the structure or site, or any part thereof, to a prospective purchaser capable of preserving such structure or site.

(Code 1997, § 18-126; Ord. No. 490, § 26, 11-1973; Ord. No. 541, § 18-126, 2-10-2003)

Chapter 27. RESERVED

Chapter 28. HUMAN RELATIONS

Article I. In General

Secs. 28-1--28-18. Reserved.

Article II. Discriminatory Housing Practices

Division 1. Generally

Sec. 28-19. 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:

Chief executive officer means the mayor of the city.

Discriminatory housing practice means an act that is unlawful under this article.

Dwelling means any building, structure or portion thereof which is occupied as or designed or intended for occupancy as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

Elderly person means any natural person 55 years of age or older.

Family includes a single individual. For purposes of this article, 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; or

B. Domiciled with an individual less than 18 years of age in regard to whom such person:

    1. Is the parent or legal custodian;

    2. Has the written permission of the parent or legal custodian for domicile with that person; or

    3. Is in the process of obtaining legal custody of an individual less than 18 years of age.

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. For purposes of this article, the term "an individual with a handicap" or "handicap" does not apply to an individual because of sexual orientation or the sexual preference of the individual or because that individual is a transvestite.

Rent means and includes to lease, sublease, let or otherwise grant for a consideration the right to occupy premises owned by the occupant.

Restrictive covenant 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.

Unlawful discriminatory practice because of age means an act prohibited by this article against a person at least 18 years of age or older solely on the basis of such age.
(Code 1997, § 14-32; Ord. No. 470, § 2, 8-21-1989)

Sec. 28-20. Policy.

It is the policy of the city to provide, within constitutional limitations, for fair housing throughout the city.

(Code 1997, § 14-31; Ord. No. 470, § 1, 8-21-1989)

Sec. 28-21. Exemption.

A. Nothing provided for in this article 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 purpose 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.

    2. 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.

    3. 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:

        i. 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

        ii. Giving preference to persons of the same religion, unless membership in the religion is restricted because of race, color, or national origin.

    4. 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.

B. Nothing provided for in this article relating to familial status applies to housing for older persons. As used in this section, the term "housing for older persons" means housing:

    1. That the state determines is specifically designed and operated to assist elderly persons pursuant to a federal or state program;

    2. Intended for and solely occupied by persons 62 years of age or older; or

3. Intended and operated for occupancy by at least one person 55 years of age or older per unit as determined by state rules.

C. This article does not apply to:

1. The sale or rental of a single-family house sold or rented by an owner if:

i. The owner does not own:

a) More than three single-family houses at any one time; or

b) Any interest in, or there is no interest 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 single-family houses at any one time; and

ii. 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 or more families;

b) The publication, posting, or mailing of a notice, statement, or advertisement prohibited by this article; or

2. 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.

D. The exemption in subsection (C)(1) of this section applies to only one sale or rental in a 24-month period, if the owner was not the most recent resident of the house at the time of the sale or rental.

E. Nothing provided for in this article shall 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.

F. Nothing provided for in this article shall affect a reasonable local or state restriction on the maximum number of occupants permitted to occupy a dwelling or a restriction relating to health or safety standards.

G. Nothing provided for in this article shall prevent or restrict the sale, lease, rental, transfer, or development of housing designed or intended for the use of the handicapped.

H. Nothing provided for in this article shall prohibit the transfer of property by will, intestate succession, or by gift.

(Code 1997, § 14-37; Ord. No. 470, § 7, 8-21-1989)

Sec. 28-22. Unlawful practice.

A. It shall be an unlawful discriminatory housing practice for any person, or any agent or employee of such person:

1. To refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate for the sale or rental of any housing, or to 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 to 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 because of race, color, religion, gender, national origin, age, familial status, or handicap when both applicants seek to buy or lease housing;

8. To refuse to consider as a valid source of income any public assistance, alimony, or child support awarded by a court because of race, color,

religion, gender, national origin, age, familial status, or handicap when that source can be verified as to its amount, length of time received, regularity, or receipt;

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 the obedience of said employee or agent to the provisions of this section;

11. To solicit or attempt to solicit the listing of housing for sale or lease, by door-to-door solicitation, in person, or 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 persons 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:

    i. The lowering of property values;

    ii. A change in the racial, religious, or ethnic character of the block, neighborhood, or area in which the property is located;

    iii. An increase in criminal or antisocial behavior in the area; or

    iv. 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, provided, however, that such blind, deaf, or handicapped person may be liable for any damage done to the dwelling by such dog;

15. To discriminate in the sale or rental or otherwise make available or deny a dwelling to any buyer or renter because of a handicap of:

    i. That buyer or renter;

    ii. A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or

    iii. Any person associated with that buyer or renter;

16. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a handicap of:

    i. That person;
    ii.
    iii. A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
    iv.
    v. Any person associated with that person.

B. For purposes of determining handicap discrimination in housing pursuant to this article, the term "discrimination" includes:

1. 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 nonhandicapped tenants;
2.
3. 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
4.
5. In connection with the design and construction of covered multifamily dwellings for first occupancy 30 months after the date of enactment of the Federal Fair Housing Amendments Act of 1988 (Pub. L. 100-430), a failure to design and construct those dwellings in a manner that:

    i. The public use and common use portions of the dwellings are readily accessible to and usable by handicapped persons;
    ii.
    iii. All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs;
    iv.
    v. All premises within the dwellings contain the following features of adaptive design:

        a) An accessible route into and through the dwelling;
        b)
        c) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
        d)
        e) Reinforcements in bathroom walls to allow later installation of grab bars; and
        f)
        g) Usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space;

vi. 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 (B)(3)(iii) of this section;

vii. As used in this subsection (B)(3), the term "covered multifamily dwellings" means:

a) Buildings consisting of four or more units if the buildings have one or more elevators; and

b) Ground floor units in other buildings consisting of four or more units;

viii. 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.

C. A person whose business includes engaging in residential real estate related transactions shall 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. As used in this subsection, the term "residential real estate related transaction" means:

1. Making or purchasing loans or providing other financial assistance:

i. To purchase, construct, improve, repair, or maintain a dwelling; or

ii. To secure residential real estate; or

2. Selling, brokering, or appraising residential real property.

D. This section does not prohibit discrimination against a person because the person has been convicted under federal law or the law of any state of the illegal manufacture or distribution of a controlled substance.

E. No other categories or classes of persons are protected pursuant to this section.

(Code 1997, § 14-33; Ord. No. 470, § 3, 8-21-1989)

Sec. 28-23. Interference, coercion or intimidation.

It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by the provisions of this article. This section may be enforced by appropriate civil action.

(Code 1997, § 14-43; Ord. No. 470, § 13, 8-21-1989)

Sec. 28-24. Prevention of intimidation in fair housing cases.

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with or attempts to injure, intimidate or interfere with any of the following shall be punished according to the provisions of section 1-8:

A. Any person because of his race, color, religion, sex, handicap, familial status, or national origin and because such person is or has been selling, purchasing, renting, financing, occupying or contracting any dwelling, negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

B.

C. Any person because such is or has been doing the following, or in order to intimidate such person or any other person or any class of persons in order to dissuade such person, other person, or class of persons from doing the following:

1. Participating, without discrimination on account of race, color religion or national origin, in any of the activities, services, organizations or facilities described in subsection (A) of this section; or

2. Affording another person or class of persons opportunity or protection so to participate; or

D. Any person because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in subsection (A) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate.

(Code 1997, § 14-45; Ord. No. 470, § 15, 8-21-1989)

Secs. 28-25--28-50. Reserved.

Division 2. Administration and Enforcement

Sec. 28-51. Administration.

A. The authority and responsibility for administering this article shall be in the chief executive officer of the city.

B.

C. The chief executive officer may delegate any of these functions, duties and powers to employees of the city or to boards of such employees, including functions, duties and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business or matter under this article. The chief executive officer shall by rule prescribe such rights of appeal from the decisions of his hearing examiners to other hearing examiners or to other officers in the city, to boards of officers or to himself, as shall be appropriate and in accordance with law.

D.

E. All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this article and shall cooperate with the chief executive officer to further such purposes.

(Code 1997, § 14-38; Ord. No. 470, § 8, 8-21-1989)

Sec. 28-52. Education and conciliation.

Immediately after the enactment of the ordinance from which this article is derived, the chief executive officer shall commence such educational and conciliatory activities as will further the purposes of this article. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this article and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement.

(Code 1997, § 14-39; Ord. No. 470, § 9, 8-21-1989)

Sec. 28-53. Enforcement.

A. Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter referred to as "person aggrieved") may file a complaint with the chief executive officer. Complaints shall be in writing and shall contain such information and be in such form as the chief executive officer requires. Upon receipt of such a complaint, the chief executive officer shall furnish a copy of the same to the person who allegedly committed or is about to commit the alleged discriminatory housing practice. Within 30 days after receiving a complaint, or within 30 days after the expiration of any person of reference under subsection (c) of this section, the chief executive officer shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the chief executive officer decides to resolve the complaints, he shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this article without the written consent of the persons concerned. Any employee of the chief executive officer who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished according to the provisions of section 1-8.

B.

C. A complaint under subsection (A) of this section shall be filed within 180 days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and, with the leave of the chief executive officer, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.

D.

E. If, within 30 days after a complaint is filed with the chief executive officer, the chief executive officer has been unable to obtain voluntary compliance with this article, the person aggrieved may, if he has not already done so, file a compliant with the secretary of the department of housing and urban development (HUD). The chief executive officer will assist in this filing. The aggrieved person has up to one year after an alleged discriminatory housing practice has occurred or terminated to file this complaint. The person aggrieved may also contact the state human rights commission at any time for assistance in filing a state-initiated complaint against discriminatory housing practices.

F.

G. If the chief executive officer has been unable to obtain voluntary compliance within 30 days of the complaint, the person aggrieved may, within 30 days hereafter, commence a civil action in any appropriate court against the respondent named in the complaint, to enforce the rights granted or protected by this article, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

H.

I. In any proceeding brought pursuant to this section, the burden of proof shall be on the complainant.

J.

K. Whenever an action filed by an individual shall come to trial, the chief executive officer shall immediately terminate all efforts to obtain voluntary compliance.

(Code 1997, § 14-40; Ord. No. 470, § 10, 8-21-1989)

Sec. 28-54. Investigations; subpoenas; giving of evidence.

A. In conducting an investigation, the chief executive officer shall have access at all reasonable times to premises, records, documents, individuals and other evidence or possible sources of evidence and may examine, record and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation, provided that the chief executive officer first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The chief executive officer may issue subpoenas to compel his access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States District Court for the district in which the investigation is taking place. The chief executive officer may administer oaths.

B.

C. Upon written application to the chief executive officer, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the chief executive officer to the same extent and subject to the same limitations as subpoenas issued by the chief executive officer himself. Subpoenas issued at the request of a respondent shall show on

their face the name and address of such respondent and shall state that they were issued at his request.

D.

E. Witnesses summoned by subpoena of the chief executive officer shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States District Courts. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by him.

F.

G. Within five days after service of a subpoena upon any person, such person may petition the chief executive officer to revoke or modify the subpoena. The chief executive officer shall grant the petition if he finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reasons.

H.

I. In case of contumacy or refusal to obey a subpoena, the chief executive officer or other person at whose request was issued may petition for its enforcement in the municipal or state court for the district in which the person to whom the subpoena was addressed resides, was served or transacts business.

J.

K. Any person who willfully fails or neglects to attend and testify, to answer any lawful inquiry, or to produce records, documents, or other evidence, if in his power to do so, in obedience to the subpoena or lawful order of the chief executive officer shall be punished according to the provisions of section 1-8. Any person who, with intent thereby to mislead the chief executive officer, shall make or cause to be made any false entry or statement of fact in any report, account, record or other document submitted to the chief executive officer pursuant to his subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true and correct entries in such reports, accounts, records or other documents, or shall willfully mutilate, alter or by any other means falsify any documentary evidence, shall be punished according to the provisions of section 1-8.

L.

M. The city attorney shall conduct all litigation in which the chief executive officer participates as a party or as amicus pursuant to this article.

(Code 1997, § 14-41; Ord. No. 470, § 11, 8-21-1989)

Sec. 28-55. Enforcement by private persons.

A. The rights granted by this article may be enforced by civil actions in state or United States district courts of general jurisdiction. A civil action shall be commenced within two years after the alleged discriminatory housing practice occurred; provided, however, that the court shall continue such civil case brought pursuant to this section or section 28-53(D) from time to time before bringing it to trial if the court believes that the conciliation efforts of the chief executive officer are likely to result in satisfactory settlement of the discriminatory housing practice complained of in the complaint made to the chief executive officer and such practice forms the basis for the action in court; and provided further, however, that any sale, encumbrance or rental consummated prior to the issuance of any court order issued under the authority of this article and involving a bona fide purchaser, encumbrancer or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this article shall not be affected.

B.

C. The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order and may award to the plaintiff actual damages and punitive damages, together with court costs and reasonable attorney's fees in the case of a prevailing plaintiff, provided the plaintiff, in the opinion of the court, is not financially able to assume such attorney's fees.

(Code 1997, § 14-42; Ord. No. 470, § 12, 8-21-1989)

Chapter 29. RESERVED

Chapter 30. MUNICIPAL COURT

Article I. In General

Sec. 30-1. 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:

Chief of police means the peace officer in charge of the police force of the city.

Clerk or *city clerk* means the clerk of the city, including any deputy or member of the office staff of the clerk while performing duties of the clerk's office.

Court means the municipal court of the city.

District court means the 18th Judicial District of the state.

Judge means the judge of the municipal court, including any acting judge thereof as provided for by the statutes of the state and this chapter.

(Code 1997, § 10-2; Ord. No. 376, § 2, 1-20-1969)

Sec. 30-2. Applicability.

The provisions of this chapter shall govern the organization and operation of the municipal court of the city, as put into operation by resolution duly passed on January 20, 1969, and filed in accordance with law. To the extent of conflict between any provisions of this chapter and the provisions of this Code or any other ordinance of the city, the provisions of this chapter shall control.

(Code 1997, § 10-1; Ord. No. 376, § 1, 1-20-1969)

Sec. 30-3. Jurisdiction.

The court shall exercise original jurisdiction to hear and determine all prosecutions wherein a violation of a provision of this Code or any ordinance of the city is charged, including any such prosecutions transferred to the court in accordance with applicable law.

(Code 1997, § 10-3; Ord. No. 376, § 3, 1-20-1969)

Sec. 30-4. Prosecuting officer.

The city attorney or his duly designated assistant shall be the prosecuting officer of the court. He shall prosecute all alleged violations of the provisions of this Code and ordinances of the city. He shall be authorized, in his discretion, to prosecute and resist appeals, proceedings in error and review from the court to any other courts of the state and to represent the city in all proceedings arising out of matters in the court.

(Code 1997, § 10-4; Ord. No. 376, § 14, 1-20-1969)

Secs. 30-5--30-26. Reserved.

Article II. Judge

Sec. 30-27. Appointment.

There shall be one judge of the court, and he shall be appointed by the mayor, with the consent of the city council.

(Code 1997, § 10-21; Ord. No. 376, § 4, 1-20-1969)

Sec. 30-28. Qualifications; outside practice.

The person who is appointed judge of the municipal court need not be a licensed attorney at law, but if not, he must be a resident of the city of the age of 21 years and possessed of good moral character. 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.

(Code 1997, § 10-22; Ord. No. 376, § 4, 1-20-1969)

Sec. 30-29. Term.

The official term of the judge shall be two years. Each judge, unless sooner removed for proper cause, shall serve until his successor is appointed and qualified.

(Code 1997, § 10-23; Ord. No. 376, § 5, 1-20-1969)

Sec. 30-30. Acting judge.

If, at any time, there is no judge duly appointed and qualified available to sit as judge, the mayor shall appoint some person possessing the qualifications required of the 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.

(Code 1997, § 10-24; Ord. No. 376, § 6, 1-20-1969)

Sec. 30-31. Removal.

Judges shall be subject to removal from office by the city council for the causes prescribed by the constitution and laws of the state for the removal of public officers. Proceedings for removal shall be instituted by the filing of a verified written petition setting forth facts sufficient to constitute one or more legal grounds for removal. Petitions may be signed and filed by the mayor or 25 or more qualified electors of the city; in the latter event, verification may be executed by one or more of the petitioners. The city council shall set a date for hearing the matter and shall cause notice thereof, together with a copy of the petition, to be served personally upon the judge at least ten days before the hearing. At the hearing, the judge shall be entitled to representation by counsel, to present testimony and to cross examine the witnesses against him, and to have all evidence against him presented in open hearing. So far as they can be made applicable, the provisions of the Oklahoma Administrative Procedures Act governing individual proceedings (75 O.S. §§ 309--317) shall govern removal proceedings hereunder. Judgment of removal shall be entered only upon individual votes, by a majority of all members of the city council, in favor of such removal.

(Code 1997, § 10-25; Ord. No. 376, § 9, 1-20-1969)

Sec. 30-32. Vacancy in office.

A. A vacancy in the office of judge shall occur if the incumbent:

1. Dies;
2.
3. Resigns;
4.
5. Ceases to possess the qualifications for the office; or
6.
7. Is removed, and the removal proceeding has been affirmed finally in judicial proceedings or is no longer subject to judicial review.

B. Upon the occurrence of a vacancy in the office of judge, the mayor shall appoint a successor to complete the unexpired term, upon the same procedure as an original appointment is made.

(Code 1997, § 10-26; Ord. No. 376, § 10, 1-20-1969)

Sec. 30-33. No change of venue; disqualification.

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 procedure 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.

(Code 1997, § 10-27; Ord. No. 376, § 11, 1-20-1969)

Secs. 30-34--30-54. Reserved.

Article III. Clerk

Sec. 30-55. Designated.

The city clerk, or a deputy designated by him, shall be the clerk of the court.

(Code 1997, § 10-41; Ord. No. 376, § 13, 1-20-1969)

Sec. 30-56. Bond.

The clerk of the court shall give bond in the form provided by 11 O.S. § 27-111, in the sum of $1,000.00. When executed, said bond shall be submitted to the city council for approval. When approved, it shall be filed with the city clerk and retained in the city archives.

(Code 1997, § 10-42; Ord. No. 376, § 15, 1-20-1969)

Sec. 30-57. Duties generally.

The clerk of the court shall perform the following duties:

A. Assist the judge in recording the proceedings of the court and in preparing writs, processes and other papers.
B.
C. Administer oaths required in proceedings before the court.
D.
E. Enter all pleadings, processes, and proceedings in the dockets of the court.
F.
G. Perform such other clerical duties relating to the proceedings of the court as the judge shall direct.

(Code 1997, § 10-43; Ord. No. 376, § 13, 1-20-1969)

Sec. 30-58. Receipt and disposition of funds.

The clerk of court shall receive and provide receipts for forfeitures, fees, deposits, and sums of money payable to the court. He shall pay to the city treasurer on the first and the 15th day of each month all money so received by him, except such special deposits or fees as shall be received to be disbursed by him for special purposes. All money paid to the treasurer shall be placed in the general fund of the city or in such other fund 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.

(Code 1997, § 10-44; Ord. No. 376, § 13, 1-20-1969)

Secs. 30-59--30-89. Reserved.

Article IV. Procedure

Sec. 30-90. Rules of court.

The judge may prescribe rules consistent with the laws of the state, provisions of this Code and with the ordinances of the city, for the proper conduct of the business of the court.

(Code 1997, § 10-56; Ord. No. 376, § 16, 1-20-1969)

Sec. 30-91. Direction of writs; process.

All writs or processes of the court shall be directed in official title to the chief of police or some other appropriate peace officer.

(Code 1997, § 10-57; Ord. No. 376, § 12, 1-20-1969)

Sec. 30-92. Enforcement of orders; contempt.

Obedience to the orders, rules and judgments made by the judge or by the court may be enforced by the 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 the state.

(Code 1997, § 10-58; Ord. No. 376, § 17, 1-20-1969)

Sec. 30-93. Style of prosecutions.

All prosecutions for violation of the provisions of this Code and ordinances of the city shall be styled "The City of Checotah v. (defendant)." Except as provided hereinafter, prosecutions 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.

(Code 1997, § 10-59; Ord. No. 376, § 18, 1-20-1969)

Sec. 30-94. Citations, arrests for traffic violations.

A. If a police officer observes facts which he believes constitute a violation of the traffic ordinances of the city, in lieu of arresting such person, he may take such person's name, address, operator's license number, the registered license number of the motor vehicle involved, and any other pertinent and necessary information and may issue to such person, in writing in the form prescribed by the mayor or his duly designated delegate, a traffic citation embracing such information, stating the traffic violation alleged to have occurred, and notifying him to answer to the charge against him in the court at a time specified in the citation. The officer, upon receiving the written promise of the alleged violator, endorsed on the citation, to answer as specified, shall release said person from custody. If the person to whom a citation is issued fails to answer as prescribed in the citation, a complaint shall be filed and the case shall be prosecuted as provided in this article.

B.

C. Money received by the court clerk, upon a citation issued by the city, without a plea indicated on the ticket or otherwise, or without any indication that the money is for bond, shall be considered as an admission of guilt, and monies so paid shall be applied to fines and costs.

D.

E. 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 subsection (A) of this section, with such variation as the circumstances require. 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 subsection (A) of this section.

(Code 1997, § 10-60; Ord. No. 376, § 19, 1-20-1969; Ord. No. 534, 12-10-2001; Ord. No. 535, 1-14-2002; Ord. No. 536, § 1, 3-11-2002)

Sec. 30-95. Issuance--Contents; service of summons.

A. Upon the filing of a complaint charging a violation of a provision of this Code or a city ordinance, the judge, unless he determines to issue a warrant of arrest, or unless the defendant previously has been issued a citation or has been arrested and has given bond for appearance, shall issue a summons, naming the person charged, specifying his address or place of residence, if known, stating the offense with which he is charged and giving him notice to answer the charge in the court on a day certain, containing a provision for the official return of the summons, and including such other pertinent information as may be necessary.

B. The summons shall be served by delivering a copy to the defendant personally. If the defendant fails to appear and to answer the summons within the prescribed period, a warrant shall be issued for his arrest, as provided by this article.

(Code 1997, § 10-62; Ord. No. 376, § 21, 1-20-1969)

Sec. 30-96. Same--Form; execution of arrest warrants.

A. Except as otherwise provided in this Code, upon the filing of a complaint approved by endorsement by the city attorney or by the judge, there shall be issued a warrant of arrest, in substantially the following form:

The City of Checotah to the Marshal of the Municipal Court of Checotah, Oklahoma. Complaint upon oath having this day been made by (complainant) that the offense of (naming the offense in particular but general terms) has been committed and accusing (defendant) thereof, you are commanded therefore forthwith to arrest the above named (defendant) and bring (him, etc.) before me, at (place). Witness my hand this _____ day of _____, 20_____.

	Judge of the Municipal Court of Checotah, Oklahoma
_____ Endorsement of the Attorney	

B. It shall be the duty of the chief of police, personally, or through a duly constituted member of the city police force, or through any other persons lawfully authorized so to act, to execute said warrant as promptly as possible.

(Code 1997, § 10-63; Ord. No. 376, § 22, 1-20-1969)

Sec. 30-97. Bail; temporary bonds.

Upon arrest or upon appearance without arrest in response to citation or summons, or at any other time before trial, before or after arraignment, the defendant shall be eligible to be released upon giving bail for his appearance in an amount and upon conditions fixed by the judge, who shall prescribe appropriate rules of court for the receipt of bail. In case of arrests made at night or under other conditions of emergency or when the judge is not available, the chief of police or his designated representative shall be authorized to accept a temporary cash bond in an amount not more than the maximum fine and costs provided by ordinance for such offense charged, unless the defendant has a previous history of failing to appear according to the terms or conditions of a bond, in which case the amount of bail shall not exceed $1,000.00.

(Code 1997, § 10-64; Ord. No. 528, § 7, 10-9-2000)

Sec. 30-98. Day, hour, notice of sessions.

The judge of the municipal court shall conduct a session of the municipal court at such dates, times and places as he shall indicate. The dates, times and places of the sessions of municipal court for the upcoming year shall be filed with the city clerk on or before December 15 of each year.

(Code 1997, § 10-64.1; Ord. No. 528, § 3, 10-9-2000; Ord. No. 529, § 1, 2-12-2001; Ord. No. 533, 12-10-2001)

Sec. 30-99. Arraignment.

Upon making his appearance before the court, the defendant shall be arraigned. The 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.

(Code 1997, § 10-65; Ord. No. 376, § 24, 1-20-1969)

Sec. 30-100. Procedure upon entry of plea.

If the defendant pleads guilty, the court may proceed to judgment and sentence or may continue the matter for subsequent disposition. If the plea is not guilty, and the cause is not for jury trial, the court may proceed to try the case or may set it for hearing at a later date.

(Code 1997, § 10-66; Ord. No. 376, § 24, 1-20-1969)

Sec. 30-101. Postponement.

Before trial commences, either party, upon good cause shown, may obtain a reasonable postponement thereof.

(Code 1997, § 10-67; Ord. No. 376, § 25, 1-20-1969)

Sec. 30-102. Presence of defendant.

The defendant must be present in person at the trial of his case in the court.

(Code 1997, § 10-68; Ord. No. 376, § 26, 1-20-1969)

Sec. 30-103. Trial procedure generally.

In all trials, as to matters not covered in this article, by the statutes relating to municipal courts, or by rules duly promulgated by the state supreme court, the procedure applicable in trials of misdemeanors in the district courts shall apply to the extent that they can be made effective.

(Code 1997, § 10-69; Ord. No. 376, § 27, 1-20-1969)

Sec. 30-104. Witness fees.

A. Witnesses in any proceeding in the court, other than police officers or peace officers, shall be entitled to $10.00 per each day of attendance, plus $0.20 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.

B.

C. 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 the following, and the fees of such witnesses shall be paid by the city:

1. The names of no more than three witnesses;
2.
3. That the defendant, by reason of his poverty, is unable to provide the fees and mileage allowed by law;
4.
5. That the testimony of said witnesses is material; and
6.
7. That their attendance at the trial is necessary for his proper defense.

(Code 1997, § 10-70; Ord. No. 528, § 8, 10-9-2000)

Sec. 30-105. Rendition of judgment--Docket entry.

At the close of trial, judgment thereof shall be rendered immediately by the judge, who shall cause it to be entered in his docket.

(Code 1997, § 10-71; Ord. No. 376, § 31, 1-20-1969)

Sec. 30-106. Same--Plea of guilty or conviction.

If the defendant pleads guilty or is convicted after trial, the court must render judgment thereon, fixing the penalty within the limits prescribed by this Code or by the applicable ordinance and imposing sentence accordingly.

(Code 1997, § 10-72; Ord. No. 376, § 28, 1-20-1969)

Sec. 30-107. Discharge upon acquittal.

If the judgment of the court is of acquittal and the defendant is not to be detained for any other legal cause, he shall be discharged at once.

(Code 1997, § 10-73; Ord. No. 376, § 32, 1-20-1969)

Sec. 30-108. Costs.

If judgment of conviction is entered, the clerk of the court shall tax the costs to the defendant in the sum of $25.00 plus the fees and mileage of jurors and witnesses.

(Code 1997, § 10-74; Ord. No. 528, § 10, 10-9-2000)

Sec. 30-109. Suspension of sentence.

After conviction and the imposition of sentence, the judge may suspend sentence, in accordance with the provisions of and subject to the conditions and procedures imposed by 11 O.S. §§ 27-122.1, 27-122.2, and 27-123.

(Code 1997, § 10-75; Ord. No. 528, § 9, 10-9-2000)

Sec. 30-110. Judgment of imprisonment.

If, after conviction, judgment of imprisonment is entered, a copy thereof, certified by the clerk, shall be delivered to the chief of police, the sheriff of the county, or other appropriate police officer. Such copy shall be sufficient warrant for execution of the sentence.

(Code 1997, § 10-76)

Sec. 30-111. Prisoners.

A. All prisoners confined to jail on conviction or 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.

B. The chief of police, subject to the direction of the mayor, 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, himself or by some person designated by him, shall oversee the work. If

a guard is necessary, the chief of police shall make provisions therefor.

(Code 1997, § 10-77(a), (b))

Chapter 31. RESERVED

Chapter 32. OFFENSES AND MISCELLANEOUS PROVISIONS

Article I. In General

Sec. 32-1. State misdemeanors adopted.

All those laws of the state which define and make certain actions crimes and offenses against the state and classify them as misdemeanors are hereby declared to be crimes and offenses against the city.

(Code 1997, § 16-1; Ord. No. 400, § 1, 5-18-1973)

Sec. 32-2. Attempts to commit an offense.

Every person who attempts to commit an offense against the provisions of this Code or 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 and shall be punished in the manner prescribed for the offense itself.

(Code 1997, § 16-4)

Sec. 32-3. Aiding in an offense.

When no punishment for counseling, aiding or abetting in the commission of a particular offense is expressly prescribed by ordinance, every person who counsels, aids or abets another in the commission of such is guilty of an offense and punishable in the same manner as the principal offender.

(Code 1997, § 16-5)

Secs. 32-4--32-24. Reserved.

Article II. Offenses Against the Person

Sec. 32-25. Assault and battery.

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:

Assault means any willful and unlawful attempt or offer with force or violence to do a corporal hurt to another.

Battery means any willful and unlawful use of force or violence upon the person of another.

B. It shall be unlawful for any person to commit an assault or an assault and battery within the city, and any person committing an assault or an assault and battery within the city is guilty of an offense.

(Code 1997, § 16-11)

Sec. 32-26. Indecent conduct; peeping.

It shall be unlawful for any person to hide or loiter in the vicinity of any private dwelling house, apartment or building with the intent to watch or gaze or look at occupants therein in a clandestine manner, or, while so hiding or loitering, to watch or gaze or look at, occupants therein in a clandestine manner.

(Code 1997, § 16-51)

Sec. 32-27. Malicious intimidation or harassment.

A. No person shall maliciously and with the specific intent to intimidate or harass another person because of that person's race, color, religion, ancestry, national origin or disability:

1. Assault or batter another person;
2.
3. Damage, destroy, vandalize or deface any real or personal property of another person; or
4.
5. Threaten, by word or act, to do any act prohibited by subsection (A)(1) or (A)(2) of this section if there is reasonable cause to believe that such act will occur.

B. No person shall, maliciously and with specific intent to incite or produce, make, transmit, or cause or allow to be transmitted any telephonic, computerized, or electronic message which is likely to incite or produce imminent violence which would be directed against another person because of that person's race, color, religion, ancestry, national origin or disability.

C. No person shall, maliciously and with specific intent to incite or produce, broadcast, publish, distribute, or cause or allow to be broadcast, published or distributed any message or material which is likely to incite or produce imminent violence which would be directed against another person because of that person's race, color, religion, ancestry, national origin or disability.

D. Any person convicted of violating any provision of subsection (A), (B), or (C) of this section shall be guilty of a misdemeanor on a first offense and a felony for a second or subsequent offense.

(Code 1997, § 16-71)

Secs. 32-28--32-57. Reserved.

Article III. Offenses Against Property

Sec. 32-58. Petit larceny.

A. Petit larceny is the taking of personal property of value of not to exceed $500.00, accomplished by fraud or stealth and with intent to deprive another thereof, when the property is not taken from the person of another.
B.
C. Petit larceny is unlawful, and any person who commits petit larceny is guilty of an offense.

(Code 1997, § 16-89; Ord. No. 532, 12-10-2001)

Sec. 32-59. Shoplifting.

It shall be unlawful for any person to willfully conceal or willfully take possession of any goods offered for sale by a wholesale or retail store or other mercantile establishment without the knowledge or consent of the owner thereof and with intent to convert the goods to his own use without paying the purchase price therefor.

(Code 1997, § 16-90)

Sec. 32-60. Obtaining property by trick of deception.

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:

False or bogus check means and shall include checks or orders given for money or property that were drawn on a closed account or on a nonexistent account when such checks or orders are given in exchange for money or property, for any benefit or thing of value or as a down payment for the purchase of any item of which the purchaser is taking immediate possession, as against the maker or drawer thereof.

Credit means an arrangement or understanding with the bank or depository for the payment of such check, draft or order.

B. It shall be unlawful for any person, with intent to cheat and defraud, to obtain or attempt to obtain from any person any money, property or valuable thing of a value or less than $500.00 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 of any false or bogus check or by any other written or printed or engraved instrument or spurious coin.

C.

D. The making, drawing, issuing 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 that such maker or drawer shall not have paid the drawee 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 said check or order is presented for payment within 30 days after same is delivered and accepted.

(Code 1997, § 16-7)

Sec. 32-61. Molesting vehicles.

It shall be unlawful for any person to loiter in or upon any automobile or motor vehicle, to deface or injure such automobile or motor vehicle, to molest, drive, or attempt to drive any automobile, for joyriding or any other purpose, or to manipulate or meddle with any machinery or appliances thereof without the consent of the owner of such automobile or motor vehicle.

(Code 1997, § 16-92)

Sec. 32-62. Malicious mischief; vandalism.

It shall be unlawful for any person to willfully and maliciously damage, deface, injure, remove, carry or take away or otherwise unlawfully harm or assume control of any property, whether public or private, real or personal, which is not his own.

(Code 1997, § 16-93; Ord. No. 215, § 1, 6-6-1921)

Sec. 32-63. Illegal tapping of utility pipes, lines, etc.

It shall be unlawful for any person to connect or attach any kind of pipe, wire or other contrivance to any pipe, line, wire or other conductor carrying gas, water or electricity and belonging to a public utility (whether publicly or privately owned), in such a manner as to enable him to consume or use the gas, water or electricity without its passing through the meter or in any other way so as to evade payment therefor.

(Code 1997, § 16-94; Ord. No. 215, § 1, 6-6-1921)

Sec. 32-64. Unlawful intrusion upon land.

Every person who intrudes or squats upon any lot or piece of land within the city without license or authority from the owner thereof, or who erects or occupies thereon any hut, hovel, shanty or other structure without such license or authority, and every person who places, erects or occupies within the bounds of any street, alley or avenue of the city, any hut, hovel, shanty or other structure whatever, is guilty of an offense.

(Code 1997, § 16-95; Ord. No. 16, §§ 12, 13, 10-29-1898)

Sec. 32-65. Unlawful entrance.

It shall be unlawful for any person to enter upon the property of another or into an area or structure on such property, whether such property, area or structure is public or private, when such entrance is plainly forbidden by signs or otherwise or when the property, area or structure is enclosed, except when such entrance is in line of duty, or with the expressed or tacit consent of the owner or person in charge, or otherwise by authority of law or ordinance.

(Code 1997, § 16-96)

Secs. 32-66--32-88. Reserved.

Article IV. Offenses Against Public Safety

Sec. 32-89. Transportation of firearms.

A. Any person, except a convicted felon, may transport in a motor vehicle a rifle, shotgun or pistol, open and unloaded, at any time. For purposes of this section, the term "open" means the firearm is transported in plain view, in a case designed for carrying firearms which is wholly or partially visible, in a gun rack mounted in the vehicle, in an exterior locked compartment, or in a trunk of a vehicle.

B.

C. Any person, except a convicted felon, may transport in a motor vehicle a rifle or shotgun concealed behind a seat of the vehicle or within the interior of the vehicle provided the rifle or shotgun is not clip-, magazine- or chamber-loaded. The authority to transport a clip- or magazine-loaded rifle or shotgun shall be pursuant to 21 O.S. § 1289.13.

D.

E. Any person who is the operator of a vehicle or is a passenger in any vehicle wherein another person who is licensed pursuant to the Oklahoma Self-Defense Act, 21 O.S. §§ 1290.1--1290.25, to carry a concealed handgun and is carrying a concealed handgun or has concealed the handgun in such vehicle shall not be

deemed in violation of the provisions of this section provided the licensee is in or near the vehicle.

F.

G. Except as otherwise provided by the provisions of the Oklahoma Self-Defense Act or another provision of law, it shall be unlawful to transport a loaded pistol, rifle or shotgun in a landborne motor vehicle over a public highway or roadway. However, a rifle or shotgun may be transported clip- or magazine-loaded and not chamber-loaded when transported in an exterior locked compartment of the vehicle or trunk of the vehicle or in the interior compartment of the vehicle notwithstanding the provisions of 21 O.S. § 1289.7 when the person is in possession of a valid handgun license pursuant to the Oklahoma Self-Defense Act.

H.

I. Notwithstanding the provisions of 21 O.S. § 1272 or 21 O.S. § 1289.13, any person stopped pursuant to a moving traffic violation who is transporting a loaded pistol in the motor vehicle without a valid concealed handgun permit authorized by the Oklahoma Self-Defense Act or valid license from another state, whether the loaded firearm is concealed or open in the vehicle, shall be issued a traffic citation in the amount of $70.00, plus court costs for transporting a firearm improperly. In addition to the traffic citation provided in this section, the person may also be arrested for any other violation of law.

(Code 1997, § 16-74)

Sec. 32-90. Discharging firearms, air rifles, and BB guns.

A. It shall be 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, of another person, or of property, or when otherwise authorized by law or ordinance.

B.

C. It shall be unlawful to discharge an air rifle or BB gun in the city.

(Code 1997, § 16-75; Ord. No. 16, § 3, 10-29-1898)

Sec. 32-91. Throwing or shooting at persons or property.

It shall be unlawful for any person to throw or shoot any stone, shot or other object into or across any street or alley or in any place where it is likely to hit another person wrongfully or injure property, or to throw or shoot any stone, shot or other object at any person, vehicle, structure, electric light or other property of another, whether public or private, except in case where such is done in defense of oneself, of another person, or of property.

(Code 1997, § 16-78)

Secs. 32-92--32-110. Reserved.

Article V. Offenses Against Public Peace

Sec. 32-111. Unlawful assembly.

It shall be unlawful for three or more persons to assemble together or, being assembled together, to act in concert to do any unlawful act against the peace or to the terror of others, or to make any movement thereto or any preparation therefor, or otherwise to assemble together unlawfully or riotously.

(Code 1997, § 16-66)

Sec. 32-112. Disturbing the peace; disorderly conduct.

It shall be unlawful for any person to disturb the peace of another or others by violent, obstreperous, or improper conduct or carriage, by loud or unusual noise, or by unseemly, obscene, offensive or abusive language, or to insult another by such conduct or language, or to conduct himself in a disorderly manner.

(Code 1997, § 16-67; Ord. No. 11, § 5, 10-29-1898)

Sec. 32-113. Disturbing religious worship.

It shall be unlawful for any person to disturb, interrupt or disquiet any congregation or assembly of persons meeting for religious worship by making noise, by rude, indecent, or improper behavior, by profane, unnecessary, or loud language, or in any other manner, either within the place of worship or within hearing distance thereof, so as to upset the order and solemnity of the meeting.

(Code 1997, § 16-68)

Sec. 32-114. Disturbing lawful assemblies.

It shall be unlawful for any person to disturb any lawful public gathering or assembly by making noise, by rude, indecent or improper behavior, by profane, improper, or loud language, or in any manner, either within the place of assembly or within hearing distance thereof.

(Code 1997, § 16-69)

Sec. 32-115. Loud noise, music, etc.

It shall be unlawful for any person to disturb the peace and quietude of any parts of the city by operating, having operated, or permitting to be operated any contrivance, whether electric or not, with or without a loudspeaker, in such a manner as to permit loud music, noise or words. However, this shall not prohibit religious bodies from playing chimes, bells, carillons or other religious music.

(Code 1997, § 16-70)

Sec. 32-116. Blasphemy.

It shall be unlawful for any person to circulate any literature or use any language within the corporate limits of the city that casts profane ridicule on any deity or religion, which in its common acceptance is calculated to cause a breach of the peace or an assault.

(Code 1997, § 16-72)

Secs. 32-117--32-145. Reserved.

Article VI. Offenses Against Public Decency and Morality

Division 1. Generally

Secs. 32-146--32-173. Reserved.

Division 2. Prostitution and Related Offenses

Sec. 32-174. 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:

Illicit sexual intercourse means sexual intercourse with any person other than one's lawful husband or wife.

(Code 1997, § 16-46)

Sec. 32-175. Prostitution.

It shall be unlawful for any person to offer, submit or give himself to a lewd or immoral use, such as illicit sexual intercourse, or to engage in any lewd or immoral act, for money or any other thing of value.

(Code 1997, § 16-47)

Sec. 32-176. Keeping a house of prostitution, etc.

It shall be unlawful for any person or any agent or employee thereof to keep or assist in keeping a house of prostitution or a house or place in the city where persons meet or assemble for illicit sexual intercourse or for any other lewd or immoral purpose, or knowingly to permit a prostitute or other person of an immoral vocation to become or remain a guest in a hotel or roominghouse.

(Code 1997, § 16-48; Ord. No. 11, § 6, 10-29-1898)

Sec. 32-177. Pimping, procuring, etc.

It shall be unlawful for any person to act as a pimp or procurer for any house or place of prostitution or for any prostitute or other person engaged in an immoral vocation, or to procure, assist in procuring, or attempt to procure any person for another for illicit sexual intercourse or for any other immoral purpose.

(Code 1997, § 16-49)

Secs. 32-178--32-207. Reserved.

Article VII. Offenses Involving Government Operations

Sec. 32-208. Refusing or failing to assist officer.

A. An officer of the city making or about to make an arrest, 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 a person to assist him in making such arrest, executing such process, or suppressing such riot, affray or unlawful assembly.

B.

C. It shall be unlawful for any person lawfully called upon thus to assist an officer of the city to refuse or fail to do so.

(Code 1997, § 16-26)

Sec. 32-209. Resisting or interfering with officers.

It shall be unlawful for any person knowingly or willfully to resist, oppose, or obstruct the chief of police, any other policeman, the municipal judge, or any other officer or employee of the city in the discharge of such officer or employee's official duties, to intimidate or attempt to intimidate, by threats or otherwise, any such officer or employee in order to discourage such officer or employee from the discharge of his official duties, or to assault, beat, revile, abuse, be disrespectful to, or use abusive or indecent language toward or about any such officer or employee while such officer or employee is in the discharge of his official duties.

(Code 1997, § 16-27; Ord. No. 11, § 9, 10-29-1898)

Sec. 32-210. Impersonating officer or employee.

It shall be unlawful for any person to impersonate any officer or employee of the city, falsely represent himself to be an officer or employee of the city, or exercise or attempt to exercise any of the duties, functions, or powers of an officer or employee of the city without being duly authorized to do so.

(Code 1997, § 16-28)

Sec. 32-211. Escape of prisoners--Prohibited.

It shall be unlawful for any person confined in the city jail or other place of confinement by the city, or working upon the streets or other public places of the city in pursuance of any judgment, or otherwise held in legal custody by authority of the city for a misdemeanor offense to escape or attempt to escape from any such jail, prison or custody.

(Code 1997, § 16-29)

Sec. 32-212. Same--Assistance.

It shall be unlawful for any person in any unlawful manner to set at liberty, rescue, or attempt to set at liberty or rescue any prisoner from any officer or employee of the city having legal custody of the same or from the city jail or other place of confinement by the city, to assist such prisoner in any manner to escape from such prison or custody, to give such prisoner any weapon or object which might be used as a weapon or instrument to assist him in escape, or to give such prisoner any alcoholic beverage or narcotics.

(Code 1997, § 16-30)

Sec. 32-213. False representation to an officer.

It shall be unlawful for any person 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.

(Code 1997, § 16-31)

Secs. 32-214--32-234. Reserved.

Article VIII. Offenses Involving Minors

Sec. 32-235. Curfew for minors.

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

Minor means any person under the age of 18 years.

Parent means any person having legal custody of a minor:

1. As the natural or adoptive parent;
2.
3. As a legal guardian;
4.
5. As a person who stands in loco parentis; or
6.
7. As a person to whom legal custody has been given by order of the court.

Public place means any street, alley, highway, sidewalk, park, playground or place to which the general public has access and a right to resort to business, entertainment or other lawful purpose. The term "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 such place.

Remain means to stay behind, to tarry and to stay unnecessarily upon the streets, including the congregating of groups (or of interacting minors) totaling four or more persons in which any minor involved would not be using the streets for ordinary or serious purposes such as mere passage or going home.

Street means a way or place, of whatsoever nature, open to the use of the public as a matter of right for purposes of vehicular travel or, in the case of a sidewalk thereof, for pedestrian travel. The term "street" includes a legal right-of-way, including, but not limited to, a cartway or traffic lane, a curb, sidewalks, whether paved or unpaved, and any grass plot or other grounds found within the legal right-of-way of a street.

Time of night is based upon the prevailing standard of time, whether Central Standard Time or Central Daylight Saving Time, generally observed at that hour by the public.

Year of age continues from one birthday, such as the 17th, to, but not including the day of, the next, such as the 18th birthday, making it clear that 17 or fewer years of age is herein treated as equivalent to the phrase "under 18 years of age."

B. It is unlawful for any minor person 17 years of age or less 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 street or public place in the city between the hours of 12:00 midnight and 5:00 a.m. in the morning on weekdays and 1:00 a.m. to 5:00 a.m. on weekends.

C. Exceptions. It is a defense to prosecution under subsection (B) of this section that the minor was:

1. Accompanied by a parent, guardian, custodian or other adult person having custody or control of such minor;
2.
3. On an 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;
4.
5. Engaged in an employment activity or going to or returning home from an employment activity without any detour or stop;
6.
7. In a motor vehicle involved in interstate travel;
8.
9. Involved in an emergency;
10.
11. On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor, if the neighbor did not complain to the police department about the minor's presence;
12.
13. Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;
14.
15. Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
16.
17. Married or had been married or had disabilities of minority removed in accordance with state law.

D. It is unlawful for any person 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.

E.

F. It is unlawful for any parent, guardian, custodian or other adult person having custody or control of any minor to suffer, permit, or, by insufficient control, 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 section do not apply if the parent, guardian or other adult person herein has made a missing person notification to the city police department.

G.

H. The 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 time in violation of the curfew established by subsection (B) of this section. The council may also prescribe the procedures for taking into custody minors found in violation of this section.

I.

J. 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, and such exemption shall not exceed five consecutive days, or in the alternative, two days of any week for a period not to exceed 30 days. All requests shall be filed with the city clerk of the city.

K.

L. 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 judge of the municipal court of the city, who shall summarily hear same, and his judgment shall be final.

M.

N. Any law enforcement officer who shall witness a violation of this section may:

1. Take such offender into his custody to be prosecuted for such violation;
2.
3. Require the posting of a sufficient bond for such minor's appearance in court; or
4.
5. Place the minor in the custody of his parents or some responsible person.

O. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no exception as set forth in subsection (C) of this section is present.

(Code 1997, § 16-33; Ord. No. 456, 1-7-1985)

Sec. 32-236. Furnishing of tobacco products to minors; possession by minors.

A. It shall be unlawful for any person to sell, give, distribute or furnish in any manner any tobacco product to another person who is under 18 years of age, or to purchase in any manner a tobacco product on behalf of any such person.

B.

C. It is unlawful for a person who is under 18 years of age to purchase, receive, or have in his 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.

D.

E. It shall not be unlawful for an employee under 18 years of age to handle tobacco products when required in the performance of the employee's duties.

F.

G. Any person convicted of violating any provision of this section shall be punished by a fine of not more than $100.00 for the first offense, and not more than $200.00 for the second offense within a two-year period following the first offense.

(Code 1997, § 16-52; Ord. No. 549, § 4, 2-13-2006)

Sec. 32-237. Permitting or Allowing Gatherings Where Minors are Consuming Alcoholic Beverages.

A. Definitions: For the purposes of this section, the following definitions shall apply:

B. Alcohol: Ethyl Alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

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

D. Gathering: A party, gathering, or event, where a group of three (3) or more persons have assembled or are assembling for a social occasion or social activity.

E. Intoxicating Beverage: Includes beverages containing more than three and two-tenths percent (3.2%) alcohol by weight.

F. Legal Guardian:

1. A person who, by court order, is the guardian of the person of a minor; or

2. A public or private agency with whom a minor has been placed by the court.

G. Low Point Beer: Means and includes beverages containing more than one-half of one percent alcohol by volume, and not more than three and two-tenths percent (3.2%) 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.

H. Minor: Any person under twenty-one (21) years of age.

I. Parent: A person who is a natural parent, adoptive parent, foster parent, or stepparent of another person.

J. Premises: Any residence or other private property, place, or premises, including any commercial or business premises.

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

4) any other allowable costs related to the enforcement of this section.

L. Consumption of Alcohol by Minor in Public Place, Place Open to Public, or Place Not Open to Public; Except as permitted by state law, it is unlawful for any minor to:

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

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

M. Hosting, Permitting, or Allowing a Party, Gathering, or Event Where Minors are Consuming Alcoholic Beverages is Prohibited:

1.

i. It is the duty of any person having control of any premises, who knowingly hosts, permits, or allows a gathering at said premises to take all reasonable steps to prevent the consumption of alcoholic beverages by any minor at the gathering. Reasonable steps are controlling access to alcoholic beverages at the gathering; controlling the quantity of alcoholic beverages present at the gathering; verifying the age of persons attending the gathering by inspecting drivers' licenses or other government issued identification cards to ensure that minors do not consume alcoholic beverages while at the gathering; and supervising the activities of minors at the gathering.

ii. It is unlawful for any person having control of any premises to knowingly host, permit, or allow a gathering to take place at said premises where at least one minor consumes an alcoholic beverage, whenever the person having control of the premises either knows a minor has consumed an alcoholic beverage or reasonably should have known that a minor consumed an alcoholic beverage had the person taken all reasonable steps to prevent the consumption of an alcoholic beverage by a minor as set forth in subsection (C)(1)(i) of this section.

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

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

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

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

N. Penalty: Any person who shall violate the provisions of this section shall be deemed guilty of an offense against the city and upon conviction thereof shall be punished for violation of an offense, with a fine of five hundred dollars ($500.00), or by imprisonment not exceeding thirty (30) days, or by both such fine and imprisonment, plus all court costs and statutory penalties.

O. Reservation of Legal Options: Violations of this section may be prosecuted by the city of Checotah criminally, civilly, and/or administratively as provided by this code. The city may seek administrative fees and response costs associated with enforcement of this section through all remedies or procedures provided by statute, ordinance, or law. This section shall not limit the authority of peace officers or private citizens to make arrests for any criminal offense arising out of conduct regulated by this section, nor shall they limit the city's ability to initiate and prosecute any criminal offense arising out of the same circumstances necessitating the application of this section.

P. Local Authority: This section shall not apply where prohibited or preempted by state or federal law.

Sec. 32-238 – 32-239. Reserved.

Article IX. Tobacco Use on Public Property

Sec. 32-240. 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. Indoor area: means any indoor city-owned/operated property. An indoor area includes work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, any other spaces used or visited by employees or the public, and all space between a floor and a ceiling that is predominately or totally enclosed by walls or windows, regardless of doors, doorways, open or closed windows, stairways, or the like. The provisions of this section shall apply to such indoor areas at any given time, whether or not work is being performed.

B. Outdoor area: means any covered area, partially covered area or area open to the sky that is on a property owned or operated by the City/Public Works Authority.

C. Recreational area: means any area that is owned, controlled use by the City/Public Works Authority and

open to the general public for recreational purposes, regardless of any fee or age requirement. This terms “Recreational Area” includes, but is not limited to, parks, picnic areas, playgrounds, sports fields, golf courses, walking paths, gardens, hiking trails, bike paths, riding trails, swimming pools, roller and ice skating rinks, beaches surrounding lakes or ponds and skateboard parks;

D. Tobacco product: means any product that contains or is derived from tobacco and is intended for human consumption excluding drugs or devices approved for cessation by the United States Food and Drug Administration. This includes e-cigarettes and vapor products with or without nicotine.

E. Tobacco-free: means to prohibit the use of any tobacco product by anyone, anywhere, at any time.

F. Vapor product: means noncombustible products that may or may not contain nicotine, that employ a mechanical heating element, batter, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce a vapor cartridge or other container with or without nicotine or other form that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. “Vapor products” do not include any products regulated by the United States Food, Drug and Cosmetic Act.

Sec. 32-241. Prohibition of Tobacco Products and Vapor Products on City/Public Works Authority Owned/Operated Property.

A. All buildings and other properties, including indoor and outdoor areas, owned or operated by the City/Public Works Authority, shall be entirely tobacco free in include all forms of tobacco products including vapor products.

B. All indoor and outdoor recreational areas owned or operated by the City/Public Works Authority shall be entirely tobacco free to include all forms of tobacco products including vapor products.

Sec. 32-242. Prohibition of Tobacco Products and Vapor Products in City of Checotah/Checotah Public Works Authority Owned/Operated Vehicles and Equipment.

All vehicles and equipment owned by the City/Public Works Authority shall be entirely tobacco free to include all forms of tobacco products including vapor products.

Sec. 32-243. Violation and Penalty.

Any person who knowingly violates this article is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine as set forth by the City/Public Works Authority.

Sec. 32-244. Enforcement.

The State or Local Government shall, at a minimum, do the following in order to prevent tobacco and vapor product use in City/Public Works Authority places:

A. Post signs at entrances to City/Public Works Authority owned/operated places which state that tobacco use is prohibited; and

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

Chapter 33. RESERVED

Chapter 34. PLANNING

Article I. In General

Secs. 34-1--34-18. Reserved.

Article II. Planning Commission

Sec. 34-19. Created.

There is hereby created within and for the city a planning commission, which shall consist of nine citizens of the city as hereinafter provided. The members of the commission shall be nominated and appointed solely with reference to their fitness and without reference to party affiliation, and shall serve without compensation except as hereinafter provided.

(Ord. No. 475, § 12-101, 12-4-1989)

Sec. 34-20. Terms.

Members of the city planning commission shall hold office for a term of three years, except when a vacancy occurs, in which case an appointment shall be made to fill the unexpired term. Planning commission members whose terms expire may serve consecutive terms.

(Ord. No. 475, § 12-102, 12-4-1989; Ord. No. 499-A, 7-8-1996; Ord. No. 510, 8-11-1997)

Sec. 34-21. Ex officio members.

The mayor and the city engineer shall be ex officio members of the city planning commission but shall receive no compensation other than their affixed salary as such officials.

(Ord. No. 475, § 12-103, 12-4-1989)

Sec. 34-22. Quorum.

Five members of the city planning commission shall constitute a quorum for the transaction of business. However, action may be taken and be binding upon the city planning commission if concurred in by no less than a majority of the members present and voting at any regular or special meeting when a quorum is present.

(Ord. No. 475, § 12-102, 12-4-1989; Ord. No. 508, 6-9-1997)

Sec. 34-23. Appointment and confirmation.

The mayor shall appoint the members of the city planning commission, subject to approval and confirmation by the city council.

(Ord. No. 475, § 12-105, 12-4-1989)

Sec. 34-24. Meetings; organization and rules.

The members of the city planning commission shall meet within two weeks after their appointment and confirmation and organize by electing from their members a chairman, vice-chairman, and secretary, and shall adopt from time to time such bylaws, rules, and regulations and amendments thereto as may be necessary to effectuate the purposes of this chapter.

(Ord. No. 475, § 12-106, 12-4-1989)

Sec. 34-25. Power to employ staff; duties.

The members of the city planning commission shall serve without pay. It is the duty of such commission to prepare from time to time plans for the systematic development and betterment of the city as a place of residence or for business. It shall have the power and authority to employ engineers, attorneys, clerks and a secretary, or other help deemed necessary, subject to the approval of the city council. The salary and compensation of such employees shall be fixed by the city and shall be paid out of the city treasury as other officers and employees, and the necessary expenses incurred by the commission shall be paid out of the city treasury as other legal expenses of the city government.

(Ord. No. 475, § 12-107, 12-4-1989)

Sec. 34-26. Powers and duties; subdivision of land.

A. The planning commission may consider and investigate any subject matter tending to the development and betterment of the city and make recommendations as it may deem advisable to any department of the city government and for any purpose make or cause to be made surveys, maps or plans. Before final action shall be taken by the city council or any department of the city government on the location and designs of any public building, statute, memorial, park, parkway, boulevard, street and alley, playgrounds, public grounds, bridge, or the change in location of any street or alley or the grade thereof, such question shall be submitted to the city planning commission for investigation and report.

B. The planning commission may prepare and recommend to the city council the adoption of rules and regulations governing the subdivision of land within the corporate limits of the city. All plans, plats, or other portions of the same intended to be dedicated to public or private use within the corporate limits of the city shall first be submitted to the planning commission for its recommendation, approval, or rejection.

C. The disapproval of any such plan, plat, or replat by the city council shall be deemed a refusal of the purported dedication shown thereon.

(Ord. No. 475, § 12-108, 12-4-1989)

Sec. 34-27. Uniformity of regulations.

The planning commission may recommend the division of the city into districts of such number, size, and area as may be deemed best suited to carry out the zoning purpose. 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.

(Ord. No. 475, § 12-109, 12-4-1989)

Sec. 34-28. Comprehensive plan; purpose of regulations and matters considered.

Regulations recommended by the planning commission 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 avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, and parks, and to provide for 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, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

(Ord. No. 475, § 12-110, 12-4-1989)

Sec. 34-29. Additional authority.

The city planning commission shall have additional authority and responsibility as the city council shall from time to time prescribe.

(Ord. No. 475, § 12-111, 12-4-1989)

Sec. 34-30. Planning commission to act as zoning commission.

The city planning commission also shall act as the zoning commission and shall have the power to prepare and recommend to the city council zoning district boundaries and appropriate regulations relating to the height, number of stories, and size of buildings and other structures, the percentage of the 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, residences, and other purposes.

(Ord. No. 475, § 12-112, 12-4-1989)

Chapter 35. RESERVED

Chapter 36. SOLID WASTE

Article I. In General

Sec. 36-1. Litter.

A. It shall be unlawful for any person to throw, drop, cast or deposit upon any street, alley, sidewalk or any yard or premises, public or private, any filth of any kind, or cans, paper, trash, paper containers, rubbish, bottles or any other form of litter or waste matter.
B.
C. The owner or occupant of any store or other place of business situated within the city shall exercise reasonable diligence at all times to keep his premises clean of wastepaper, wrapping paper, paper napkins, cartons, package containers and other used or waste materials thrown or left on said premises by its customers, and to take reasonable measures to prevent same from drifting or blowing to adjoining premises.
D.
E. Receptacles of sufficient size and number shall be placed on the premises accessible to the customers of such business where the above-referred-to articles of waste may be disposed of.
F.
G. It shall be unlawful for any customer going upon the premises of another to in any manner dispose of wastepaper, wrapping paper, paper napkins, cartons, package containers and other used or waste materials except in receptacles provided for such purposes.

(Code 1997, §§ 13-1--13-3; Ord. No. 167, § 1, 4-17-1913)

Secs. 36-2--36-20. Reserved.

Article II. Collection Regulations

Sec. 36-21. 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:

Garbage and *waste* mean and shall include all rejected food waste, every refuse accumulation of animal, fruit or vegetable matter, grass, tin cans, glass, leaves, rubbish from homes, business or industry, and other substances which are detrimental to the beauty and sanitation of the city. The terms "garbage" and "waste" do not in any way include or apply to large appliances, car bodies, dead animals, and wood, limbs, brush and other such items.

(Code 1997, § 13-21)

Sec. 36-22. Penalty for violations.

Any person found in violation of any of the provisions of this article shall be punished as provided for in section 1-8.

(Code 1997, § 13-40; Ord. No. 513, § 2, 10-13-1997)

Sec. 36-23. Removal generally.

The city shall contract for or cause to be collected and removed all garbage and waste in the city from residential dwellings, commercial establishments and industries. No other person shall be permitted to collect and remove garbage and waste commercially or for a fee.

(Code 1997, § 13-22)

Sec. 36-24. Responsibility for wastes.

The responsibility of garbage and waste disposal is affixed to the owner of the property where such waste is generated, whether said owner resides on the property or not.

(Code 1997, § 13-23)

Sec. 36-25. Containers--Required.

All residential customers shall place the garbage and waste in such containers as approved by the city. All business, commercial and industrial customers shall place all garbage in such containers as approved by the city council.

(Code 1997, § 13-24)

Sec. 36-26. Same--Location for pickup.

It shall be the duty of the occupant of every dwelling and business house in the city to have the garbage and waste on their respective premises placed at a site approved by the city council and available for collection.

(Code 1997, § 13-25)

Sec. 36-27. Same--Protection of contents.

Containers shall be kept closed tightly except during the collection or deposit of garbage, trash or refuse. The contents of all containers shall be so protected that the wind cannot blow out and scatter such contents over the streets, alleys, and premises of the city.

(Code 1997, § 13-26)

Sec. 36-28. Same--Maintenance.

Every container required by this article shall be maintained in as sanitary condition as possible in view of the use to which it is put; and shall be thoroughly cleansed as needed by washing, scalding or otherwise.

(Code 1997, § 13-27)

Sec. 36-29. Same--Scavenging.

No unauthorized person shall disturb, remove or collect any garbage or waste situated in any container and located within the city.

(Code 1997, § 13-29)

Sec. 36-30. Garbage to be drained.

All garbage shall be drained of liquid substance before being placed in containers for collection and disposal.

(Code 1997, § 13-30)

Sec. 36-31. Large, bulky accumulations.

Large amounts of dirt, lawn rakings, plant waste, residential rubbish, concrete, metal, used furniture, used appliances, or bulky objects too large to place in containers shall be disposed of by the persons generating such items; provided, however, that it shall be unlawful for any person to go upon the premises of another to in any manner dispose of such items. Any waste from contractors, builders, remodelers, landscapers, nurserymen or other tradesmen must be disposed of by persons generating the waste.

(Code 1997, § 13-31; Ord. No. 513, § 1, 10-13-1997)

Sec. 36-32. Unauthorized accumulation.

Any unauthorized accumulation of garbage and waste on any premises is hereby declared to be a nuisance and is prohibited.

(Code 1997, § 13-32)

Sec. 36-33. Grass clippings, rakings, and leaves.

Grass clippings, rakings and leaves will be collected by the city, provided they are placed in proper containers.

(Code 1997, § 13-33)

Sec. 36-34. Trimmings and clippings.

Tree trimmings, hedge clippings and similar material shall be cut to a length not to exceed four feet and securely tied in bundles not more than two feet thick before being deposited for collection.

(Code 1997, § 13-34)

Sec. 36-35. Newspapers and magazines.

Newspapers, magazines or cardboard too bulky to put in containers will be collected with the regular solid waste, provided they are tied in bundles not to exceed 40 pounds in weight.

(Code 1997, § 13-35)

Sec. 36-36. Dangerous waste.

A. Highly flammable or explosive materials shall not be placed in containers for regular collection but shall be disposed of at the expense of the owner or possessor thereof.

B. Special waste such as chemical, radioactive, or other waste which would require extraordinary handling and disposal methods shall not be collected but shall be disposed of by lawful and proper methods at the expense of the owner or possessor thereof.

(Code 1997, § 13-36)

Sec. 36-37. Frequency of collection.

The city shall cause to be collected and removed from the city the garbage and waste from all residences at least once weekly and from all business or industrial establishments daily or as required.

(Code 1997, § 13-37)

Sec. 36-38. Rates and charges.

A. For the sanitation services rendered under this article by the city, all persons shall pay a sanitation fee as established by resolution of the city council from time to time and on file in the office of the city clerk.

B. The sanitation charges shall be billed and paid monthly and added to the monthly utility service bill or may be billed separately.

(Code 1997, §§ 13-38, 13-39)

Secs. 36-39--36-64. Reserved.

Article III. Transfer Station

Sec. 36-65. Location.

The city shall operate and maintain a transfer station at such locations as the city council shall from time to time determine.

(Code 1997, § 13-57; Ord. No. 428, § 1, 9-7-1978)

Sec. 36-66. Use restricted.

The city transfer station shall be used only for the purpose of disposal of solid waste. Sewage solids or liquids and/or other hazardous waste will not be accepted at the sanitary landfill.

(Code 1997, § 13-58; Ord. No. 428, § 2, 9-7-1978)

Sec. 36-67. Operational practices and procedures.

All operational practices and procedures at the city transfer station shall conform to the best public health concepts possible and, specifically, shall abide by and operate under all rules and regulations of the state department of environmental quality.

(Code 1997, § 13-60; Ord. No. 428, § 4, 9-7-1978)

Sec. 36-68. Rules and regulations.

A. The mayor and council shall be empowered to make and establish all such further rules and regulations as may be deemed necessary to govern the city transfer station. A copy of said rules and regulations shall be available to the general public upon request.

B. All loads of debris, trash and garbage delivered to the transfer station shall be properly secured, thus preventing any loss of said debris, trash, and garbage due to blowing or falling on the roadway en route.

(Code 1997, § 13-61; Ord. No. 428, § 5, 9-7-1978; Ord. No. 492, §§ 1, 2, 11-8-1993)

Chapter 37. RESERVED

Chapter 38. STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

Article I. In General

Sec. 38-1. Obstruction unlawful.

It shall be unlawful for any person to use or obstruct the sidewalks of the city in any manner so as to interfere unduly with pedestrian traffic thereon, or to use or obstruct the streets and alleys of the city in any manner so as to interfere unduly with lawful traffic and parking thereon.

(Code 1997, § 21-1; Ord. No. 172, § 1, 6-13-1913)

Sec. 38-2. Business use of streets prohibited.

It shall be unlawful for any person to construct, erect, place, operate, maintain or permit to exist any icebox, ice dock, gasoline pump, gasoline storage reservoir, tire rack, tire tools or equipment, water hose connection, or mercantile business, or any tools, stand, equipment, merchandise, or appurtenances thereof, aerials, poles or wires therefor, whether permanent or temporary, or any other obstruction, upon any part of any street, alley, boulevard, parkway, curbing or parking area within the city.

(Code 1997, § 21-2; Ord. No. 16, § 2, 10-29-1898)

Sec. 38-3. Drainage from filling stations, other businesses prohibited.

It shall be unlawful for any owner or operator of a filling station or other place of business, or any agent or employee thereof, to cause or allow water, grease or other fluid to flow or drain into, upon, over or across any sidewalk, parking area, street, alley or other public way.

(Code 1997, § 21-3)

Sec. 38-4. Maintenance of sidewalks.

It shall be unlawful for the owner or occupant of property abutting upon a sidewalk or 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.

(Code 1997, § 21-5)

Sec. 38-5. Removal of barricades placed by city prohibited.

It shall be 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.

(Code 1997, § 16-32)

Secs. 38-6--38-28. Reserved.

Article II. Excavations

Sec. 38-29. Permit--Required.

It shall be unlawful for any person to dig, excavate or otherwise make any cut in any street, alley or public road or driveway in the city for any reason without first securing the written permission of the mayor or his designee.

(Code 1997, § 21-36)

Sec. 38-30. Same--Application.

The application for a permit to make any excavation or opening in any of the streets, alleys or public highways of the city shall be made to the mayor or his designee and shall state clearly the name of the street or highway in which it is proposed to make such an opening, the exact location in said highway wherein it is proposed to make such opening, the purpose of making the opening, and the name of the person who proposes to make such excavation or opening.

(Code 1997, § 21-37)

Sec. 38-31. Same--Bond required.

The mayor or his designee shall estimate the probable cost of replacing the soil which may be removed from such public street or highway and shall require the applicant to file a written bond in an amount sufficient to cover such cost, with two or more sufficient sureties, conditioned that the street shall be restored in as good a condition as it was before the excavation or opening therein was made. Such bond shall be received and approved by the mayor or his designee. If the applicant elects so to do, he may make a cash deposit in such sum as may have been fixed by the mayor or his designee in lieu of the written bond.

(Code 1997, § 21-38)

Sec. 38-32. Same--Issuance.

When the bond or deposit required in section 38-31 shall have been accepted by the mayor or his designee, he shall then issue a permit for the excavation or opening named in the application, and the applicant may then proceed with the work in the exact location named in his application and in no other place.

(Code 1997, § 21-39)

Sec. 38-33. Protection of public.

It shall be the duty of any person making an excavation in the streets of the city to adequately and sufficiently protect all such excavations by barricades or other obstructions, including not less than one red light on each side of such excavation during the nighttime, so as to prevent accidents or injury to persons or property, until such time as such excavation is resurfaced and approved by the mayor or his designee.

(Code 1997, § 21-40)

Sec. 38-34. Supervision of work.

All work of excavating or making any character of opening in any of the streets, alleys or highways of the city shall at all times be under the supervision of the mayor or his designee, and the person doing such work shall do the same in the manner directed by mayor or his designee to the end that the streets and highways of the city shall not be unduly disturbed or traffic thereon obstructed.

(Code 1997, § 21-41)

Sec. 38-35. Duties upon completion of work.

After the excavation or opening shall have been made, the person so making it shall backfill the excavation with such materials and in such manner as the mayor or his designee may require and leave the street or highway in at least the same condition as it was before the opening therein was made.

(Code 1997, § 21-42)

Sec. 38-36. Acceptance, inspection of completed work.

The conditions of the bond required by section 38-31 shall not be considered to have been complied with until the mayor or his designee shall have accepted the street or highway as being in good condition. In the event that the person making the opening shall fail to leave the highway in a good state of repair, satisfactory to the mayor or his designee, then the mayor or his designee shall call upon the bondsmen to pay for the cost of repairing such highway; provided, however, that in the event of a cash deposit instead of a bond, the mayor or his designee may proceed to have the street or other highway put in good condition, paying for same out of the deposit made with him, and if there is any remainder of the deposit after paying for such work, such remainder shall be refunded to the person making the deposit.

(Code 1997, § 21-43)

Secs. 38-37--38-60. Reserved.

Article III. Railroads

Sec. 38-61. Street improvements.

A. When a railway occupies any portion of a street with its tracks running in a general direction of such 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, or has been, improved, or with such other satisfactory material as the council, by motion or resolution, may approve. In case any railway company shall occupy an alley with its tracks, such company shall improve, gutter, drain, grade or pave, chat or gravel such alley and shall surface or pave it with the same material which 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.

B.

C. When the tracks of any railroad company cross any street that is being or has been paved, the railroad company shall pave as much of the street as is occupied by its tracks and two feet on each side, using the same material as is to be or has been used on the street or such other satisfactory material as the council, by motion or resolution, may approve. When more than one track crosses a street within a distance of 100 feet, measuring from inside rail to inside rail, the railroad company shall grade, gutter, drain, curb, pave, chat or gravel the street area between its tracks and surface or pave it with the same material which the city is to use or has used on the street.

D.

E. Railroad companies shall keep all such improvements made by them in a good state of repair at all times.

(Code 1997, § 20-1)

Sec. 38-62. Sidewalks.

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 and 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.

(Code 1997, § 20-2)

Chapter 39. RESERVED

Chapter 40. SUBDIVISIONS

Article I. In General

Sec. 40-1. Definitions.

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

Alley means a minor right-of-way dedicated to public use which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street and which may be used for public utility purposes.

Block means a parcel of land intended to be used for urban purposes which is entirely surrounded by public streets, highways, railroad rights-of-way, public walks, parks or greenstrips, rural land or drainage channels or a combination thereof.

Building line or *setback line* means a line designating the area outside of which buildings may not be erected.

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.

General plan means the comprehensive development plan for the city which has been officially adopted to provide long-range development policies for the area subject to urbanization in the foreseeable future and which includes, among other things, the plan for land use, land subdivision, circulation and community facilities.

Lot means a subdivision of a block or other parcel intended as a unit for the transfer of ownership or for development.

Lot, corner, means a lot located at the intersection of and abutting on two or more streets.

Lot, double frontage, means a lot which runs through a block from street to street and which has two nonintersecting sides abutting on two or more streets.

Lot, reverse frontage, means a double frontage lot which is to be developed with the rear yard abutting a major street and with the primary means of ingress and egress provided on a minor street.

Planning commission means the city planning commission.

Plat, final, means a map of land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets and alleys, public areas and other dimensions of land.

Plat, preliminary, means a map of a proposed land subdivision showing the character and proposed layout of the tract in sufficient detail to indicate the suitability of the proposed subdivision of land.

Street means any public or private right-of-way which affords the primary means of access to abutting property.

Street, collector, means a minor street which collects traffic from other minor streets and serves as the most direct route to a major street or a community facility.

Street, cul-de-sac, means a minor street having one end open to vehicular traffic and having one closed end terminated by a turnaround.

Street, frontage or service, means a minor street auxiliary to and located on the side of a major street for service to abutting properties and adjacent areas and for control of access.

Street, major, means an arterial street which is designated on the major street plan or expressway plan.

Street, minor, means a street whose primary purpose is to provide access to adjacent properties and which is designed so that its use by arterial traffic will be discouraged.

Subdivider means any person subdividing or proposing to subdivide land as herein defined.

Subdivision means the division or redivision of land into two or more lots, tracts, sites or parcels for the purpose of transfer of ownership or for development, or the dedication or vacation of a public or private right-of-way or easement.

(Ord. No. 475, § 12-404, 12-4-1989)

Sec. 40-2. Violation and penalty.

A. No building permit shall be issued for any new structure or for a change, improvement or alteration of any existing structure on any tract of land that does not comply with all of the provisions of this chapter.

B. A violation of this chapter shall be a misdemeanor.

(Ord. No. 475, § 12-452, 12-4-1989)

Sec. 40-3. Purpose.

A. The subdivision of land is the first step in the process of urban development. The arrangement of land parcels in the community for residential, commercial and industrial uses and for streets, alleys, schools, parks and other public purposes will determine to a large degree the conditions of health, safety, economy and amenity that prevail in the urban area. The quality of these conditions is of public interest. These regulations and standards for the subdivision and improvement of land for urban use are to make provision for adequate light, air, open spaces, drainage, transportation, public utilities and other needs to ensure the development and maintenance of a healthy, attractive and efficient community that provides for the conservation and protection of its human and natural resources.

B. These regulations are designed, intended and should be administered in a manner to:

1. Implement the general plan;
2.
3. Provide neighborhood conservation and prevent the development of slums and blight;
4.
5. Harmoniously relate the development of the various tracts of land to the existing community and facilitate the future development of adjoining tracts;

6.
7. Provide that the cost of improvements which primarily benefit the tract of land being developed be borne by the owners or developers of the tract, and that the cost of improvements which primarily benefit the whole community to be borne by the community;
8.
9. Provide the best possible design for the tract;
10.
11. Reconcile any differences of interest; and
12.
13. Establish adequate and accurate records of land subdivision.

(Ord. No. 475, § 12-401, 12-4-1989)

Sec. 40-4. Application to types of subdividing.

The regulations and development standards of this chapter shall apply to the following forms of land subdivision:

A. The division of land into two or more tracts, lots, sites or parcels, any part of which, when subdivided, shall contain less than ten acres in area;
B.
C. The division of land, previously subdivided or platted into tracts, lots, sites or parcels, of less than ten acres in area;
D.
E. 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; or
F.
G. The dedication or vacation of any street or alley through any tract of land regardless of the area involved.

(Ord. No. 475, § 12-403, 12-4-1989)

Secs. 40-5--40-26. Reserved.

Article II. Administration and Enforcement

Sec. 40-27. Subdivision review committee.

A. There is hereby created a subdivision review committee, the membership of which shall be made up of one representative of each of the following agencies and such other public officials as the chief administrative officer of the city may designate:

1. Mayor;
2.
3. City clerk;
4.
5. Planning commission;
6.
7. Fire chief;
8.
9. Private utilities company;
10.
11. County health department;
12.
13. Police chief; and
14.
15. Public works superintendent:

i. Water;
ii.
iii. Sewer; or
iv.
v. Streets.

B. It is the responsibility of the subdivision review committee to meet together, on call of the mayor, who shall serve as chairman, to review pre-application plans, to study the suitability of a 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.

(Ord. No. 475, § 12-440, 12-4-1989)

Sec. 40-28. Variations and exceptions.

Whenever the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in this chapter would result in substantial hardship or inequity, the planning commission may vary or modify, except as otherwise indicated, such requirements of design, but not of procedure or improvements, so that the subdivider may develop his property in a reasonable manner, and at the same time, the public welfare and interests of the city are protected and the general intent and spirit of this chapter preserved. Such modifications may be granted upon written application of the subdivider stating the reason for each modification. In order to be effective, such a modification must be approved by a three-fourths vote of the regular membership of the planning commission.

(Ord. No. 475, § 12-450, 12-4-1989)

Sec. 40-29. Amendment.

The city council may, from time to time, adopt, amend and make public rules and regulations for the administration of this chapter to the end that the public is informed and that the approval of plats is expedited. This chapter may be amended by the city council after public hearing, due notice of which shall be given as provided by law.

(Ord. No. 475, § 12-451, 12-4-1989)

Secs. 40-30--40-46. Reserved.

Article III. Platting

Sec. 40-47. General procedure; plat approval; recording; fee; exemptions.

A. For all cases of subdividing within the scope of this chapter, a plat of land in question or an easement with a description in writing, where appropriate, shall be drawn and certified by a state-registered professional engineer and submitted to the planning commission and city council for their approval or disapproval, as provided in this chapter.
B.
C. No plat or other land subdivision instrument shall be filed in the office of the county clerk until it shall have been approved by the planning commission and by the city council as provided in this chapter. All final plats shall be filed within two years of date of approval by the planning commission, and no lots shall be sold from any plat until recorded. Failure to record the plat

within two years of the date of planning commission or city council approval, whichever is the later, shall void all approvals thereto.

D.

E. Each plat submitted for preliminary or final approval shall be placed on the agenda of the planning commission only after fulfilling the appropriate requirements of these regulations.

F.

G. To defray partially the cost of notification and administration procedures, there shall be paid to the city clerk, at the time of submission of the preliminary plat, a fee of $100.00, plus $5.00 per lot. Where only a portion of an approved preliminary plat is submitted for final approval, a final plat of the remaining area may be submitted at any time within five years of the date of 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.

(Ord. No. 475, § 12-405, 12-4-1989)

Sec. 40-48. Preapplication plans and data.

Not less than 14 days prior to the filing of an application for approval of a preliminary plat, the subdivider shall present to the subdivision review committee the following information:

A. A general description of the existing conditions of the site and the suitability of the site for the proposed development. This information may include data on existing covenants and agreements, the availability of utilities and community facilities, the proposed use of each portion of the subdivision, proposed lot sizes and building sizes, proposed business areas, playground, park and school sites and other pertinent data as may be needed to supplement the sketches required in subsections (B) and (C) of this section.

B.

C. A general location map showing the proposed subdivision and its relationship to existing utilities, schools, parks, traffic arteries, and other features that will affect and influence the subdivision, such as hospitals, churches, airports, railroads, and shopping and employment centers.

D.

E. A sketch plan, drawn to approximate scale, showing topography, using a contour interval of not greater than five feet, the proposed street layout, lots and other planning features. The street and lot plan may be in the form of a freehand pencil sketch.

F.

G. A general utilities plan showing proposed facilities and distribution.

(Ord. No. 475, § 12-441, 12-4-1989)

Sec. 40-49. Preliminary plat.

A. The subdivider shall prepare a preliminary plat for the submission to the planning commission. Four copies of the preliminary plat shall be submitted to the office of the city clerk not less than 14 days prior to the meeting at which it is to be considered.

B.

C. The preliminary plat shall be accompanied by a statement signed by the registered engineer preparing the plat certifying that he has, to the best of his ability, designed the subdivision in accordance with the general plan, with which he is completely familiar, and in accordance with the ordinances and regulations governing the subdivision of land, except where an exception is requested in writing and the reasons for which are clearly stated.

D.

E. The preliminary plat shall be drawn at a scale of 100 feet to one inch and shall contain or be accompanied by the following information:

1. The scale, north point and date;
2.
3. The proposed name of the subdivision;
4.
5. The name and address of the owner of record, the subdivider, and the registered engineer preparing the plat;
6.
7. A key map showing the location of the proposed subdivision referenced to existing or proposed major streets and to government section lines, and including the boundaries and number of acres of the drainage area of which the proposed subdivision is a part;
8.
9. The names, with location of intersecting boundary lines, of adjoining subdivisions, and the location of town limits, if falling within or immediately adjoining the tract;
10.
11. The land contours with vertical intervals not greater than two feet referenced to a United States Geological Survey or Coast and Geodetic Survey benchmark or monument;
12.
13. The location of existing buildings, water, and watercourses, and the location of dedicated streets at the point where they adjoin and/or are immediately adjacent to the subdivision; provided, however, that actual measured distances shall not be required;
14.
15. The length of the boundaries of the tract, measured to the nearest foot, and the proposed location and width of streets, alleys, easements and setback lines and the approximate lot dimensions;
16.
17. The location, approximate size and type of sanitary and storm sewers, water mains, culverts, power and natural gas lines and other surface and subsurface structures and pipe lines existing within or immediately adjacent to the proposed subdivision, and the location, layout, type and proposed size of the following structures and utilities:

    i. Water mains;
    ii.
    iii. Sanitary sewer mains, submains and laterals;
    iv.
    v. Storm sewers, culverts and drainage structures; or
    vi.
    vii. Street improvements;

18. The location of all drainage channels and subsurface drainage structures, the proposed

method of disposing of all runoff from the proposed subdivision, and the location and size of all drainage easements relating thereto, whether they are located within or outside of the proposed plat; and

19.

20. The classification and name of every street within or adjacent to the subdivision in accordance with the intended use of the street based on the proposed design. This shall be done by placing the appropriate term, "primary thoroughfare," "secondary thoroughfare," "collector (or minor) street" directly on each street.

F. The planning commission shall approve, approve conditionally, or disapprove the plat within 60 days the date of its submission by the applicant. If the preliminary plat is disapproved or approved conditionally, the reasons for such action shall be stated in writing, a copy of which shall be signed by the planning commission chairman and shall be attached to one copy of the plat and transmitted to the subdivider. Unless stipulation for additional time is agreed to by the subdivider, if no action is taken by the planning commission by the end of 60 days after submission, the plat shall be deemed to have been approved. The reasons for disapproval or conditional approval shall refer specifically to those parts of the general plan or specific regulations with which the plat does not conform. On conditionally approving a plat, the planning commission may require submission of a revised preliminary plat. If the plat conforms to all of the standards or if the applicant and planning commission agree upon any revisions, the plat shall be filed with the planning commission on a revised preliminary plat and the preliminary plat shall be forwarded to the city council its review.

G.

H. The city council shall approve, approve conditionally, or disapprove the plat within 30 days of the date of its submission by the planning commission. If the preliminary plat is disapproved or approved conditionally, the reasons for such action shall be stated in writing, a copy of which shall be attached to one copy of the plat and transmitted to the subdivider. Unless stipulation for additional time is agreed to by the subdivider, if no action is taken by the city council at the end of 30 days after submission, the plat shall be deemed to have been approved. The reasons for disapproval or conditional approval shall refer specifically to those parts of the general plan or specific regulations with which the plat does not conform. On conditionally approving a plat, the city council may require submission of a revised preliminary plat. If the plat conforms to all of the standards, or after the applicant and city council agree upon any revision which shall be filed with the city council on a revised copy, the subdivider may proceed with the preparation of utility plans and with the preparation of a final plat.

(Ord. No. 475, § 12-442, 12-4-1989)

Sec. 40-50. Final plat.

A. *General.* A final plat, neatly drawn in ink on tracing cloth, or Mylar, and 12 blue or dark line prints thereof shall be submitted to the office of the city clerk not less than 14 days before the planning commission meeting at which it is to be considered for final approval. At the same time, there shall be submitted six sets of the proposed plans and specifications for all improvements and the proposed restrictions in final form; provided, however, the final plat may be approved subject to later submission of final improvement plans and specifications.

B.

C. *Time of submission.* The final plat of the proposed subdivision shall be submitted to the planning commission and city council for final approval within one year of the date on which the preliminary plat was approved. If not submitted for final approval within such time, the preliminary plat shall be considered as having been disapproved unless the planning commission agrees to an extension of time. The final plat shall be filed in the office of the county clerk within two years after approval by the city council and planning commission, or if not filed within such time, the approval shall be considered as having been voided.

D.

E. *Drafting.* The final plat shall be drawn at a scale of 100 feet to the inch from an accurate survey and on sheets whose dimensions are 21 inches by 33 1/2 inches between border lines. On the first sheet of every plat there shall be a key map showing the location of the subdivision referenced to government survey section lines and major streets. If more than two sheets are required for the plat, the key map shall show the number of the sheet for each area. A border of one-half inch surrounding the sheet shall be left blank at the top, bottom and right hand sides and a margin of two inches at the left side for binding.

F.

G. *Contents.* The final plat shall show:

1. The location and description of all section corners, permanent survey monuments in or near the tract, to which the subdivision shall be referenced;

2.

3. The length of all required lines dimensioned in feet and decimals thereof, and the value of all required true bearings as angles dimensioned in degrees and minutes, as provided in this chapter;

4.

5. 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;

6.

7. The lines of all proposed streets fully dimensioned by lengths and bearings or angles;

8.

9. The lines of all proposed alleys. Where the length and/or direction of an alley is not readily discernible from data given for lot and block lines, the length and/or bearings shall be given;

10.

11. 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;

12.

13. 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;

14.

15. The outline of any property which is offered for dedication to public use fully dimensioned by lengths and bearings, with the area marked "Public";
16.
17. The blocks numbered consecutively throughout the entire subdivision and the lots numbered consecutively throughout each block, with areas to be excluded from platting marked "Reserved" or "Not a Part";
18.
19. The location of all building lines, setback lines and easements for public services or utilities with dimensions showing their locations; and
20.
21. The radii, arcs, points of tangency, points of intersection and central angles for curvilinear streets and radii for all property returns.

H. *Planning commission action.* The planning commission shall act upon the final plat within 45 days after it has been submitted for final approval. This approval and the date thereof shall be shown on the plat over the signature of the planning commission chairman or secretary-member. Unless stipulation for additional time is agreed to by the subdivider and if no action is taken by the planning commission at the end of 45 days after submission, the plat shall be deemed approved. A certification by the city clerk as to date of submission of plat shall be deemed approved. A certification by the city clerk as to date of submission of plat for final approval and failure of the planning commission to act thereon within such time shall be sufficient in lieu of written endorsement of approval. If the final plat is disapproved, grounds for such refusal shall be stated in writing, a copy of which shall be transmitted with the tracing and prints to the applicant. The reasons for disapproval shall refer specifically to those parts of the general plan or ordinance or regulation with which the plat does not comply.

I.

J. *City council action.* Before recording the final plat, it shall be submitted to the city council for approval and for acceptance of public ways and service and utility easements and land dedicated to public use. This approval of the plat shall be shown over the signature of the mayor of the city and attested to by the city clerk or his deputy. The disapproval of any plat or plan by the city council shall be deemed a refusal of the proposed dedication shown thereon.

K.

L. *Recording of plat.* After final approval of the plat and the affixing of all required signatures on the original tracing, the subdivider shall provide the city clerk with two blue or dark line prints thereof, and one contact reproducible cloth tracing. The applicant, accompanied by a representative of the city, shall file the original tracing or Mylar with the city clerk and shall pay all required filing fees.

(Ord. No. 475, § 12-443, 12-4-1989)

Secs. 40-51--40-73. Reserved.

Article IV. Design Standards

Sec. 40-74. Urban design principles.

The quality of design of the urban area is dependent on the quality of design of the individual subdivisions that compose it. Good community design requires the coordination of the efforts of each subdivider and developer of land within the urban area. Therefore, the design of each subdivision shall be prepared in accordance with the principles established by the general plan for land use, circulation, community facilities and public utility services and in accordance with the following general principles:

A. It is intended that the city urban area should be designed as a group of integrated residential neighborhoods and appropriate commercial, industrial and public facilities. The neighborhood, as a planning unit, is intended as an area principally for residential use and of a size that can be served by one elementary school. Space for religious, recreational, educational and shopping facilities to serve the residents of the neighborhood should be provided and designed as an integral part of each neighborhood.

B.

C. The size of lots and blocks and other areas for residential, commercial, industrial and public uses should be designed to provide adequate light, air, open space, landscaping and off-street parking and loading facilities.

D.

E. The arrangements of lots and blocks and the street system should be designed to make the most advantageous use of topography and natural physical features. Tree masses and large individual trees should be preserved. The system of sidewalks and roadways and the lot layout should be designed to take advantage of the visual qualities of the area.

F.

G. Circulation within the urban area shall be provided in accordance with the following design criteria:

1. Each subdivision shall provide for the continuation of all arterial streets and highways as shown on the transportation plan. Arterial streets should be located on the perimeter of residential neighborhood.
2.
3. Minor streets should be designed to provide access to each parcel of land within the residential neighborhood and within industrial areas, and in a manner that will discourage use by through traffic. They should be planned so that future urban expansion will not require the conversion of minor streets to arterial routes.
4.
5. Collector streets should be designed to provide a direct route from other minor streets to the major street system.
6.
7. Ingress and egress to residential properties should be provided only on minor streets.
8.
9. Pedestrian ways should be separated from roadways used by vehicular traffic. Sidewalks should be designed to provide all residential building sites with direct access to all neighborhood facilities, including the elementary school, parks and playgrounds, churches and shopping centers.
10.
11. Curbs and gutters will meet approved building standards.

H. Minimum standards for development are contained in chapters 12 and 48 and in this chapter. However, the general plan expresses policies which are intended to achieve optimum quality of development in the urban area. If only the minimum standards are followed, as expressed by the various ordinances regulating land development, a standardization of development will occur. This will produce a monotonous urban setting. Subdivision design should be of a quality to carry out the purpose and spirit of the policies expressed in the general plan and in these regulations rather than be limited to the minimum standards required herein.

(Ord. No. 475, § 12-410, 12-4-1989)

Sec. 40-75. Streets.

The arrangement, character, extent, width, grade and location of all streets shall conform to all elements of the general plan and shall be designed in accordance with the following provisions:

A. Major streets shall be planned to conform with the transportation plan.
B.
C. Whenever a subdivision abuts or contains an existing or proposed major street, the planning commission may require service streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
D.
E. Minor streets shall be laid out so that their use by through traffic will be discouraged.
F.
G. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the planning commission may require a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the intervening land. Such distances also shall be determined with due regard for the requirements of approach grades and future grade separation structures.
H.
I. Reserve strips controlling access to streets shall be prohibited except where their control is placed in the city under conditions approved by the planning commission.
J.
K. Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system for the unsubdivided portion shall be prepared and submitted by the subdivider.
L.
M. When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be arranged to permit the logical location and opening of future streets and appropriate resubdivision, with provision for adequate utility easements and connections for such resubdivision.
N.
O. Street jogs with centerline offsets of less than 150 feet should be avoided.
P.
Q. Street right-of-way widths shall be in accordance with the transportation plan, and where not otherwise designated therein, it shall be the responsibility of the developer to dedicate right-of-way to provide a width of not less than the following:

1. Major streets:
    i. Primary arterial: 120 feet.
    ii. Secondary arterial: 100 feet.
2. Minor streets:
    i. Collector: 60 feet.
    ii. Local: 50 feet.

R. Whenever the major or minor street is located wholly within the proposed subdivision, the total width of the right-of-way shall be dedicated, and whenever the major or minor street is located adjacent to the outer edge of the subdivision, one-half of the right-of-way shall be dedicated, if it is equitable and feasible from an engineering design standpoint for the other half of the right-of-way to be dedicated from adjacent property.
S.
T. In general, the design criteria as set forth in Table 1, adopted as part of this chapter and available in the city clerk's office, shall be followed in the layout and design of major and minor streets. All collector streets shall have a paved surface of not less than 28 feet in width, measured from face to face of curbs. All construction shall be in accordance with the street construction specifications of the city.
U.
V. A cul-de-sac should not exceed 500 feet in length, measured from the entrance to the center of the turnaround, and if more than 150 feet in length, shall be provided with a turnaround having a radius of not less than 50 feet at the property line and not less than 40 feet at the curbline.
W.
X. 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. Wherever a half-street is adjacent to a tract to be subdivided, the other half of the street shall be platted within the tract which is being subdivided.
Y.
Z. The arrangement of streets shall be such as to cause no hardship in the subdividing of adjacent properties. The planning commission may require the dedication of street rights-of-way to facilitate the development of adjoining properties.
AA.
BB. No street names shall be used which will duplicate or be confused with the names of existing streets. Street names shall be subject to the approval of the planning commission.

(Ord. No. 475, § 12-411, 12-4-1989)

Sec. 40-76. Alleys.

A. Alleys shall be provided in commercial and industrial districts, except that the planning commission may

waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading, and parking consistent with and adequate for the uses proposed.

B. Alleys serving commercial and industrial areas shall be not less than 30 feet in width.
C.
D. Alleys are not required for residential areas, but when provided, shall be not less than 20 feet in width.
E.
F. Alley intersections and sharp changes in alignment should be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.
G.
H. Dead-end alleys should be avoided, but if necessary, shall be provided with adequate turnaround facilities at the dead end, as determined by the planning commission.

(Ord. No. 475, § 12-412, 12-4-1989)

Sec. 40-77. Easements.

A. Where alleys are not provided, easements not less than 20 feet wide shall be provided along each rear lot line, and along side lot lines, where necessary, for use by public and private utilities. The planning commission may require aerial easements and easements of greater width for the extension of main storm and sanitary sewers and other utilities where it is deemed necessary.
B.
C. Where a subdivision is traversed by a watercourse, drainage channel or stream which drains 160 acres or more of land, there shall be provided a right-of-way for drainage and public parks and public utility purposes adequate to contain all of the runoff from a 50-year maximum flood. The right-of-way shall include all of the land within the subdivision that has an elevation below the 50-year maximum flood elevation which shall be calculated in accordance with and adequate to provide for the drainage requirements of the ordinances and regulations relating thereto. This shall not be interpreted as prohibiting the reclamation of lands subject to flooding by filling or by other appropriate means.

(Ord. No. 475, § 12-413, 12-4-1989)

Sec. 40-78. Public areas and open spaces.

Public parks, playgrounds, school sites and other public areas and open spaces shall be provided in accordance with the requirements and standards set forth in the general plan and in the ordinances relating thereto.

(Ord. No. 475, § 12-414, 12-4-1989)

Sec. 40-79. Blocks.

A. The lengths, widths and shapes of blocks shall be determined with due 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.
4. Needs for convenient access, circulation, control and safety of street traffic; and
5.
6. Limitations and opportunities of topography.
7.

B. Blocks for residential use shall not be longer than 1,800 feet, measured along the centerline of the block. When a block exceeds 600 feet in length, the planning commission may require a dedicated easement not less than 15 feet in width to provide pedestrian access across the block.

C. Blocks used for residential purposes should be of sufficient width to allow for two tiers of lots of appropriate depth. Blocks intended for business and industrial use should be of a width suitable for the intended use, with due allowance for off-street parking and loading facilities.

(Ord. No. 475, § 12-415, 12-4-1989)

Sec. 40-80. Lots.

A. Residential lots other than lots for multifamily and duplex dwellings shall be not less than 50 feet in width at the front building line and shall abut a street a distance of not less than 25 feet, except that a corner lot shall be not less than 60 feet in width at the front building line.
B.
C. Side lot lines should be approximately at right angles or radial to street lines.
D.
E. The depth of residential lots other than lots for multifamily and duplex dwellings should not be less than 120 feet.
F.
G. The area of residential lots other than lots for multifamily and duplex dwellings shall not be less than 6,000 square feet.
H.
I. Lots for multifamily duplex dwellings shall have a width, depth, and area of not less than that required by chapter 48 in the regulations of the zoning district in which the multifamily and duplex dwellings are to be located.
J.
K. In residential subdivisions where septic tank or individual sewage disposal devices are to be installed, the area of the lot shall be not less than 20,000 square feet, and the width of the lot at the front building line shall be not less than 100 feet.
L.
M. Lots are not required for subdivisions for commercial and industrial use, but when provided, should be of appropriate size and arrangement to provide for adequate off-street parking and loading facilities based on the intended use. 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 chapter 48.
N.
O. Double frontage and frontage lots should be avoided except where they are needed to provide for the separation of residential development from traffic arteries or to overcome specific disadvantages of

topography and orientation. A planting screen easement of at least ten feet shall be provided along the portion of the lots abutting such a traffic artery or other use where screening is required. There shall be no right of access across a planting screen easement. At the discretion of the planning commission, the developer may substitute for an easement and a planting screen a permanent ornamental fence of a height and architectural design which will screen and be harmonious with residential or other neighborhood elements.

(Ord. No. 475, § 12-416, 12-4-1989)

Sec. 40-81. Building lines.

Building lines shall be provided for all residential subdivisions as follows:

A. A front building line shall be located not less than 25 feet back from the street right-of-way line.
B.
C. A side yard building line on the side of a corner lot abutting the street shall be located not less than 15 feet back from another corner lot, and not less than 20 feet back from the street right-of-way line in every other case.
D.
E. A side yard building line shall be provided not less than ten feet back from a crosswalk right-of-way line on the side of a lot abutting a midblock crosswalk.
F.
G. Restrictions requiring buildings to be located within the building lines shown on the plat shall be set forth on the plat or on a separate recorded instrument.

(Ord. No. 475, § 12-417, 12-4-1989)

Secs. 40-82--40-105. Reserved.

Article V. Improvements

Sec. 40-106. General provisions.

All improvements shall be designed and installed in accordance with all of the elements of the general plan and shall meet the minimum standards established by the ordinances and regulations relating thereto.

(Ord. No. 475, § 12-420, 12-4-1989)

Sec. 40-107. Plan preparation.

Plans for the improvements herein required shall be prepared by the city engineering department or by a qualified engineer registered in the state. Two sets of prints of the proposed plans and specifications for all improvements shall be filed with the city clerk at the time of submission of the final plat. One set of "as built" plans and specifications, certified and signed by an engineer registered in the state, shall be filed with the city clerk prior to the acceptance by the city council of any improvement installed by the subdivider.

(Ord. No. 475, § 12-421, 12-4-1989)

Sec. 40-108. Continuity of improvements.

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.

(Ord. No. 475, § 12-422, 12-4-1989)

Sec. 40-109. Permanent markers.

Each block and subdivision corner shall be marked with iron pipes or pins not less than one-half inch in diameter and 24 inches long at least one inch below the finished grade.

(Ord. No. 475, § 12-423, 12-4-1989)

Sec. 40-110. Street improvements.

The subdivider of any subdivision designed to be used for residential, commercial, industrial or other purposes shall lay out, grade and otherwise improve all streets that are designated on the approved plat or that directly serve the subdivision in accordance with the specifications of the city and in accordance with the following provisions:

A. The design of an improvement of an intersection of any new street with an existing state or federal highway shall be in accordance with the specifications of the state transportation department, but in no case shall the standard be less than the applicable specifications of the city;
B.
C. Whenever a subdivision contains a major street that requires a street facility that is more costly than is required to serve the future occupants of the subdivision, the subdivider shall be required to pay only the portion of the cost of an improvement required to serve only the subdivision, as determined by the planning commission; and
D.
E. All driveways which connect with public streets shall be constructed in accordance with the transportation plan of the city.

(Ord. No. 475, § 12-424, 12-4-1989)

Sec. 40-111. Water lines.

The subdivider shall install water lines and fire hydrants. Installation shall be in accordance with the specifications approved by the mayor and council and in accordance with the minimum standards of the National Board of Fire Underwriters.

(Ord. No. 475, § 12-425, 12-4-1989)

Sec. 40-112. Sanitary sewers.

A. The subdivider shall install sanitary sewers whenever a sanitary sewer is reasonably accessible as determined by the planning commission. Sanitary sewers shall be installed in accordance with the specifications governing sanitary sewer construction.
B.
C. Whenever a sanitary sewer is not reasonably accessible, septic tanks or other unit disposal systems may be used in accordance with the following provisions:

    1. A lot for residential use on which a unit disposal system is located shall be not less than 20,000 square feet in area;

2. No portion of any unit disposal system shall be located closer than 20 feet to the lot line of the lot on which the system is located; and

3. All unit disposal systems shall comply with the requirements of the officer and county health departments.

D. When subdivisions contain ten acres or more, the planning commission may require the subdivider to install sanitary sewers, and a disposal system that is adequate to serve all of the lots within the subdivision.

(Ord. No. 475, § 12-426, 12-4-1989)

Sec. 40-113. Storm sewers and drainage.

Storm sewers and drainage shall be provided in accordance with the specifications contained in the ordinances and regulations relating thereto.

(Ord. No. 475, § 12-427, 12-4-1989)

Sec. 40-114. Maintenance and supervision.

Where the subdivision contains sewers, sewage treatment plants, water supply systems, or other physical facilities necessary or desirable for the welfare of the area or that are of common use or benefit which are not or cannot be satisfactorily maintained by an existing public agency, provision shall be made which is acceptable to the agency having jurisdiction over the location and maintenance of such facilities for the proper and continuous operation, maintenance and supervision of such facilities.

(Ord. No. 475, § 12-428, 12-4-1989)

Chapter 41. RESERVED

Chapter 42. TAXATION

Article I. In General

Section 42-1. Purpose of Tax Revenues; Disposition of Proceeds.

A. The following ordinances were approved by a vote of the citizens of the City of Checotah on the dates, for the purposes, rates, and durations indicated. These ordinances were adopted prior to April 13, 2020. If specific questions arise about the provisions of any ordinance adopted prior to April 13, 202, the actual ordinance should be reviewed and shall control over the provisions hereof. The summary set out in subsection B below is for information purposes only.

B. Ordinances adopted prior to April 13, 2020:

1. Sales Tax

i. Ordinance Number 366

a) Enacted: April 10, 1968

b) Purpose: Support the functions of the municipal government

c) Effective Rate: One Percent (1.00%)

d) Duration: Permanent

ii. Ordinance Number 411

a) Enacted: February 2, 1976

b) Purpose: Support the functions of the municipal government

c) Effective Rate: One Percent (1.00%)

d) Duration: Permanent

iii. Ordinance Number 468

a) Enacted: November 21, 1988

b) Purpose: Support the functions of the municipal government

c) Effective Rate: One Percent (1.00%)

d) Duration: Permanent

iv. Ordinance Number 497

a) Enacted: January 31, 1996

b) Purpose: Capital expenditures for the municipal government

c) Effective Rate: One Percent (1.00%)

d) Duration: Permanent

2. The cumulative tax levy imposed upon the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code made within this municipality is Four Percent (4.00%) as of April 13, 2020.

3. Use Tax

i. Ordinance Number 491

a) Enacted: June 14, 1993

b) Purpose: Support the functions of the municipal government

c) Effective Rate: Three Percent (3.00%)

d) Duration: Permanent

ii. Ordinance Number 499

a) Enacted: April 15, 1996

b) Purpose: Support the functions of the municipal government

c) Effective Rate: One Percent (1.00%)

d) Duration: Permanent

4. The cumulative tax levy imposed upon the storing, using, or otherwise consuming of tangible, personal property purchased or brought into this municipality is Four Percent (4.00%) as of April 13, 2020. Personal property purchase.

Secs. 42-1--42-18. Reserved.

Article II. Tax on Suppliers of Natural Gas

Sec. 42-19. Imposed.

There is hereby levied and assessed an annual tax of two percent upon the gross receipts from residential and commercial sales of gas in the city, and such tax shall be in lieu of any other franchise, license, occupation or excise tax levied by the city.

(Code 1997, § 22-56; Ord. No. 321, § 1, 10-5-1959)

Sec. 42-20. Application.

The tax levied under the provisions of this article shall, when levied, apply to all persons engaged in the business of furnishing gas within the city, except it shall not apply to any person operating under a valid franchise from the city.

(Code 1997, § 22-57; Ord. No. 321, § 2, 10-5-1959)

Sec. 42-21. Duration.

The tax levied under the provisions of this article shall be levied for a term of not less than one year and shall be payable monthly and placed in the general revenue fund of the city, and such tax shall continue until this article shall be amended or repealed.

(Code 1997, § 22-58; Ord. No. 321, § 3, 10-5-1959)

Sec. 42-22. Failure or refusal to pay.

Any person failing or refusing to pay the tax imposed by the provisions of this article when such tax is levied shall be regarded as a trespasser and may be ousted from the city; and in addition thereto, an action may be maintained

against such person for the amount of the tax and all expenses of collecting same, including reasonable attorney's fees.

(Code 1997, § 22-59; Ord. No. 321, § 4, 10-5-1959)

Sec. 42-23. Lien declared.

The tax imposed by the provisions of this article shall constitute a first and prior lien on all the assets located within the city of any person engaged in the business of selling gas within the city.

(Code 1997, § 22-60; Ord. No. 321, § 5, 10-5-1959)

Chapter 43. RESERVED

Chapter 44. TRAFFIC AND VEHICLES

Article I. General Provisions

Sec. 44-1. State traffic laws adopted.

The provisions of the Uniform Vehicle Code (47 O.S. § 1-101 et seq.), to the extent the same are applicable and enforceable within the city, are hereby adopted by reference as fully as if set forth herein. Three copies of said Uniform Vehicle Code shall be kept on file in the office of the city clerk. Any person found guilty of violating the provisions of said code shall be punished as provided in section 1-8. The city clerk shall keep copies of said code for distribution or sale at a reasonable price.

(Code 1997, § 23-1)

Sec. 44-2. Speed generally.

Unless otherwise required by state law or otherwise posted pursuant to state law, the maximum speed limit at which any motor vehicle may be operated within the city shall be 20 miles per hour.

(Code 1997, § 23-2; Ord. No. 409, § 1, 10-6-1975)

Sec. 44-3. Driving on sidewalk.

The driver of a vehicle shall not drive upon a sidewalk or within any sidewalk area except at a permanent or temporary driveway.

(Code 1997, § 23-3; Ord. No. 16, § 7, 10-29-1898)

Sec. 44-4. Careless or negligent driving, stopping or parking.

It shall be unlawful for any person to drive, use, operate, park, cause to be parked, or stop any vehicle in a careless or negligent manner, or in such a manner as to endanger life, limb, person or property, or as to interfere with the lawful movement of traffic or use of the streets.

(Code 1997, § 23-4; Ord. No. 16, § 9, 10-29-1898)

Sec. 44-5. Obstructing streets, alleys, 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 ten feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within a street or alley in such position as to block the driveway entrance to any abutting property.

(Code 1997, § 23-6)

Sec. 44-6. Parking restricted by weight rating; width.

A. When signs are erected giving notice thereof, no person shall operate a vehicle exceeding five tons' rated capacity by the manufacturer, or in excess of three axles, and that is required by law to have a commercial tag at any time upon the following street of the city: Paul Carr Drive between U.S. Highway 69 (Business) and West South Avenue.

B.

C. No person shall park any vehicle when the manufacturer's gross vehicle weight (GVW) rating, as it appears on the vehicle identification plate, exceeds 10,000 pounds or when the vehicle's classification is rated by the manufacturer as one ton or greater and its total width exceeds 96 inches, excluding approved safety devices, on any street unless the person is actually engaged in loading or unloading merchandise. The parking or storage of vehicles, trucks, trailers, boats, motor homes, or any equipment wider than 96 inches on any street by any person is unlawful and an offense, and such may be impounded, towed and stored by authority of the police department as a traffic obstruction hazard.

(Ord. No. 502, 9-9-1996; Ord. No. 524, 10-25-1999)

Sec. 44-7. Coasters, roller skates, skateboards, and similar devices prohibited.

A. No person upon roller skates, skateboards, or riding in or by means of any coaster, toy vehicle or similar device, shall ride any such device upon any sidewalk which is in front of or adjacent to any commercially zoned property or private parking lots and other private property where there is properly posted: "Skateboard or Roller Skates Not Allowed."

B.

C. Any person violating the provisions of this section shall, upon conviction thereof, be punished by a fine not to exceed $50.00 for the first offense and not to exceed $100.00 for a second and subsequent offense.

(Ord. No. 551, §§ 1--3, 5-8-2006)

Article II. Golf Cart/Utility Task Vehicles

Section 44-10. Regulations Established.

The establishment of a golf cart ordinance is necessary to address the interests of public safety. Golf carts and/or Utility Task Vehicles (UTV), are not designed or manufactured to be used on public streets, roads and highways, hereinafter “road(s),” and the City of Checotah in no way advocates or endorses their operation on roads. The City of Checotah, by regulating such operation is merely trying to address obvious safety issues, and adoption of this Ordinance is not to be relied upon as a determination that operation on roads is safe or advisable if done in accordance with this Ordinance. All persons who operate or ride upon carts and/or utility task vehicles (UTV) on roads do so at their own risk and peril and must be observant of and attentive to the safety of themselves and others, including their passengers, other motorists, bicyclists and pedestrians. The City of Checotah has no liability under any theory of liability for permitting carts and/or utility task vehicles (UTV) to be operated on roads under special legislation granted by the State Legislature. Any person who operates a cart and/or utility task vehicle must procure liability insurance sufficient to cover the risks involved in using a cart and/or utility task vehicle on the roads of the City of Checotah.

Section 44-11. Required Equipment and Modifications.

Golf carts and/or Utility Task Vehicles (UTV) must come from the manufacture with an attached steering wheel. Modified exhaust is strictly prohibited on golf carts and/or utility task vehicles.

Section 44-12. All-Terrain Vehicles Prohibited.

All-Terrain Vehicles (ATV/4 Wheelers/3 Wheelers)(no steering wheels) are strictly prohibited within the City Limits.

Section 44-13. Purpose.

The purpose of this ordinance shall be to establish a Golf Cart and/or Utility Task Vehicle (UTV) Ordinance within the City of Checotah to promote the health, safety and welfare of persons operating cart(s) and/or utility task vehicle(s) within the City of Checotah and to protect the safety of their passengers and other users of roads.

Section 44-14. Definitions.

For the purpose of this Article, the following words and phrases shall have the following meanings:

A. Golf Cart: A vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 MPH.

B. Utility Task Vehicle: (Also known as a side by side) It is the name of small four- or six-wheel vehicles used for countless applications should not exceed speeds of 20 MPH.

C. Driver's License: A valid license issued to operate a motor vehicle which is issued by Oklahoma or any other state.

D. Financial Responsibility: Liability insurance coverage on a golf cart and/or utility task vehicle in an amount not less than required by Oklahoma law for motor vehicles operated on public highways in the State of Oklahoma.

E. Operator: Only persons over 16 years of age and holding a valid driver's license may operate a golf cart or utility task vehicle on roads.

Section 44-15. Rules and Regulations.

This ordinance is to establish guidance in the interest of public safety. Golf carts and/or utility task vehicles hereinafter:

A. Golf carts and/or utility task vehicles shall not be operated on or alongside a public road or street with a posted speed limit greater than 25 miles per hour.

B. Golf carts and/or utility task vehicles may cross a road with posted speed limit greater than 25 mph. However, once this segment of road has been trans versed, the golf cart and/or utility task vehicle is still required to travel only on or along a roadway with a speed limit of 20 mph or less. Golf carts and/or utility task vehicles must cross in a manner that is the most direct route in order to decrease crossing distance, i.e., no riding along a road or crossing at an angle. Golf carts and/or utility task vehicles are not permitted to travel on or along Business 69, Gentry or Broadway except for crossing over in a manner most direct route in order to decrease crossing distance to cross over the street.

C. Any person who operates a golf cart and/or utility task vehicles must be responsible for all liability associated with operation of the golf cart and/or utility task vehicle in an amount not less than required by Oklahoma law for motor vehicles operated on public highways in the State of Oklahoma.

D. Any person, who operates a golf cart and/or utility task vehicle must be at least sixteen (16) years of age or older. No person may operate a golf cart and/or utility task vehicle unless that person is licensed to drive upon the public streets, roads and highways of Oklahoma and then, only in accordance with such valid driver's license. Golf cart and/or utility task vehicle operators must carry their driver's license on their person at all times while operating a golf cart and/or utility task vehicle on public roads.

E. Any person who operates a golf cart and/or utility task vehicle on public streets and roads must adhere to all applicable State and local laws, regulations and ordinances, including but not limited to those banning the possession and use of alcoholic beverages, and all other illegal drugs. In addition, no golf cart and/or utility task vehicle containing any open container of alcohol shall be operated on public roads.

F. The operator of the golf cart and/or utility task vehicle shall comply with all traffic rules and regulations adopted by the State of Oklahoma and the City of Checotah which governs the operation of motor vehicles. Except as noted otherwise, therein, any person operating a golf cart and/or utility task vehicle on City streets or alleys shall adhere to all traffic signs and signals, traffic rules and regulations, and shall obey the orders and direction of any law enforcement officer authorized to direct or regulate traffic or the direction of a fire department officer during a fire.

G. An operator may not allow the number of people in the golf cart and/or utility task vehicle at any one time to exceed the maximum seating capacity specified by the manufacturer. At no time shall the operator allow a passenger to set on another passenger's lap. Each person riding must be in their own seat. The operator shall not allow passengers to ride on any part of a golf cart and/or utility task vehicle not designed to carry passengers, such as the part of the golf cart and/or utility task vehicle to carry golf bags and other items. If the golf cart and/or utility task vehicle came from the manufacturer with seatbelts, then the seatbelts must be used while golf cart and/or UTV is in motion.

    1. In no instance shall a golf cart and/or utility task vehicle be operated at a speed greater than 20 miles per hour. No golf cart and/or utility task vehicle may be operated at a speed greater than reasonable and prudent for the existing conditions.

H. Golf carts and/or utility task vehicles must be operated at the right edge of the roadway and must yield to all vehicular and pedestrian traffic. If the golf cart and/or utility task vehicle is impeding traffic, it is to pull over and let the traffic pass.

I. All parking rules and limits apply. No parking on sidewalks is allowed. No parking is allowed on Broadway or Gentry.

J. Golf carts and/or utility task vehicles must have basic equipment supplied by the manufacturer, including a vehicle identification or serial number. Such equipment must include all safety devices as installed by said

manufacturer, including rear view mirror and a rear triangle reflector of the same type required by Oklahoma law.

K. Golf carts and/or utility task vehicles meeting the requirements set forth below may operate inside the City Limits of Checotah if registered, inspected and fees paid:

1. Golf carts and/or utility task vehicles having two (2) operating headlights, one on each side of the front of the golf cart and/or utility task vehicle and two (2) operating tail lights, one on each side of the rear of the cart or UTV, all four (4) lights must be visible from a distance of 500 feet; and

2. If a mechanical turn signal indicator is not installed, then hand signals are required for turns.

3. All golf carts and/or utility task vehicles must be of roads by 11:00 P.M.

L. This ordinance forbids the operation of golf carts and/or utility task vehicles on:

1. Any recreational, bike or walking trail unless the trail is specifically designed to allow the use of motor vehicles.

2. Sidewalks

3. City parks or any other land owned by the City unless approved by the City.

4. Private property without the consent of the property owner.

Section 44-16. Registration, Inspection and Fee Prior to Usage.

A. All golf carts and/or utility task vehicles must complete a registration application and submit to City Hall for approval. Before driving on public roads, the operator of a golf cart and/or utility task vehicle must have a valid issued registration.

B. If golf cart or utility task vehicle is sold after yearly sticker is purchased, the new owner must come in, register and sticker the golf cart or utility task vehicle in the new owner's name before it can be driven on City streets by the new owner. The registration and sticker will not transfer with ownership.

C. Annual Registration renewal is based on Anniversary Year. Your registration and sticker will come up for renewal at the same time every year that you first registered the golf cart and/or utility task vehicle.

Chapter 45. RESERVED

Chapter 46. UTILITIES

Article I. In General

Sec. 46-1. 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:

CPWA means the Checotah Public Works Authority, a public trust of which the city is beneficiary.

Trustees means the trustees of the CPWA.

Utility shall be construed to mean and include water, sewer, garbage and trash collection and/or any other utility service furnished by the CPWA to consumers thereof.

(Code 1997, § 24-1; Ord. No. 466, § 1)

Sec. 46-2. Scope of provisions.

All pertinent provisions of this chapter are hereby made a part of the terms and conditions whereby the CPWA shall furnish any utility service to any person, or whereby the CPWA shall make any utility connections or perform any work of any kind in connection with the furnishing of any utility service pursuant to the rules and regulations of the trustees.

(Code 1997, § 24-2)

Sec. 46-3. Service to comply with technical provisions.

Any utility service furnished under the provisions of this chapter shall be in accordance with and in compliance with all applicable technical provisions of this Code, state law and city ordinances, rules and regulations.

(Code 1997, § 24-3)

Sec. 46-4. Rules and regulations.

The trustees shall have the authority to establish by rule or regulation such standards and specifications as may be deemed necessary for the installation, construction and maintenance of any utility service system owned and operated by the CPWA within or without the city and under the management of the trustees. Such rules, regulations, standards and specifications shall be filed in the office of the city clerk. Violation of such rules, regulations, standards and specifications shall be deemed a misdemeanor.

(Code 1997, § 24-4)

Sec. 46-5. Inspection outside city.

In order to protect the utility service supply, the CPWA will not make any water or sewer taps outside the city limits until the premises involved has been inspected and approved by the plumbing inspector.

(Code 1997, § 24-5)

Sec. 46-6. Right of entry.

Any authorized inspector of the CPWA shall have free access at any reasonable time to all premises supplied with any utility service by the CPWA for the purpose of examination in order to protect the utility services from abusive use.

(Code 1997, § 24-6; Ord. No. 152, art. 3, § 11, 3-25-1912)

Sec. 46-7. Termination of service authorized.

The CPWA shall have the right to disconnect or refuse to connect or reconnect any utility service for any of the following reasons:

A. Failure to meet the applicable provisions of law;
B.
C. Violation of the rules and regulations pertaining to utility service;
D.
E. Nonpayment of bills;
F.
G. Willful or negligent waste of service due to improper or imperfect pipes, fixtures, appliances or otherwise;
H.
I. Molesting any meter, seal or other equipment controlling or regulating the supply of utility service;
J.
K. Theft or diversion and/or use of service without payment therefor;
L.
M. Vacancy of premises.

(Code 1997, § 24-7; Ord. No. 152, art. 1, § 5, 3-25-1912)

Sec. 46-8. Non-liability of CPWA for damage; exception.

A. The CPWA shall not be liable for any damage to any customer of any utility service furnished by the CPWA due to backflow of the sewerage system, failure of supply, interruption of service or any other cause outside the direct control of the CPWA.
B.
C. In case of damage beyond the meter, the CPWA shall not be liable for damage unless the CPWA is duly notified and a reasonable amount of time is allowed to correct such damage.

(Code 1997, § 24-8)

Sec. 46-9. Application for utility services.

A. Any person desiring any utility service furnished by the CPWA shall make application for the same to the city clerk. Such application shall contain the applicant's name, address and the uses for which such utility service is desired. Before any utility service shall be provided to an applicant therefor, such application shall be signed by the applicant and filed with the utility department, along with the required deposit.
B.
C. The CPWA may decline or fail or cease to furnish utility service to any person who may be in debt to the CPWA for any reason, except ad valorem taxes and special assessments.
D.

E. Approval of the application for any utility service shall be deemed permission for such service.
F.
G. All premises connected to any utility service of the CPWA shall be assumed to be using such utility service, and the owner or occupant shall be charged therefor so long as such premises shall remain connected with the utility service.
H.
I. Any person having a permit from the city for the use of any utility service offered by the CPWA who shall use such utility service for any purpose other than that mentioned in such permit or who shall make any unauthorized changes in such service shall be deemed guilty of a misdemeanor.

(Code 1997, §§ 24-9--24-13; Ord. No. 152, art. 1, §§ 1--4, 3-25-1912)

Sec. 46-10. Damage to or trespass upon equipment.

It shall be unlawful for any person not having authority to do so to open any water hydrant or tamper with any utility service furnished by the CPWA to consumers, or to in any other way molest, damage or trespass upon any equipment or premises belonging to the CPWA connected with any utility service.

(Code 1997, § 24-14; Ord. No. 228, § 1, 3-16-1925)

Sec. 46-11. Temporary interruption of service.

The CPWA reserves the right to cut off any utility service without notice in case of emergencies. When an interruption in service is necessary for the maintenance and improvement of the utility system, affected customers will be notified as circumstances permit.

(Code 1997, § 24-15; Ord. No. 152, art. 3, § 11, 3-25-1912)

Sec. 46-12. Sale of service by customer.

It shall be unlawful for any person to resell to others any utility service obtained from the CPWA except by special arrangement with the trustees.

(Code 1997, § 24-16; Ord. No. 152, art. 1, § 5, 3-25-1912)

Sec. 46-13. Connections to service.

Connections for any utility service furnished by the CPWA shall be made only under the supervision of the trustees.

(Code 1997, § 24-18; Ord. No. 152, art. 1, § 7, 3-25-1912)

Sec. 46-14. Separate connections.

Every building, structure or consumer in the city shall have a separate CPWA-owned utility service connection unless specifically authorized by the trustees.

(Code 1997, § 24-19; Ord. No. 152, art. 3, § 7, 3-25-1912)

Sec. 46-15. Unlawful connections.

Any person who shall make any connection in any manner to any utility system, whether owned by the CPWA or not, without the prior knowledge and consent of the owner of such utility system shall be deemed guilty of a misdemeanor.

(Code 1997, § 24-20; Ord. No. 152, art. 1, § 6, 3-25-1912)

Sec. 46-16. Unlawful use.

No person, other than employees of the city, shall be authorized to connect, turn on, turn off, disconnect or reconnect any utility service offered by the CPWA or to remove, replace or repair any equipment connected to any utility service.

(Code 1997, § 24-21; Ord. No. 152, art. 3, 3-25-1912)

Sec. 46-17. Maintenance of system by consumer.

The consumer of any utility service furnished by the CPWA shall maintain and keep in good repair all connections, appliances and other apparatuses installed and used in connection with such utility service.

(Code 1997, § 24-22)

Secs. 46-18--46-37. Reserved.

Article II. Rates and Charges

Sec. 46-38. Meters required.

Meters for the measurement of utility services furnished by the city shall be furnished and installed by and shall remain the property of the city.

(Code 1997, § 24-34; Ord. No. 152, art. 1, § 9, 3-24-1912)

Sec. 46-39. Access to meters.

Free access to utility meters shall be granted the city at all reasonable times.

(Code 1997, § 24-35; Ord. No. 152, art. 3, § 1, 3-25-1912)

Sec. 46-40. Deposit required.

Every applicant for utility service shall make a deposit with the city clerk in an amount to be determined by resolution of the city council, and such applicant shall not be granted utility service until he has paid to the city clerk such deposit. The deposit shall serve as a guarantee for the payment of charges for utility service and other amounts owed to the city in connection with such service.

(Code 1997, § 24-36; Ord. No. 200, § 1, 10-9-1916)

Sec. 46-41. Refund of deposit.

Refunds of deposits made for utility service shall be made upon the termination of such utility service only after payment of all indebtedness to the city for such utility service. Application of the deposit may be made in partial or total settlement of accounts when the supply is cut off for nonpayment of the bill, or for any infraction or violation of any ordinance, rule or regulation of the city relative to utility services offered by the city.

(Code 1997, § 24-37)

Sec. 46-42. Determination of charges.

A. *Water rates.* All users of water of the city shall be charged the following monthly rates:

1.
2. Residential users.

   i. $16.50 for the first 2,000 gallons and $5.18 for each 1,000 gallons thereafter;

3. Commercial and rural users.

   i. $23.15 for the first 2,000 gallons and $5.18 for each 1,000 gallons thereafter;

4. Rural water users.

   i. For the purpose of this subsection (A)(3), the term "rural user" means those users of city water who reside outside the city limits.
   ii.
   iii. Water rates for rural users shall be as follows:
   iv.
      a) $5.18 for each 1,000 gallons.

B. *Sewer rates.* All users of the wastewater treatment system owned by the city shall be charged the following monthly rates:

   1. Residential and commercial users.

      i. A minimum of $10.45 for the first 2,000 gallons of water used and $3.00 for each 1,000 gallons thereafter of water used;

   2. *Basis.* Metered water consumption will be based on an average of usage for the months December, January and February.

   3. New user fee.

      i. The following minimum fee chart shall be charged until such time as the metered water consumption is determined:

         a) For the 2007-2008 fiscal year, $7.50 per month.

         b) For the 2008-2009 fiscal year, $8.45 per month.

         c) For the 2009-2010 fiscal year, $9.31 per month.

      ii. For the purpose of this subsection (B)(3), the term "new user" means a user who does not have a metered water consumption average as set forth in subsection (B)(2) of this section.

(Ord. No. 558, §§ 1, 2, 7-9-2007; Ord. No. 568, § 2, 5-25-2010)

Sec. 46-43. When payment due, delinquent.

All bills shall be due the tenth day of each month, and unless paid on or before the tenth day of each month, a penalty of 1.5 percent shall be added to such bills. Bills not paid by the 26th day of the month shall then be delinquent, and service may be disconnected for nonpayment, and if service is disconnected for nonpayment, a charge of $50.00 shall be made to restore service during normal business hours (Monday through Friday, 8:00 a.m. to 5:00 p.m.) or $75.00 for weekends or holidays or other than normal business hours.

(Code 1997, § 24-39; Ord. No. 398, § 1, 4-2-1973; Ord. No. 525, § 1, 11-22-1999)

Sec. 46-44. Penalty for failure to pay.

In the event any consumer of utility services furnished by the city shall fail to pay his bill therefor when the same is due, a penalty as determined by the city council shall be imposed for each time a collector is dispatched to collect the delinquent account.

(Code 1997, § 24-40; Ord. No. 398, § 1, 4-2-1973)

Sec. 46-45. Reconnection after disconnection.

In the event that utility service is disconnected for nonpayment of the bill, the consumer thereof shall have the right to have the same reconnected only upon the payment of the amount due, and in addition thereto, a reconnection fee as established by the city council from time to time.

(Code 1997, § 24-41; Ord. No. 398, § 1, 4-2-1973)

Sec. 46-46. Voluntary discontinuance of service.

Consumers wishing to discontinue the use of any utility service shall give written notice thereof at the city hall. Failure to do so shall render them liable for the payment of all bills until such notice has been given.

(Code 1997, § 24-42)

Sec. 46-47. Liability of property owner.

The owner of premises where any utility service is furnished by the city for consumption on such premises, whether such owner is the user or consumer of such utility services or not, shall be liable for the payment of all rates and charges therefor.

(Code 1997, § 24-43)

Sec. 46-48. Lien for nonpayment.

Any unpaid balance owing on any billing for utility services, plus penalty, shall constitute a lien on the real property to which the services were provided, and suit shall be brought by law to enforce such lien and collect the amount due, plus penalty, together with the expenses of collection and a reasonable attorney's fee.

(Code 1997, § 24-44)

Secs. 46-49--46-69. Reserved.

Article III. Sewer System and Use Regulations

Sec. 46-70. 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:

Approving authority means the mayor or his duly authorized representative.

BOD (biochemical oxygen demand) means the quantity of oxygen by weight, expressed in milligrams per liter, utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five days at a temperature of 20 degrees centigrade.

Building sewer means the extension from the building drain to the public sewer or other place of disposal (also called house lateral and house connection).

COD (chemical oxygen demand) means measure of the oxygen consuming capacity of organic and inorganic matter in the water or wastewater expressed in milligrams per liter as the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.

Control manhole means a manhole giving access to a building sewer at some point before the building sewer discharge mixes with other discharges in the public sewer.

Control point means a point of access to a course of discharge before the discharge mixes with other discharges in the public sewer.

Discharge means to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit or suffer any of these acts or emissions.

Garbage means animal and vegetable wastes and residue from preparation, cooking and dispensing of food, and from the handling, processing, storage and sale of food products and produce.

Industrial waste means waste resulting from any process of industry, manufacturing, trade, or business, from the development of any natural resource, or any mixture of such waste with water or normal wastewater, or distinct from normal wastewater.

Industrial waste charge means the charge made on those persons who discharge industrial wastes into the city sewerage system.

Milligrams per liter (mg/l) means the same as parts per million and is a weight-to-volume ratio. The milligram per liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

Natural outlet means any outlet into a watercourse, ditch, lake or other body of surface water or groundwater.

Overload means the imposition of organic or hydraulic loading on a treatment facility in excess of its engineered design capacity.

pH means the logarithm (base 10) of the reciprocal of the hydrogen ion concentration.

Public sewer means a pipe or conduit carrying wastewater or unpolluted drainage in which owners of abutting properties shall have the use, subject to control by the city.

Sanitary sewer means a public sewer that conveys domestic wastewater or industrial wastes or a combination of both and into which stormwater, surface water, groundwater, and other unpolluted wastes are not intentionally passed.

Slug means any discharge of water, wastewater, or industrial waste which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

Standard methods means the examination and analytical procedures set forth in the latest edition, at the time of analysis, of Standard Methods for the Examination of Water and Wastewater, as prepared, approved, and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

Storm sewer means a public sewer which carries stormwaters and surface waters and drainage and into which domestic wastewater or industrial wastes are not intentionally passed.

Stormwater means rainfall or any other forms of precipitation.

Superintendent means the water and wastewater superintendent of the city or his duly authorized deputy, agent, or representative.

Suspended solids means solids, measured in milligrams per liter, that either float on the surface of or are in suspension in water, wastewater or other liquids, and which are largely removable by a laboratory filtration device.

Trap means a device designed to skim, settle, or otherwise remove grease, oil, sand, flammable wastes or other harmful substances.

Unpolluted wastewater means waters containing:

A. No free or emulsified grease or oil;
B.
C. No acids or alkalies;
D.
E. No phenols or other substances producing taste or odor in receiving water;
F.
G. No toxic or poisonous substances in suspension, colloidal state or solution;
H.
I. No noxious or otherwise obnoxious or odorous gases;
J.
K. Not more than an insignificant amount, in milligrams per liter, each of suspended solids and BOD, as determined by state health department; and
L.
M. Color not exceeding 50 units as measured by the platinum-cobalt method of determination as specified in standard methods.

Waste means rejected, unutilized or superfluous substances in liquid, gaseous, or solid form resulting from domestic, agricultural, or industrial activities.

Wastewater means a combination of the water-carried waste from residences, business buildings, institutions, and industrial establishments, together with any groundwater, surface water, and stormwater that may be present.

Wastewater service charge means the charge on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative of normal wastewater.

Wastewater treatment plant means any city-owned facilities, devises, and structures used for receiving, processing and treating wastewater, industrial waste, and sludges from the sanitary sewers.

Watercourse means a natural or manmade channel in which a flow of water occurs, either continuously or intermittently.

(Code 1997, § 24-61; Ord. of 5-9-1988)

Sec. 46-71. Prohibited discharges.

A. No person may discharge to public sewers any waste which, by itself or by interaction with other wastes, may:

B.

1. Injure or interfere with wastewater treatment processes or facilities; or
2.
3. Constitute a hazard to humans or animals.

C. All discharges shall conform to the requirements of this article.

(Code 1997, § 24-62; Ord. of 5-9-1988)

Sec. 46-72. Chemical discharges.

A. No discharge to public sewers may contain:

1. Cyanide greater than 1.0 milligrams per liter;
2.
3. Fluoride other than that contained in the public water supply;
4.
5. Chlorides in concentrations greater than 250 milligrams per liter;
6.
7. Gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas; or
8.
9. Substances causing an excessive chemical oxygen demand (COD).

B. No waste or wastewater discharged to public waters may contain:

C.

1. Strong acid, iron pickling wastes or concentrated plating solutions, whether neutralized or not;
2.
3. Fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (zero and 65 degrees centigrade);
4.
5. Objectionable or toxic substances, exerting an excessive chlorine requirement, of such degree that any such material received in the composite wastewater at the wastewater treatment work exceeds the limits established by the approving authority for such materials; or
6.
7. Obnoxious, toxic, or poisonous solids, liquids, or gases in quantities sufficient to violate the provisions of this article.

D. No waste, wastewater, or other substances having a pH lower than 5.5 or higher than 9.5 or any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel at the wastewater facilities may be discharged into public sewers.

E. All waste, wastewater, or other substances containing phenols, hydrogen sulfide, or other taste- and odor-producing substances shall conform to concentration limits established by the approving authority. After treatment of the composite wastewater, concentration limits may not exceed the requirements established by state, federal, or other agencies with jurisdiction over discharges to receiving waters.

(Code 1997, § 24-63; Ord. of 5-9-1988)

Sec. 46-73. Heavy metals and toxic materials.

A. No discharges may contain concentrations of heavy metals greater than those specified in subsection (b) of this section.

B. The maximum allowable concentrations of heavy metals, stated in terms of milligrams per liter (mg/l) and determined on the basis of individual sampling in accordance with standard methods are as follows:

		mg/l
1.	Arsenic	0.05
2.		
3.	Barium	5.0
4.		
5.	Boron	1.0
6.		
7.	Cadmium	0.02
8.		
9.	Chromium (Total)	5.0
10.		
11.	Copper	1.0
12.		
13.	Lead	0.1
14.		
15.	Manganese	1.0
16.		
17.	Mercury	0.005
18.		
19.	Nickel	1.0
20.		
21.	Selenium	0.02
22.		
23.	Silver	0.1
24.		
25.	Zinc	5.0
26.		

C. No other heavy metals or toxic material may be discharged into public sewers without a permit from the approving authority specifying conditions of pretreatment, concentrations, volumes, and other applicable provisions.

D. Prohibited heavy metals and toxic materials include, but are not limited to:

1. Antimony.

2.
3. Beryllium.
4.
5. Bismuth.
6.
7. Cobalt.
8.
9. Molybdenum.
10.
11. Uranyl ion.
12.
13. Rhenium.
14.
15. Strontium.
16.
17. Tellurium.
18.
19. Herbicides.
20.
21. Fungicides.
22.
23. Pesticides.

(Code 1997, § 24-64; Ord. of 5-9-1988)

24.
25.

Sec. 46-74. Garbage.

A. No person may discharge garbage into public sewers unless it is shredded to a degree that all particles can be carried freely under the flow conditions normally prevailing in the public sewers. Particles greater than one-half inch in any dimension are prohibited.

B. The approving authority is entitled to review and approve the installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower or greater.

(Code 1997, § 24-65; Ord. of 5-9-1988)

Sec. 46-75. Storm water and unpolluted drainage.

No person may discharge to public sanitary sewers:

A. Unpolluted stormwater, surface water, groundwater, roof runoff or subsurface drainage;
B.
C. Unpolluted cooling water;
D.
E. Unpolluted industrial process waters; or
F.
G. Other unpolluted drainage.

(Code 1997, § 24-66; Ord. of 5-9-1988)

Sec. 46-76. Temperature.

No person may discharge liquid or vapor having a temperature of 150 degrees Fahrenheit or greater, or any substance which causes the temperature of the total wastewater treatment plant influent to increase by ten degrees Fahrenheit.

(Code 1997, § 24-67; Ord. of 5-9-1988)

Sec. 46-77. Radioactive wastes.

No person may discharge radioactive wastes or isotopes into the public sewers without the permission of the approving authority and all other regulatory agencies, either state or federal, which have jurisdiction over the use of such radioactive wastes and isotopes.

(Code 1997, § 24-68; Ord. of 5-9-1988)

Sec. 46-78. Impairment of facilities.

A. No person may discharge into public sewers any substances capable of causing:

1. Obstruction of the flow in sewers;
2.
3. Interference with the operation of treatment plant processes or facilities; or
4.
5. Excessive loading of treatment facilities.

B. Discharges prohibited by subsection (A) of this section include, but are not limited to, materials which exert or cause concentration of:

1. Inert suspended materials greater than 200 milligrams per liter, including, but not limited to:

i. Fuller's earth or other mineral clays;
ii.
iii. Lime slurries; and
iv.
v. Lime residues.

2. Dissolved solids greater than 200 milligrams per liter, including, but not limited to:

i. Sodium;

ii. Sodium sulfate; and
iii.
iv. DOB, COD or chlorine demand in excess of normal plant capacity.

C. No person may discharge into public sewers any substances that may deposit grease or oil in the sewer lines in such a manner as to clog or partially clog the sewers, or that will deleteriously affect the proper operation of the treatment facility.

D. No person may discharge into public sewers any substance which is not amenable to treatment by the processes and facilities employed.

E. The approving authority shall regulate the flow and concentration of slugs when they may:

1. Impair the treatment process;
2.
3. Cause damage to the collection facilities; or
4.
5. Incur treatment costs exceeding those for normal wastewater.

F. No person may discharge into public sewers solid or viscous substances which may violate subsection (A) of this section if present in sufficient quantity or size, including, but not limited to:

1. Ashes;
2.
3. Cinders;
4.

5. Sand;
6.
7. Mud;
8.
9. Straw;
10.
11. Shavings;
12.
13. Metal;
14.
15. Glass;
16.
17. Rags;
18.
19. Feathers;
20.
21. Tar;
22.
23. Plastics;
24.
25. Wood;
26.
27. Unground garbage;
28.
29. Whole blood;
30.
31. Paunch manure;
32.
33. Hair and fleshings;
34.
35. Entrails;
36.
37. Paper products, either whole or ground by garbage grinders;
38.
39. Slops;
40.
41. Chemical residues;
42.
43. Paint residues; and
44.
45. Bulk solids.

(Code 1997, § 24-69; Ord. of 5-9-1988)

Sec. 46-79. Grease, oil, sand interceptors required.

A. Grease, oil and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients. All interceptors shall be of a type and capacity approved by the superintendent, and shall be so located as to be readily and easily accessible for cleaning and inspection.

B.

C. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight. Where installed, all grease, oil and sand interceptors shall be maintained by the owner at his expense and in continuously efficient operation at all times. Materials removed from these facilities shall be disposed of at designated approved locations.

D.

E. Plans, specifications and any other pertinent information relating to proposed preliminary treatment or processing facilities or flow equalization facilities shall be submitted for approval of the superintendent prior to the start of such facilities' construction if the effluent from such facilities is to be discharged into the public sanitary sewers. All such plans shall be prepared by a registered professional engineer and all bear his signature and seal.

(Code 1997, § 24-70; Ord. No. 83-10-1, 11-7-1983; Ord. of 5-9-1988)

Sec. 46-80. Compliance with existing authority.

A. Unless exception is granted by the approving authority, the public sanitary sewer system shall be used by all persons discharging:

1. Wastewater;
2.
3. Industrial waste; or
4.
5. Polluted liquids.

B. No person may deposit or discharge any waste included in subsection (A) of this section on public or private property into or adjacent to any:

1. Natural outlet;
2.
3. Watercourse;
4.
5. Storm sewer; or
6.
7. Other area within the jurisdiction of the city.

C. The approving authority shall verify prior to discharge that wastes authorized to be discharged will receive suitable treatment within the provisions of all laws, regulations, ordinances, rules and orders of federal, state and local governments.

(Code 1997, § 24-71; Ord. of 5-9-1988)

Sec. 46-81. Approving authority--Requirements.

A. If discharges or proposed discharges to public sewers may deleteriously affect wastewater facilities, processes, equipment, or receiving waters, create a hazard to life or health; or create a public nuisance, the approving authority shall require:

1. Pretreatment to an acceptable condition for discharge to the public sewers; and

2. Control over the quantities and rates of discharge.

B. The approving authority is entitled to determine whether a discharge or proposed discharge is included under subsection (A) of this section.

C. The approving authority shall reject wastes when:

1. It determines that discharge or proposed discharge is included under subsection (A) of this section; or

2. The discharge does not meet the requirements of subsection (A) of this section.

(Code 1997, § 24-72; Ord. of 5-9-1988)

Sec. 46-82. Same--Review and approval.

A. If pretreatment or control is required, the approving authority shall review and approve design and installation of equipment and processes.

B. The design and installation of equipment and processes must conform to all applicable statutes, codes, ordinances and other laws.

C. Any person responsible for discharges requiring pretreatment, flow-equalizing, or other facilities shall provide and maintain the facilities in effective operating condition at his own expense.

(Code 1997, § 24-73; Ord. of 5-9-1988)

Sec. 46-83. Requirements for traps.

A. Discharges requiring a trap include those containing:

1. Grease or waste containing grease in excessive amounts;
2.
3. Oil;
4.
5. Sand;
6.
7. Flammable wastes; or
8.
9. Other harmful ingredients.

B. Any person responsible for discharges requiring a trap shall, at his own expense and as required by the approving authority:

1. Provide equipment and facilities of a type and capacity approved by the approving authority;

2. Locate the trap in a manner that provides ready and easy accessibility for cleaning and inspection; and
3.
4. Maintain the trap in effective operating condition.

(Code 1997, § 24-74; Ord. of 5-9-1988)

Sec. 46-84. Requirements for building sewers.

Any person responsible for discharges through a building sewer carrying industrial wastes shall, at his own expense and as required by the approving authority:

A. Install an accessible and safely located control manhole;
B.
C. Install meters and other appurtenances to facilitate observation sampling and measurement of the wastes; and
D.
E. Maintain the equipment and facilities.

(Code 1997, § 24-75; Ord. of 5-9-1988)

Sec. 46-85. Sampling and testing.

A. Sampling shall be conducted according to customarily accepted methods, reflecting the effect of constituents upon the sewage works and determining the existence of hazards to health, life, limb and property.
B.
C. Examination and analyses of the characteristics of waters and wastes required by this article shall be:

1. Conducted in accordance with standard methods; and
2.
3. Determined from suitable samples taken at the control manhole provided or other control point authorized by the approving authority.

D. BOD and suspended solids shall be determined from composite sampling except to detect unauthorized discharges.

E. The city may select an independent firm or laboratory to determine flow, BOD, and suspended solids.
F.
G. The city is entitled to select the time of sampling at its sole discretion so long as at least annual samples are taken.

(Code 1997, § 24-76; Ord. of 5-9-1988)

Sec. 46-86. Savings clause.

A person discharging industrial wastes into public sewers prior to the effective date of the ordinance from which this article is derived may continue without penalty so long as he:

A. Does not increase the quantity or quality of discharge, without permission of the approving authority;

B. Has discharged the industrial waste at least 30 days prior to the effective date of the ordinance from which this article is derived; and

C. Applies for and is granted permission no later than 30 days after the effective date of the ordinance from which this article is derived.

(Code 1997, § 24-77; Ord. of 5-9-1988)

Sec. 46-87. Conditions for permits.

A. The city may grant a permit to discharge to a person meeting all requirements of section 46-86 provided that such person:

1. Submits an application within 30 days after the effective date of the ordinance from which this article is derived on a form supplied by the approving authority;

2. Secures approval by the approving authority of plans and specifications for pretreatment facilities, when required;

3. Has complied with all requirements for agreements or arrangements, including, but not limited to, provisions for:

i. Payment of charges;

ii. Installation and operation of pretreatment facilities; and

iii. Sampling and analysis to determine quantity and strength;

4. Provides a sampling point subject to the provisions of this article and approval of the approving authority.

B. A person applying for a new discharge shall:

1. Meet all conditions of subsection (A) of this section; and

2. Secure a permit prior to discharging any waste.

(Code 1997, § 24-78; Ord. of 5-9-1988)

Sec. 46-88. Right to enter property.

A. The superintendent and other duly authorized employees of the city bearing proper credentials and identification are entitled to enter any public or private property at any reasonable time for the purpose of enforcing this article.

B. Anyone acting under this authority shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection.

C.

D. Except when caused by negligence or failure of the company to maintain safe conditions, the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the sampling operation.

E.

F. The superintendent and other duly authorized employees of the city bearing proper credentials and identification are entitled to enter all private properties through which the city holds a negotiated easement for the purposes of:

1. Inspection, observation, measurement, sampling, or repair;

2. Maintenance of any portion of the sewerage system lying within the easements; and

3.

4. Conducting any other authorized activity.

G. All activities shall be conducted in full accordance with the terms of the negotiated easement pertaining to the private property involved.

H.

I. No person acting under authority of this section may inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the public sewers.

(Code 1997, § 24-79; Ord. of 5-9-1988)

Sec. 46-89. Authority to disconnect service.

A. The city may terminate water and wastewater disposal service and disconnect an industrial customer from the system when:

1. Acids or chemicals which cause damage to sewer lines or treatment process are released to the sewer causing rapid deterioration of these structures or interfering with proper conveyance and treatment of wastewater;

2. A governmental agency informs the city that the effluent from the wastewater treatment plant is no longer of a quality permitted for discharge to a watercourse and it is found that the customer is delivering wastewater to the city's system that cannot be sufficiently treated or requires treatment that is not provided by the city as normal domestic treatment; or

3.

4. The industrial customer:

i. Discharges industrial waste or wastewater that is in violation of the permit issued by the approving authority;

ii. Discharges wastewater at an uncontrolled, variable rate in sufficient quantity to cause an imbalance in the wastewater treatment system;

iii.

iv. Fails to pay monthly bills for water and sanitary sewer services when due; or

v.

vi. Repeats a discharge of prohibited wastes to public sewers.

B. If the service is discontinued pursuant to subsection (A)(2) of this section, the city shall:

1. Disconnect the customer;

2.

3. Supply the customer with the governmental agency's report and provide the customer with all pertinent information; and

4.

5. Continue disconnection until such time as the industrial customer provides additional pretreatment or other facilities designed to remove the objectionable characteristics from his industrial wastes or complies with the city's payment procedures.

(Code 1997, § 24-80; Ord. of 5-9-1988)

Sec. 46-90. Notice.

The city shall service persons discharging in violation of this article with written notice stating the nature of the violation and providing a reasonable time limit for satisfactory compliance.

(Code 1997, § 24-81; Ord. of 5-9-1988)

Sec. 46-91. Continuing prohibited discharges.

No person may continue discharging in violation of this article beyond the time limit provided in the notice.

(Code 1997, § 24-82; Ord. of 5-9-1988)

Sec. 46-92. Penalty.

A. A person who continues prohibited discharges may be subject to termination of water and sewer services.
B.
C. In addition to proceeding under authority of subsection (A) of this section, the city is entitled to pursue all other legal remedies to which it is entitled.

(Code 1997, § 24-83; Ord. of 5-9-1988)

Sec. 46-93. Failure to pay.

In addition to sanctions provided for by this article, the city is entitled to exercise sanctions provided for by the other ordinances of the city for failure to pay the bill for water and sanitary sewer service when due.

(Code 1997, § 24-84; Ord. of 5-9-1988)

Sec. 46-94. Connection required.

A. Each occupied residence and each occupied business or commercial building in the city shall connect to the city's sanitary sewer system within 60 days after the adoption of the ordinance from which this section is derived; provided, however, that said 60 days does not begin to toll until said sanitary sewer system is constructed and such service shall be brought within at least 150 feet of the residence or business property line.

B. Any person, firm, corporation or entity violating any provision of this section shall upon conviction thereof, be liable for a fine of not to exceed $20.00 and each day that any violation of any provision of this section is allowed to exist shall be and constitute a separate offense.

C. By reason of the urgent need to improve the health conditions and sanitary sewer service in the city and for the furtherance and preservation of the public peace, safety and welfare of the city and the inhabitants thereof, an emergency hereby is declared to exist, by reason whereof the ordinance from which this section is derived shall be in full force and effect from and after its passage, approval and publication.

(Ord. No. 567, §§ 1--3, 5-10-2010)

Chapter 47. RESERVED

Chapter 48. ZONING

Article I. In General

Sec. 48-1. 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:

Accessory building or structure means a building customarily incidental and appropriate and subordinate to the main building or use and located on the same lot with the main building.

Accessory use means a use customarily incidental, appropriate and subordinate to the principal use of land or buildings located upon the same premises.

Advertising sign or structure means any cloth, card, paper, metal, painted, glass, wooden, plastic, plaster, stone sign 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. For the purpose of this definition, the term "placed" 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. The term "advertising sign" does not include directional, warning, or other signs posted by public officials in the course of their public duties, nor merchandise or materials being offered for sale.

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 and not an agricultural use.

Alley means a public passage or way affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

Apartment house means a multiple-family dwelling (see *Dwelling, multiple*).

Automobile means a self-propelled mechanical vehicle designed for use on streets and highways for the conveyance of goods and people, including, but not limited to, the following:

A. Passenger cars;

B. Trucks;
C.
D. Buses;
E.
F. Motor scooters; or
G.
H. Motorcycles.

Automobile service station means any area of land, including structures thereon, that is used for the sale of gasoline or oil fuels, but not butane or propane fuels, or other automobile accessories, and which may or may not include facilities for lubricating, washing, cleaning, or otherwise servicing automobiles, but not including the painting thereof.

Automobile wash or laundry means a structure designed primarily for washing automobiles using production line methods with a chain conveyor, blower, steam cleaner, high pressure spray or other mechanical device.

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.

Basement means a story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half of its height is above the average level of the adjoining ground or when subdivided and used for commercial or dwelling purposes by other than a janitor employed on the premises.

Billboard means any cloth, card, paper, metal, paned glass, wooden, plastic, plaster, stone sign 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. For the purpose of this definition, the term "placed" shall include 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. The term "billboard" does not include warning or other signs posted by public officials in the course of their public duties or merchandise or materials being offered for sale.

Boardinghouse means a dwelling other than a hotel where, for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for three or more but not exceeding 12 persons.

Building means any structure intended for shelter, housing or enclosure of persons, animals or chattel. When separated by dividing walls without openings, each portion of such structure so separated shall be deemed a separate structure.

Building coverage means the percentage of the lot area covered by the building. The building area shall include all overhanging roofs.

Building height means the vertical distance from the average line of the highest and lowest points of that portion of the lot covered by the building to the highest point of coping of a flat roof, or the deckline of a mansard roof, or to the average height of the highest gable of a pitch or hip roof.

Building, main, means a building in which is conducted the principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be a main building on the lot on which it is situated.

Building site means a single parcel of land occupied or intended to be occupied by a building or structure.

Carport means a permanent roofed structure permanently open on at least two sides, designed for or occupied by private passenger vehicles.

Child care center means any place, home or institution which receives six or more children under the age of 16 years, and not of common parentage, for care apart from their natural parents, legal guardians or custodians, when received for regular periods of time for compensation. The term "child care center" does not include public and private schools organized, operated or approved under the laws of the state, custody of children fixed by a court of competent jurisdiction, children related by blood or marriage within the third degree of the custodial person, or churches or other religious or public institutions caring for children within the institutional building in which their parents or legal guardians are attending services or meetings or classes or engaged in church activities. Any child care facility having fewer than six children shall comply with all requirements of chapter 12 and all regulations of the state department of human services.

Clinic, dental or medical, means a facility for the examination and treatment of ill and afflicted human outpatients, including, but not limited to, dental and doctors' offices, provided such patients are not kept overnight except under emergency conditions.

Convalescent, rest, or nursing home means a health facility where persons are housed and furnished with meals and continuing nursing care for compensation.

Court means an open, unoccupied space, other than a yard, on the same lot with a building or group of buildings and which is bordered on two or more sides by such building or group of buildings.

Court, inner, means a court other than an outer court. The length of an inner court is the minimum horizontal dimension measured parallel to its longest side. The width of an inner court is the minimum horizontal dimension measured at right angles to its length.

Court, outer, means a court the full width of which opens onto a required yard or street or alley. The width of an outer court is the minimum horizontal dimension measured in the same general direction as the yard, street or alley upon which the court opens. The depth of an outer court is the minimum horizontal dimension measured at right angles to its width.

District, zoning, means any section of the city for which regulations governing the use of buildings and premises or the height and area of buildings are uniform.

Drive-in restaurant means any establishment where food, frozen dessert or beverage is sold to the consumer, where motor vehicle parking space is provided, and where such food, frozen dessert or beverage is intended to be consumed in the motor vehicle parked upon the premises or anywhere on the premises outside of the building.

Dry cleaning or laundry, self-service, means any attended or unattended place, building or portion thereof available to the general public for the purpose of washing, drying, extracting moisture from, or dry cleaning wearing apparel, cloth, fabrics, and textures of any kind by means of a mechanical appliance which is operated primarily by the customer.

Dwelling means any building or portion thereof which is designed or used as living quarters for one or more families.

Dwelling, attached, means a dwelling having any portion of each of two walls in common with adjoining dwellings.

Dwelling, detached, means a dwelling having open space on all sides. Detached dwellings shall not have more than one adjoining wall or roof.

Dwelling, multiple-family, means a dwelling designed for occupancy by three or more families living independently of each other, exclusive of auto or trailer courts or camps, hotels or resort-type hotels.

Dwelling, row house or townhouse, means three or more dwelling units attached at the side or sides, each unit of which has a separate outdoor entrance and is designed to be occupied and may be owned by one family.

Dwelling, single-family, means a detached dwelling designed to be occupied by one family.

Dwelling, two-family, means a dwelling designed to be occupied by two families living independently of each other.

Family means one or more persons related by blood or marriage, including adopted children, or a group of not to exceed five 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 lodginghouse, hotel, club, or similar dwelling for group use. A family shall be deemed to include domestic servants employed by the family.

Floor area, gross, means the sum of the gross horizontal areas of all of the floors of a building, measured from the exterior faces of exterior walls or from the centerline of walls separating two buildings, and including, but not limited to, the following spaces:

A. Basements;
B.
C. Elevator shafts and stairwells at each floor;
D.
E. Floor space for mechanical equipment with structural head room of seven feet;
F.
G. Penthouses;
H.
I. Attic space providing headroom of seven feet or more;
J.
K. Interior balconies, mezzanines and enclosed covered porches and enclosed steps; and
L.
M. Accessory uses in enclosed covered space, but not including space used for off-street parking.

Floor area, net, means the total floor area within a building devoted or intended to be devoted to a particular use, whether above or below the finished lot grade, excluding:

A. Elevators;
B.

C. Stairwells;
D.
E. Hallways;
F.
G. Walls and partitions; and
H.
I. Floor space permanently devoted to a parking space or parking spaces, mechanical equipment, closets, washrooms, or other items permanently preventing the floor space from being occupied by persons while engaged in the use.

Floor area ratio means a mathematical expression determined by dividing the gross floor area of a building by the area of the lot on which it is located (floor area / lot area = floor area ratio).

Garage apartment means a dwelling unit for one family erected above a private garage.

Garage, private, means an accessory building or a part of a main building used for storage purposes only for automobiles used solely by the occupants and their guests of the building to which it is accessory.

Garage, public, means any garage, other than a private garage, available to the public, used for the care or servicing of automobiles where such vehicles are parked or stored for remuneration, hire or sale.

Garage, repair, means a building in which are provided facilities for the care, servicing, repair, or equipping of automobiles.

Gross floor area. See Floor area, gross.

Help-yourself laundry. See Dry cleaning or laundry, self-service.

Home association means an incorporated nonprofit organization operating under recorded land agreements through which:

A. Each lot or home owner in a planned unit or other described land area is automatically a member;
B.
C. Each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property; or
D.
E. The charge if unpaid becomes a lien against the property.

Home occupation means any occupation or profession carried on by the inhabitants of a dwelling which is clearly incidental and secondary to the use of the dwelling and which is conducted entirely within the main or accessory buildings; provided that no trading in merchandise is carried on and in connection with which there is no display or merchandise or sign other than one nonilluminated nameplate, not more than two square feet in area, attached to the main or accessory building, and 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. The term "home occupation" does not include the conducting of a beauty shop or barbershop, tea room or restaurant, rest home, clinic, doctor or dentist office, child care center, tourist home, real estate office, or cabinet, metal or auto repair shop.

Hospital means an institution providing health services primarily for human inpatient medical or surgical care for the sick or injured and including related facilities such as laboratories, outpatient departments, training facilities, central service facilities and staff offices which are an integral part of the facilities.

Hotel means a building or group of buildings under one ownership containing six or more sleeping rooms occupied or intended or designed to be occupied as the more or less temporary abiding place of persons who are lodged therein, with or without meals for compensation, but not including an auto or trailer court or camp, sanatorium, hospital, asylum, orphanage or building where persons are housed under restraint.

Kennel means any lot or premises on which four or more dogs more than six months of age are kept.

Lot means any plot of land occupied or intended to be occupied by one building, or a group of buildings, and accessory buildings and uses, including such open spaces as required by this chapter and other laws or ordinances, and having its principal frontage on a street.

Lot area means the total horizontal area included within lot lines.

Lot, corner, means a lot of which at least two adjacent sides abut for their full lengths on a street, provided that the interior angle at the intersection of such two sides is less than 135 degrees.

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.

Lot, double frontage, means a lot having a frontage on two nonintersecting streets, and distinguished from a corner lot.

Lot frontage means that dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.

Lot, interior, means a lot other than a corner lot.

Lot lines means the lines bounding a lot.

Marina means a dock or basin providing secure moorings for motorboats and yachts and often offering supply, repair and other facilities.

Housing. Types of housing shall be defined as follows:

A. Housing built to local, regional, or state codes are either site-built homes or factory-built homes.

    1. The term "site-built homes" means homes that are constructed from unassembled materials, built on the site on a permanent foundation in conformance with locally adopted building codes.
    2.
    3. The term "factory-built housing" means the form of housing which is built off-site in components or modules for later assembly on site. Such housing

is regulated by locally adopted building codes and is further defined as follows:

i. The term "panelized home" means a factory-built home in which panels (whole walls with windows, doors, wiring and outside siding) are transported to the site and assembled. The homes must meet state or local building codes where they are sited. They are installed on a permanent foundation.

ii. The term "pre-cut homes" means factory-built housing in which building materials are factory-cut to design specifications, transported to the site and assembled. The term "pre-cut homes" includes kit, log and dome homes. These homes must meet local, state and regional building codes and are built on a permanent foundation.

B. Housing built to the National Manufactured Housing Construction and Safety Standards Act of 1974 is defined by state statutes as either manufactured homes or residential design manufactured homes, which are defined as follows:

1. The term "manufactured home" means a residential dwelling in one or more sections built in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 USC 5401 et seq., and rules promulgated pursuant thereto, and the rules promulgated by the state motor vehicle and parts commission pursuant to 47 O.S. § 582 and 68 O.S. § 2101(11).

2. The term "residential design manufactured home" means a manufactured home that is architecturally compatible in appearance to neighboring conventionally built dwellings, taxed like a conventional dwelling, and placed on a permanent foundation.

C. The term "mobile home" means a residential dwelling fabricated in an off-site manufacturing facility, designed to be a permanent residence, but which is still transportable, that was built prior to the enacting of the National Manufactured Housing Construction and Safety Standards Act of 1974.

D. The term Modular Homes means homes that are built in sections in a factory and then transported to a building site on truck beds, then joined together by local contractors. Modular homes are built to conform to all state, local or regional building codes at their destinations.

Mobile home park means land or property which is used or intended to be used or rented for occupancy by two or more trailers or movable sleeping quarters of any kind.

Nonconformance means a lawful condition of a structure or land which does not conform to the regulations of the district in which it is situated. The term "nonconformance" may include, but is not limited to, failure to conform to use, height, area, coverage or off-street parking requirements.

Nonconforming use means a structure or land lawfully occupied by a use that does not conform to the regulations of the district in which it is situated.

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 the automobile. For purposes of this chapter, the size of a parking space for one vehicle shall consist of a rectangular area having dimensions of not less than nine feet by 20 feet, plus adequate area for ingress and egress.

Rest home. See Convalescent home.

Roominghouse means a building where lodging only is provided for compensation to three or more persons, but not exceeding 12 persons. All such buildings in which lodging is provided for more than 12 persons shall be defined as a hotel.

Row house. See Dwelling, row house.

Setback means the distance between the lot line and the building line.

Stable, private, means a stable with a capacity for not more than two horses or mules.

Stable, public, means a stable, other than a private stable, with a capacity for more than two horses or mules.

Sanatorium means an institution providing health facilities for inpatient medical treatment or treatment and recuperation using natural therapeutic agents.

Signs. See Advertising sign.

Site development plan means a plan drawn at a scale of not less than 50 feet equals one inch which shows the topographic characteristics of the site at a contour interval of not less than one foot, the location and dimensions of buildings, yards, courts, landscape, pedestrian and vehicular circulation and parking, fences and screening, service areas and courts, and other features, the use of each building and area, the height of buildings, adjacent streets, alleys, utility drainage and other easements, and the relationship of the development to adjacent areas which it may affect.

Story means that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

Story, half, means a space under a sloping roof which has the line of intersections of roof decking and wall face not more than three feet above the top floor level, and in which space not more than two-thirds 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.

Street means any public or private thoroughfare which affords the principal means of access to abutting property.

Street, intersecting, means any street which joins another street at an angle, whether or not it crosses the other.

Structural alterations means any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the roof or in the exterior walls.

Structure means anything constructed or erected, the use of which requires location on the ground or attached to something having a location on the ground.

Tourist court means an area containing one or more structures designed or intended to be used as temporary sleeping facilities of one or more transient families and intended primarily for automobile transients.

Tourist home means a dwelling in which sleeping accommodations in not more than four rooms are provided or offered for transient guests for compensation.

Townhouse. See Dwelling, row house or townhouse.

Trailer court. See Mobile home park.

Trailer home. See Mobile home.

Trailer, hauling, means a vehicle to be pulled behind an automobile or truck and which is designed for hauling animals, produce, goods or commodities, including boats.

Trailer, travel or camping, means a portable or mobile living unit used for temporary human occupancy away from the place of residence of the occupants, not constituting the principal place of residence of the occupants, and containing less than 170 square feet of floor area.

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, except where otherwise specifically provided in this chapter that an accessory building may be located in a portion of a yard required for a main building. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the main building shall be used.

Yard, front, means a yard located in front of the front elevation of a building and extending across a lot between the side yard lines and being the minimum horizontal distance between the front property line and the main building or any projection thereof other than steps.

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 other than steps, unenclosed balconies or unenclosed porches. On corner lots, the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, side, means a yard between the building 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.
(Ord. No. 475, § 12-206, 12-4-1989; Ord. No. 499-A, §§ 3--6, 7-8-1996; Ord. No. 522, § 1, 6-28-1999; Ord. No. 538, § 1, 6-10-2002)

Sec. 48-2. Penalty and violations.

A. Each day of noncompliance with the provisions of this chapter constitutes a separate and distinct violation. Violations may be punished as provided in section 1-8.

B. Any building, structure or improvement sited upon property in violation of this chapter shall be subject to removal from such property. If action is required to bring compliance, the expense involved may be made a lien against the property.

(Ord. No. 499-A, § 14(12-702), 7-8-1996)

Sec. 48-3. Purpose.

The regulations contained herein are necessary to encourage the most appropriate uses of land; to maintain and stabilize the value of property; to reduce fire hazards and improve public safety and safeguard the public health; to decrease traffic congestion and its accompanying hazards; to prevent undue concentrations of population; and to create a comprehensive and stable pattern of land uses upon which to plan for transportation, water supply, sewerage, schools, parks, public utilities, and other facilities. In interpreting and applying the provisions of this chapter, such provisions shall be held to the minimum requirements for the promotion of the public health, safety, comfort, convenience, and general welfare.

(Ord. No. 475, § 12-202, 12-4-1989)

Sec. 48-4. Nature and application.

This chapter classifies and regulates the use of land, buildings, and structures within the city limits, as hereinafter set forth. The regulations contained herein are necessary to promote the health, safety, convenience, and welfare of the inhabitants by dividing the city into zones and regulating therein the use of the land, the use and size of buildings as to height and number of stories, the coverage of the land by buildings, the size of yards and open spaces, the density of population, and the location of buildings.

(Ord. No. 475, § 12-203, 12-4-1989)

Sec. 48-5. Regulation of use, height, area, yards and open spaces.

Except as hereinafter otherwise provided, no land shall be used and no building, structure, or improvement shall be made, erected, constructed, moved, altered, enlarged, or rebuilt which is designed, arranged, or intended to be used or maintained for any purpose or in any manner except in accordance with the requirements established in the district in which such land, building, structure, or improvement is located, and in accordance with the provisions of the articles contained herein relating to any or all districts.

(Ord. No. 475, § 12-204, 12-4-1989)

Secs. 48-6--48-28. Reserved.

Article II. Administration and Enforcement

Division 1. Generally

Sec. 48-29. Permits.

A. No land shall be used and no building, structure, or improvement shall be made, erected, constructed, moved, altered, enlarged or rebuilt without the owner thereof or his authorized representative securing a building permit which states that the building, its location and its use conform with the provisions of this chapter.

B. The zoning clearance/building permit shall be issued by the designated city official. The fee for such permit shall be set by the city council.

(Ord. No. 499-A, § 14(12-701), 7-8-1996)

Secs. 48-30--48-46. Reserved.

Division 2. Nonconforming Buildings, Structures and Uses of Land

Sec. 48-47. Nonconforming buildings and structures.

A nonconforming building or structure existing at the time of adoption of the ordinance from which this chapter is derived may be continued and maintained except as otherwise provided in this division.

(Ord. No. 475, § 12-320, 12-4-1989)

Sec. 48-48. Alteration or enlargement of buildings and structures.

A nonconforming building or structure shall not be added to or enlarged in any manner unless the building or structure, including additions and enlargements, is made to conform to all of the regulations of the district in which it is located; provided, however, that if a building or structure is conforming as to use, but nonconforming as to yards or height or off-street parking space, the building or structure may be enlarged or added to provided that the enlargement or addition complies with the yard or height requirements and the existing building and the addition complies with the off-street parking requirements of the district in which the building or structure is located. No conforming building or structure shall be moved in whole or in part to another location on the lot unless every portion of the building or structure is made to conform to all of the regulations of the district in which it is relocated.

(Ord. No. 475, § 12-321, 12-4-1989)

Sec. 48-49. Outdoor advertising signs and structures.

Any advertising sign, billboard, commercial advertising structure, or statutory which is lawfully existing and maintained on the effective date of the ordinance from which this chapter is derived and which does not conform with the provisions hereof shall not be structurally altered, and all such nonconforming advertising signs, billboards, commercial advertising structures and statuary and their supporting members shall be completely removed from the premises lot no later than one year from the effective date of the ordinance from which this chapter is derived.

(Ord. No. 475, § 12-322, 12-4-1989)

Sec. 48-50. Building vacancy.

A nonconforming building, structure or portion thereof which is or hereafter becomes vacant shall not thereafter be occupied except by a use which conforms to the use regulations of the district in which it is located.

(Ord. No. 475, § 12-323, 12-4-1989)

Sec. 48-51. Change in use.

A. A nonconforming use of a conforming building or structure (e.g., commercial use in a dwelling) shall not be extended or expanded into any other portion of such conforming building or structure nor changed except to a conforming use. If such a nonconforming use of a portion thereof is discontinued or changed to a conforming use, any future use of such building, structure, or portion thereof shall be in conformity with the regulations of the district in which such building or structure is located.

B.

C. The use of a nonconforming building or structure may be changed to a use of the same or a more restricted district classification, but where the use of a nonconforming building or structure is changed to a use of a more restricted district classification, it thereafter shall not be changed to a use of a less restricted district classification.

D.

E. A building or structure that is nonconforming as to use at the time of adoption of the ordinance from which this chapter is derived or at any time thereafter shall not be converted to or in any manner used as a wholesale or retail liquor store unless such change in use conforms to the provisions of the district in which it is located.

(Ord. No. 475, § 12-324, 12-4-1989)

Sec. 48-52. Nonconforming uses of land.

A. A nonconforming use of land existing at the time of adoption of the ordinance from which this chapter is derived and where the aggregate sale of all permanent buildings or structures is less than $1,000.00 may be continued for a period of not more than three years therefrom, provided that the nonconforming use may not be extended or expanded.

B.

C. If the nonconforming use or any portion thereof is discontinued for a period of three months or changed, any future use of such land or change in use shall be in conformity with the provisions of the district in which the land is located.

(Ord. No. 475, § 12-325, 12-4-1989)

Secs. 48-53--48-77. Reserved.

Division 3. Board of Adjustment; Appeals and Variances

Sec. 48-78. Board of adjustment established; membership; appointment; qualifications.

There is hereby created a board of adjustment, consisting of nine members, who shall be the same members as the planning commission unless otherwise provided by the council, and removable for cause by the city council upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term of any members whose term becomes vacant. The board of adjustment shall be appointed by the mayor and confirmed by the city council. It is the declared policy of the council that it will consider and appoint only those persons who have demonstrated their civic interest, general knowledge of the community, independent judgment, and availability to prepare for and attend meetings.

(Ord. No. 475, § 12-120, 12-4-1989)

Sec. 48-79. Meetings and rules.

The board of adjustment shall elect one of its members as chairman. The board shall adopt rules in accordance with the provisions of this chapter. 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 of adjustment shall be subject to the open meeting laws of the state, and all meetings, deliberations and voting of the board shall be open to the public. 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 facts, and shall keep records of all official actions, all of which shall be immediately filed in the office of the city clerk and shall be a public record.

(Ord. No. 475, § 12-121, 12-4-1989)

Sec. 48-80. Appeals to board of adjustment.

A. Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by any decision of the building inspector.

B.

C. Such appeal shall be taken within 30 days from the date of the decision by filing with the officer from whom the appeal is taken and with the city clerk a notice of appeal specifying the grounds thereof, and by paying a filing fee established by the board of adjustment which shall be sufficient to defray the cost of publishing the notice of public hearing and any other costs associated with the hearings. The appellant shall pay such fee upon filing the appeal. The officer from whom the appeal is taken shall forthwith transmit to the board of adjustment the papers constituting the record upon which the action appealed from was taken.

D.

E. An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the board of adjustment, after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay, in his opinion, would cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application and notice to the officer from whom the appeal is taken and on the cause shown.

F.

G. The board of adjustment shall fix a reasonable time for the hearing of the appeal or other matters referred to it, given ten days' public notice thereof in a newspaper of general circulation in the city, as well as due notice thereof in a newspaper of general circulation in the city, as well as due notice to the parties in interest, in conformance with section 48-82 and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney.

(Ord. No. 475, § 12-122, 12-4-1989)

Sec. 48-81. Powers; miscellaneous duties; applications.

A. The board of adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter. In reaching its decision, the board shall establish firm guidelines for future administrative actions on like matters.

2. To decide upon those applications for a special exception to use or develop property when the same is authorized under these regulations subject to board approval. In reaching its decision, the board shall not grant the application if it finds:

   i. That the use is not specifically permitted under the regulations;

   ii. That the location of proposed activities and improvements are not clearly defined on the site plan filed by the applicant; or

   iii. That the exception will not be wholly compatible with the use and permitted development of adjacent properties.

3. To authorize, upon appeal in specific cases, such variances from the terms of this chapter, other than as to use, as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will, in any individual case, result in unnecessary hardship, so that the spirit of this chapter shall be observed, and substantial justice done. Such variances may be granted in such individual case of unnecessary hardship upon a finding by the board of adjustment that:

   i. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography;

ii. The application of this chapter to this particular piece of property would create an unnecessary hardship, not self-imposed by the owner or developer;

iii. Such conditions are peculiar only to the particular piece of property involved; or

iv. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this chapter or the comprehensive plan; provided, however, that no variance may be granted for a use of land, or buildings or structure that is prohibited by this chapter.

4. To reverse or affirm, wholly or partly, or modify any order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made in exercising the powers mentioned in this subsection (A), in conformity with the provisions of 11 O.S. § 44-105 and the provisions of this chapter, and to that end, the board of appeals 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.

i. *Five votes required.* The concurring vote of at least five members of the board of adjustment shall be necessary to reverse any order, requirement and decision or determination of any such administrative officer, or to decide in favor of the applicant, or to decide any matter upon which it is required to pass under this chapter or to effect any variation in this chapter.

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;

ii. 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 a guarantee, 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.

c) Upon approval of an application for special exception or of a variance appeal, the applicant shall apply for occupancy or construction permits within 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 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.

iii. *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.

B. An application for a special exception to use or develop property as specifically authorized in 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. Such application shall show the location and intended use of the site, the names of all the property owners and existing land uses within 300 feet, and any other material pertinent to the request which the board of adjustment may require.

C. The board of adjustment shall hold one or more public hearings thereon in accordance with the requirements of section 48-82. 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.

(Ord. No. 475, § 12-123, 12-4-1989)

Sec. 48-82. Notice and hearings.

The board of adjustment shall fix a reasonable time for the hearing of an appeal or other matters referred to it.

A. Notice of public hearing before the board of adjustment shall be given by publication in a newspaper of general circulation in the city where the property is located and by mailing written notice by the clerk of the board of adjustment to all owners of property within a 300-foot radius of the exterior boundary of the subject property. 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 days prior to the hearing.

B. 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. 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.

C. On hearings involving minor variances or exceptions, notice shall be given by the clerk of the board of adjustment by mailing written notice to all owners of property adjacent to the subject property. The notice shall be mailed at least ten days prior to the hearing and shall contain the facts listed in subsection (B) of this section. The board of adjustment shall set forth in a statement of policy what constitutes minor variances or exceptions, subject to approval or amendment by the city council.

D. Mailing of notices required by subsection (A) of this section shall be based upon the list of such property owners supplied by the applicant. Such list must be certified to by a licensed and bonded abstractor for the county wherein the subject property is located selected by the applicant and at the applicant's sole expense. Failure of the applicant to provide such abstractor's certificate will render any application for special exception void and of no effect until such time as such abstractor's certificate is provided.

(Ord. No. 475, § 12-124, 12-4-1989)

Sec. 48-83. Review by certiorari; petition for judicial review.

A. *Generally.* Any persons, jointly or severally, aggrieved by any decision of the board of adjustment, or any taxpayer or officer, department, board, or bureau of the city may present to a court of record in the district a duly verified petition, setting forth grounds of the alleged illegality. Such petition shall be presented to the court within ten days after the filing of the decision in the office of the board of adjustment.

B. *Writ of certiorari and restraining order.* Upon the presentation of such petition, the court may allow a writ of certiorari directed to the board of adjustment to review such decision of the board of adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the realtor's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

C. *Testimony and adjudication.* If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matters, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings to fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

(Ord. No. 475, §§ 12-120--12-127, 12-4-1989)

Secs. 48-84--48-109. Reserved.

Article III. Zoning Districts Established; Zoning Map

Sec. 48-110. Zoning districts.

A. *Zoning map adopted.* The city is hereby divided into zones as shown on the zoning map filed with the city clerk. The map, as amended and including all explanatory material thereon, is hereby made a part of this chapter.

B. *Enumeration of districts.* Zones shall be designated as follows:

    1. Agricultural.

        i. A-1 general agricultural district.

    2. Residential.

        i. R-1 single-family residential district.

        ii. R-2 two-family residential district.

        iii. R-3 multiple-family residential district.

        iv. MH-1 mobile home site district.

        v. RM mobile home park district.

    3. Commercial.

        i. C-1 commercial district.

    4. Industrial.

        a. I-1 light industrial district.

        b. I-2 heavy industrial district.

(Ord. No. 475, § 12-205, 12-4-1989; Ord. No. 499-A, § 2, 7-8-1996)

Sec. 48-111. Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of any of the districts as shown on the zoning map, the following rules shall apply:

A. Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines or highway right-of-way lines, such centerlines, street lines, or highway right-of-way lines shall be construed to be such boundaries;

B. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be the boundaries;

C. Where district boundaries are so indicated that they are approximately parallel to the centerlines or street lines of streets, or the centerlines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such scaled distance therefrom as indicated on the zoning map; and

D. Where the boundary of a district line follows a railroad line, such boundary shall be deemed to be located on the easement line to which it is closest, which shall completely include or exclude the railroad easement unless otherwise designated.

(Ord. No. 475, § 12-207, 12-4-1989)

Sec. 48-112. Vacation of public easements.

Whenever any street, alley or other public easement is vacated, the district classifications of the property to which the vacated portions of land accrue shall become the classification of the vacated land.

(Ord. No. 475, § 12-208, 12-4-1989)

Secs. 48-113--48-137. Reserved.

Article IV. District Regulations

Sec. 48-138. A-1 general agricultural district.

A. *Generally.* This section applies to the A-1 general agricultural district. This district is intended to provide a location for the land situated on the fringe of the urban area that is used for agricultural purposes, but will be undergoing urbanization in the future. Most of these areas will be in close proximity to residential and commercial uses. Therefore, the agricultural activities conducted in this district should not be detrimental to urban land uses. It is not intended that this district provide a location for a lower standard of residential, commercial, or industrial development than is authorized in other districts. The types of uses, area and intensity of use of land which is authorized in this district is designed to encourage and protect agricultural uses until urbanization is warranted and the appropriate change in district classification is made.

B. *Uses permitted.* Property and buildings in an A-1 general agricultural district shall be used only for the following purposes:

1. Detached one-family dwellings;
2.
3. Churches;
4.
5. Public schools or schools offering general educational courses the same as ordinarily given in the public schools and having no rooms regularly used for housing or sleeping;
6.
7. Agricultural crops;
8.
9. The raising of farm animals in accordance with all ordinances of the city, but not the operation of commercial feed pens for cattle. On all tracts of land containing less than 40 acres, the raising of hogs shall be prohibited, and on all other tracts, the number of hogs shall not exceed 20 grain-fed or three garbage-fed hogs. Hogs shall not be located closer than 200 feet from the property line of the tract on which they are located;
10.
11. All of the following uses:

    i. Country clubs.
    ii.
    iii. Golf courses or driving ranges.
    iv.
    v. Home occupations.
    vi.
    vii. Libraries.
    viii.
    ix. Municipal uses.
    x.
    xi. Parks or playgrounds.
    xii.
    xiii. Plant nurseries.
    xiv.
    xv. Public service or utility uses;

12. Bulletin boards or signs not exceeding 40 square feet in area appertaining to the lease, hire, or sale of a building or premises and which shall be removed as soon as the premises are leased, hired or sold; and
13.
14. Accessory buildings which are not a part of the main building, including barns, sheds, and other farm buildings, private garages and accessory buildings which are a part of the main building.

C. *Uses permitted on review.* The following uses may be permitted on review by the planning commission in accordance with the provisions contained in this Code:

1. Lodge halls, veterans organizations, or service organizations;
2.
3. Signs or displays, not exceeding two in number, advertising the residential, commercial or industrial development of the land on which such signs or displays are situated. All signs or displays shall be removed immediately upon completion of the development, but in no case shall they be permitted to remain longer than three years from the date of issuance of the special permit. The type, location and lighting of the signs or displays shall be such as to not be detrimental to the use of adjacent properties or to restrict sight distance on public streets;

4.
5. Airports or landing fields;
6.
7. Cemeteries;
8.
9. Kennels;
10.
11. Radio and television stations and transmission towers;
12.
13. Stables, public;
14.
15. Child care centers, in accordance with the provisions of section 48-179; and
16.
17. Drilling for oil or natural gas or the extraction of sand, gravel or minerals, provided that the operation is conducted in accordance with the provisions of all ordinances of the city and the state laws and regulations relating thereto.

D. Area regulations.

1. *Front yard requirements.* All buildings shall be set back from street right-of-way lines to comply with the following front yard requirements:

   i. The minimum depth of the front yard shall be 25 feet.
   ii.
   iii. If 25 percent or more of the lots on one side of the street between two intersecting streets are improved with buildings, all of which have observed an average setback line of greater than 25 feet, and no building varies more than five feet from this average setback line, then no building shall be erected closer to the street line than the minimum setback so established by existing buildings, but this regulation shall not require a front yard of greater depth than 40 feet.
   iv.
   v. When a yard has double frontage, the front yard requirements shall be provided on both streets.

2. *Side yard requirements.* Side yard requirements are as follows:

   i. For dwellings of one story located on interior lots, there shall be a side yard on each side of the main building of not less than five feet and of not less than eight feet for dwellings of more than one story, except as hereinafter provided in section 48-175. For unattached buildings of accessory use, there shall be a side yard of not less than five feet; provided, however, that unattached one-story buildings of accessory use shall not be required to set back more than three feet from an interior side lot line when all parts of the accessory building are located not less than 60 feet from the front property line;
   ii.
   iii. For dwellings and accessory buildings located on corner lots, there shall be a side yard setback from the intersecting street of not less than 15 feet in case such lot is back to back with another corner lot, and 20 feet in every other case. The interior side yard shall be the same as for dwellings and accessory buildings on an interior lot; and
   iv.
   v. Churches and main and accessory buildings other than dwellings and buildings accessory to dwellings shall be set back from all exterior and interior side lot lines a distance of not less than 35 feet.

3. *Rear yard requirements.* There shall be a rear yard for a main building of not less than 20 feet or 20 percent of the depth of the lot, whichever amount is smaller. Unattached buildings of accessory use may be located in the rear yard of a main building.

4. *Lot width requirements.* For dwellings, there shall be a minimum lot width of 50 feet at the front building line, and such lot shall abut on a street for a distance of not less than 35 feet.
5.
6. *Intensity requirements.* Intensity of use requirements are as follows:

   i. For each dwelling and buildings accessory thereto, there shall be a lot area of not less than five acres;

   ii. Where a lot has less area than herein required and all of the boundary lines of that lot touch lands under other ownership at the effective date of the ordinance from which this chapter is derived, that lot may be used for one single-family dwelling unit or for the uses set forth in subsection (b) of this section, but not for the raising of animals; and

   iii. For churches and main and accessory buildings other than dwellings and buildings accessory to dwellings, the lot area shall be adequate to provide the yard areas required by this section and the off-street parking areas required in division 2 of article V of this chapter.

E. *Height regulations.* No building shall exceed 35 feet in height except as provided in section 48-176.

(Ord. No. 475, §§ 12-211--12-214, 12-4-1989)

Sec. 48-139. R-1 single-family residential district.

A. *Generally.* This section applies to the R-1 single-family residential district. This is the most restrictive residential district. The principal use of land is for single-family dwellings and related recreational, religious and educational facilities normally required to provide the basic elements of a balanced and attractive residential area. These areas are intended to be defined and protected from the encroachment of uses not performing a function necessary to the residential environment. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities and through consideration of the proper functional relationship of each element.

B. *Uses permitted.* Property and buildings in an R-1 single-family residential district shall be used only for the following purposes.

1. Detached single-family dwellings;
2.
3. Churches;
4.
5. Public schools or schools offering general educational courses the same as ordinarily given in public schools and having no rooms regularly used for housing and sleeping;
6.
7. Public parks or playgrounds;
8.
9. Libraries;
10.
11. Gardens or agricultural crops but not for the raising of livestock;
12.
13. Home occupations;
14.
15. Accessory buildings which are not a part of a main building, including private garages or accessory buildings which are a part of the main building, including private garages;
16.
17. Bulletin boards or signs not exceeding 40 square feet in area appertaining to the lease, hire or sale of a building or premises and which shall be removed as the premises are leased, hired, or sold; or
18.
19. Temporary buildings of the construction industry which are incidental to the erection of buildings permitted in this district and which shall be removed when construction work is completed.

C. *Uses permitted on review.* The following uses may be permitted on review in accordance with provisions contained in this Code:

1. Municipal uses, public buildings and public utilities;

2. Plant nurseries in which no building or structure is maintained in connection therewith;
3.
4. Golf clubs;
5.
6. Signs or displays, not exceeding two in number, advertising the residential development of the land on which such signs or displays are situated. All signs or displays shall be removed immediately upon completion of the development, but in no case shall they be permitted to remain longer than three years from the date of issuance of the special permit. The type, location and lighting of signs or displays shall be such as to not be detrimental to the use of adjacent properties or to restrict sign distance on public streets;
7.
8. Nationally recognized lodge halls, fraternal organizations, veterans' organizations; provided, however, any club organized primarily for the purpose of dispensing or drinking alcoholic beverages shall not be permitted hereunder.

D. Area regulations.

1. *Setbacks.* All buildings shall be set back from street rights-of-way or property lines to comply with the yard requirements in this section.
2.
3. *Front yard requirements.* Front yard requirements are as follows:

i. The minimum depth of the front yard shall be 25 feet;

ii. If 25 percent or more of the lots on one side of the street between two intersecting streets are improved with buildings, all of which have observed an average setback line of greater than 25 feet, and no building varies more than five feet from this average setback line, then no building shall be erected closer to the street line than the minimum setback so established by the existing buildings; but this regulation shall not require a front yard of greater depth than 40 feet; and

iii. When a yard has double frontage, the front yard requirements shall be provided on both streets.

4. *Side yard requirements.* Side yard requirements are as follows:

i. For dwellings of one story located on interior lots, there shall be a side yard on each side of the main building of not less than five feet and of not less than eight feet for dwellings of more than one story, except as hereinafter provided in section 48-175. For unattached buildings of accessory use, there shall be a side yard of not less than five feet; provided, however, that unattached one-story buildings of accessory use shall not be required to set back more than three feet from an interior side lot line when all parts of the accessory building are located not less than 60 feet from the front property line;

ii. For dwellings and accessory buildings located on corner lots, there shall be a side yard setback from the intersecting street of not less than 15 feet in case such lot is back to back with another corner lot, and 20 feet in every other case. The interior side yard shall be the same as for dwellings and accessory buildings on an interior lot; and

iii. Churches and main and accessory buildings, other than dwellings, and buildings accessory to dwellings, shall be set back from all exterior and interior side lot lines a distance of not less than 35 feet.

5. *Rear yard requirements.* There shall be a rear yard for a main building of not less than 20 feet or 20 percent of the depth of the lot, whichever amount is smaller. Unattached buildings of accessory use may be located in the rear yard of a main building.

6. *Lot width requirements.* For dwellings, there shall be a minimum of lot width of 50 feet at the front building line, and such lot shall abut on a street for a distance of not less than 35 feet.
7.
8. *Intensity requirements.* Intensity of use requirements shall be as follows:

    i. For each dwelling, and buildings accessory thereto, there shall be a lot area of not less than 6,000 square feet;

    ii. Where a lot has less area than herein required and all the boundary lines of that lot touch lands under other ownership on the effective date of the ordinance from which this chapter is derived, that lot may be used for any of the uses, except churches, permitted by this section; and

    iii. For churches and main and accessory buildings other than dwellings and buildings accessory to dwellings, the lot area shall be adequate to provide the yard areas required by this section and the off-street parking areas required in division 2 of article V of this chapter.

9. *Coverage requirements.* Coverage requirements are as follows:

    i. Main and accessory buildings shall not cover more than 25 percent of the lot area on interior lots, and 30 percent of the lot area on corner lots.

    ii. Accessory buildings shall not cover more than 20 percent of the rear yard.

E. *Height regulations.* No building shall exceed 35 feet in height except as provided in section 48-176.

(Ord. No. 475, §§ 12-220--12-224, 12-4-1989; Ord. No. 522, § 2, 6-28-1999)

Sec. 48-140. R-2 two-family residential district.

A. *Generally.* This section applies to the R-2 two-family residential district. This is a residential district to provide for a slightly higher population density but with basic restrictions similar to the R-1 district. The principal use of land is for single-family and two-family dwellings and related recreational, religious and education facilities normally required to provide a balanced and attractive residential area. These areas are intended to be defined and protected from the encroachment of uses not performing a function necessary to the residential environment. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities and through the consideration of the proper function, relationship and arrangement of each element.

B. *Uses permitted.* Property and buildings in an R-2 two-family residential district shall be used only for the following purposes:

    1. Any uses permitted in R-1 single-family residential district;

    2. Two-family dwellings or single-family dwellings with garage apartments; and

    3. Accessory buildings and uses customarily incidental to any of the above uses, when located on the same lot.

C. *Uses permitted on review.* Any uses permitted on review in an R-1 single-family residential district, in accordance with the provisions contained in this Code, shall be permitted on review within the R-2 two-family residential district.

D. Area regulations.

    1. *Setbacks.* All buildings shall be set back from street right-of-way and property lines to comply with the yard requirements in this section.

    2. *Front yard requirements.* Front yard requirements are as follows:

        i. The minimum depth of the front yard shall be 25 feet;

        ii. If 25 percent or more of the lots on one side of the street between two intersecting streets are improved with buildings, all of which have observed an average setback line of greater than 25 feet, and no building varies more than five feet from this average setback line, then no building shall be erected closer to the street line than the minimum setback so established by the existing buildings, but this regulation shall not require a front yard of greater depth than 40 feet; and

        iii. When a yard has double frontage, the front yard requirements shall be provided on both streets.

    3. *Side yard requirements.* Side yard requirements are as follows:

        i. For dwellings of one story located on interior lots, there shall be a side yard on each side of the main building of not less than five feet and of not less than eight feet for dwellings of more than one story and for garage apartments, except as hereinafter provided in section 48-175. For unattached buildings of accessory use, there shall be a side yard of not less than five feet; provided, however, that unattached one-story buildings of accessory use shall not be required to set back more than three feet from an interior side lot line when all parts of the accessory building are located not less than 60 feet from the front property line;

        ii. For dwellings and accessory buildings located on corner lots, there shall be a side yard setback from the intersecting street of not less than 15 feet in case such lot is back to back with another corner lot and 20 feet in every other case. The interior side yard shall be the same as for dwellings and

accessory buildings as for an interior lot; and

iii. Churches and main and accessory buildings, other than dwellings and buildings accessory to dwellings, shall be set back from all exterior and interior side lot lines a distance of not less than 35 feet.

4. *Rear yard requirements.* For main buildings other than garage apartments, there shall be a rear yard of not less than 20 feet or 20 percent of the depth of the lot, whichever is smaller. Garage apartments may be located in the rear yard of a single-family dwelling but shall not be located closer than ten feet to the rear lot line. Unattached buildings of accessory use may be located in the rear yard of a main building.

5. *Lot width requirements.* For single-family dwellings, two-family dwellings or single-family dwellings and garage apartments, there shall be a minimum lot width of 50 feet at the front building line, and the lot shall abut on a street for a distance of not less than 35 feet.

6. *Intensity requirements.* Intensity of use requirements shall be as follows:

i. For each single-family dwelling and accessory buildings, there shall be a lot area of not less than 6,000 square feet;

ii. For each two-family dwelling and accessory buildings, there shall be a lot area of not less than 7,000 square feet. A garage apartment located on the same lot with a single-family dwelling shall have the same area requirements as a two-family dwelling. In all other cases a garage apartment shall be provided with the same lot area required by a single-family dwelling;

iii. Where a lot has less area than herein required and all boundary lines of that lot touch lands under other ownership on the effective date of the ordinance from which this chapter is derived, that lot may be used for any use, except churches, permitted in the R-1 single-family district; and

iv. For churches and main and accessory buildings, other than dwellings and buildings accessory to dwellings, the lot area shall be adequate to provide the yard areas required by this section and the off-street parking area required in division 2 of article V of this chapter.

7. *Coverage requirements.* Coverage requirements are as follows:

i. Main and accessory buildings shall not cover more than 30 percent of the lot area.

ii. Accessory buildings shall not cover more than 20 percent of the rear yard.

E. *Height regulations.* No building shall exceed 35 feet in height, except as provided in section 48-176.

(Ord. No. 475, §§ 12-230--12-234, 12-4-1989)

Sec. 48-141. R-3 multiple-family residential district.

A. *Generally.* This section applies to the R-3 multiple-family residential district. This residential district is intended to provide for multiple-family developments which may have a relatively intense concentration of dwelling units served by large open spaces including common areas and facilities, thereby resulting in low gross densities. The principal use of land may be for one or several dwelling types ranging from single-family to low rise multiple-family dwellings, and including garden apartments, condominiums and townhouses.

B. *Uses permitted.* Property and buildings in an R-3 multiple-family district shall be used only for the following purposes:

1. Any uses permitted in an R-1 residential district;

2. Townhouses, not exceeding eight units per dwelling;

3. Multiple-family dwellings;

4. Child care centers in accordance with the provision of section 48-179; and

5. Accessory buildings and uses customarily incidental to the above uses.

C. *Uses permitted on review.* There shall be no uses permitted on review within this district.

D. Area regulations.

1. *Setbacks.* All buildings shall be set back from street right-of-way or property lines to comply with the yard requirements of this section.

2. *Front yard requirements.* Front yard requirements are as follows:

i. The minimum depth of the front yard shall be 25 feet;

ii. If 25 percent or more of the lots on one side of the street between two intersecting streets are improved with buildings, all of which have observed an average setback line of greater than 25 feet, and no building varies more than five feet from this average setback line, then no building shall be erected closer to the street line than the minimum setback so established by the existing buildings, but this regulation shall not require a front yard of greater depth than 40 feet; and

iii. When a yard has double frontage, the front yard requirements shall be provided on both streets.

3. *Side yard requirements.* Side yard requirements are as follows:

i. For detached dwellings and for unattached sides of attached dwellings located on an interior lot, a side yard of not less than five feet shall be provided on the unattached sides of the main dwelling for the first story, and an additional three feet of side yard shall be provided for each additional story or part thereof. For detached buildings of accessory use there shall be a side yard of not less than five feet; provided, however, that detached one-story buildings of accessory use shall not be required to set back more than three feet from an interior side lot line when all parts of the accessory building are located not less than 60 feet from the front property line;

ii. For dwellings and accessory buildings located on corner lots, there shall be a side yard setback from the intersecting street of not less than 15 feet in case such lot is back to back with another corner lot, and 20 feet in every other case. The interior side yard shall be the same as for dwellings and accessory buildings on an interior lot; and

iii. Churches and main and accessory buildings other than dwellings and buildings accessory to dwellings and trailers shall be set back from all exterior and interior side lot lines a distance of not less than 35 feet.

4. *Rear yard requirements.* For main buildings, there shall be a rear yard of not less than 20 feet or 20 percent of the depth of the lot, whichever is smaller.

5. *Lot width requirements.* Lot width requirements are as follows:

i. For single-family dwellings, there shall be a minimum lot width of 50 feet at the front building line, and the front lot line shall abut a street for a distance of not less than 35 feet;

ii. For townhouse dwellings, there shall be a minimum lot width of 22 feet at the front building line, and the front lot line shall abut a street for a distance of not less than 22 feet; and

iii. For multiple-family dwellings, there shall be a minimum lot width of 60 feet at the front building line and the width shall be increased by ten feet for each additional dwelling unit exceeding three which is located in the dwelling; however; the lot width at the front building line shall not be required to exceed one 150 feet; and further provided that the front lot line shall abut a street for a distance of not less than 50 feet.

6. *Intensity requirements.* Intensity of use requirements shall be as follows:

i. For a single-family dwelling, there shall be a lot area of not less than 6,000 square feet;

ii. For all dwellings other than single-family, there shall be a lot area of not less than 5,000 square feet per dwelling unit, including private and common areas. In determining lot sizes for townhouses and multiple-family dwellings, common area shall be allocated equally per dwelling unit by dividing the total square footage of the common area the number of dwelling units which it serves; and

iii. For churches and main and accessory buildings other than dwellings and buildings accessory to dwellings, the lot area shall be adequate to provide the yard areas required by this section and the off-street parking area required in division 2 of article V of this chapter.

7. *Coverage requirements.* Coverage requirements are as follows:

i. Main and accessory buildings shall not cover more than 30 percent of lot area.

ii. Accessory buildings shall not cover more than 30 percent of the rear yard.

E. *Height regulations.* No buildings shall exceed 35 feet in height, except as provided in section 48-176.

(Ord. No. 475, §§ 12-240--12-244, 12-4-1989; Ord. No. 522, § 3, 6-28-1999)

Sec. 48-142. R-M mobile home park district.

A. *Generally.* This section applies to the R-M mobile home park district. The purpose of this district is to provide for the establishment of a higher density residential pattern within which the mobile home park will be compatible. The district is intended to provide for a permanently established residential environment. The mobile home parks permitted should be well designed and developed to provide a desirable living area. Recreational areas should also be incorporated into the development of uses in this district. Most of the standards for mobile home parks are contained in this Code.

B. *Uses permitted.* Property and buildings in an R-M district shall be used only for the following purposes:

1. Mobile home parks, mobile home subdivisions, and travel trailer parks, provided that they are not mixed and such uses shall be subject to all regulations and ordinances which may be established by the city, including, but not limited to, minimum size of the park and individual spaces, health safety standards, and licensing requirements.

2. One commercial sign per mobile home park or travel trailer park, provided that the display surface such sign shall not exceed 100 square feet and shall be subject to all provisions of all other applicable ordinances.

3. Accessory and secondary buildings of permanent construction necessary and incidental for the primary operations and

maintenance of a mobile home park or travel trailer park; provided, however, that this shall not imply that any retail sales or professional office uses may be permitted in the accessory buildings.

4. Accessory signs, directional and informational signs, and temporary signs, subject to the provisions of this Code.

C. *Uses permitted on review.* The following uses may be permitted on review in accordance with provisions contained in this Code:

1. Any use permitted on review in an R-3 multifamily residential district.

2. Any use not permitted in another district which is determined by the planning commission to be compatible with the uses permitted in this district.

D. Area regulations.

1. Area and setbacks. For all uses other than mobile home parks or mobile home parks or mobile home subdivisions, the area and setback regulations shall be the same as the R-3 multifamily residential district.

2. Mobile home parks or mobile home subdivisions shall conform to the area and setback regulations provided for same.

E. *Height regulations.* Height regulations shall be the same as within the R-3 multifamily residential district.

F. *Parking requirements.* For mobile home parks and travel trailer parks, 1 1/2 parking spaces for each mobile home space or trailer space shall be required.

(Ord. No. 475, §§ 12-250--12-255, 12-4-1989)

Sec. 48-143. C-1 commercial district.

A. *Generally.* This section applies to the C-1 commercial district. This commercial district is intended for the conduct of personal and business services and the general retail business of the community. Persons living in the community and in the surrounding trade territory require direct and frequent access. Traffic by the uses will be primarily passenger vehicles and only those trucks and commercial vehicles required for stocking and delivery of retail goods.

B. Uses permitted.

1. Property and buildings in a C-1 commercial district shall be used only for the following purposes:

i. Any uses permitted in the A-1, R-1, R-2, and R-3 districts;

ii. All retail shops and stores which supply the regular and customary needs of the residents of the neighborhood and which are primarily for their convenience;

iii. Buildings, structures and uses accessory and customarily incidental to all retail shops and stores, provided that there shall be no manufacture, processing or compounding of products other than such as are customarily incidental and essential to retail establishments;

iv. New automobile sales and services, motels and restaurants, new machinery sales and services, marinas and public garages, provided no gasoline is stored above ground, and used automobile and machinery repairing, if conducted wholly within a complete enclosed building; and

v. Any other stores or shops for retail trade or for rendering personal, professional or business service which do not produce obnoxious noise, odor, dust, vibration, blast or traffic.

2. No article or material stored or offered for sale in connection with uses permitted under subsection (B)(1) of this section shall be stored or displayed outside the confines of a building unless it is so screened by permanent ornamental walls, fences, or planting that will restrict the article or material from view on adjoining streets or lots by a person standing on ground level. However, no screening in excess of seven feet in height shall be required, except automobile service stations and marinas engaged in the sale of gasoline and oil, where open display may be permitted of merchandise commonly sold by automobile service stations and marinas. No permanent open display will be permitted on sidewalks or public right-of-way.

C. *Uses permitted on review.* There shall be no uses permitted on review within the C-1 district.

D. Area regulations.

1. *Regulations same as in R-3 district.* The area regulations for dwellings shall be the same as the requirements of the R-3 multiple-family residential district.

2. *Front yard requirements.* There shall be a front yard of 25 feet.

3. *Side yard requirements.* Side yard requirements are as follows:

i. On interior lot lines, there shall be no side yard requirements except on the side of a lot adjoining a dwelling district, in which case there shall be a side yard of not less than five feet;

ii. On corner lots where a side lot line abuts a public dedicated street or road or private road easement of less 100 feet of right-of-way, there shall be a side yard of not less than 15 feet, and vehicle parking may be permitted within the side yard setback area; and

iii. On corner lots where a side lot line abuts a public dedicated street or road or private easement of 100 feet or more of right-of-

way, there shall be a side yard of not less than 25 feet.

4. *Rear yard requirements.* Where a commercial building is to be serviced from the rear, there shall be provided an alley way, service court, rear yard, or combination thereof of not less than 20 feet in width. In all other cases, no rear yard is required.

5. *Parking.* Buildings shall be provided with a yard area adequate to meet the off-street parking requirements.

6. *Coverage.* Main and accessory buildings shall not cover more than 35 percent of the lot area, and in no case shall the total gross floor area of the main building exceed the area of the lot.

7. *Screening; arrangement of lighting.* Whenever any commercial or industrial district or parking lot or parking area is established so as to abut the side or rear line of a lot in a residential district, an opaque ornamental fence, wall, or dense evergreen hedge not less than five feet high and not more than six feet high shall be constructed and maintained in good condition along the side or rear lot line up to, but not beyond, the abutting residential setback building line, except where front yard is used for off-street parking, then the provisions of section 48-219, pertaining to off-street parking lots, shall apply. In addition, the lighting, including any permitted illuminated sign, shall be arranged so that there will be no annoying glare directed or reflected toward residential buildings in a residential district.

E. *Height regulations.* The height regulations for dwellings and accessory buildings for dwellings shall be the same as those of the R-1 residential district. No building or structure shall exceed 45 feet in height, except as otherwise provided in section 48-176, unless it is set back from all lot lines an additional one foot for each two feet that the building height exceeds 45 feet.

(Ord. No. 475, §§ 12-260--12-263, 12-4-1989)

Sec. 48-144. I-1 light industrial district.

A. *Generally.* This section applies to the I-1 light industrial district. This industrial district is intended primarily for the conduct of light manufacturing, assembling, and fabrication, and for warehousing, wholesale, and service uses. These do not depend primarily on frequent personal visits of customers or clients, but may require good accessibility to major rail, air, or truck transportation routes.

B. Uses permitted.

1. Property and buildings in an I-1 light industrial district shall be used only for the following purposes:

i. Any of the following uses:

a) Bakeries;

b) Bottling works;

c) Book binderies;
d)
e) Candy manufacturing;
f)
g) Engraving plants;
h)
i) Electrical equipment assemblies;
j)
k) Electronic equipment assembly and manufacture;
l)
m) Food products processing and parking;
n)
o) Furniture manufacturing;
p)
q) Instrument and meter manufacturing;
r)
s) Jewelry and watch manufacturing;
t)
u) Laboratories, experimental;
v)
w) Laundry and cleaning establishments;
x)
y) Leather goods fabrication;
z)
aa) Optical goods manufacturing;
bb)
cc) Sporting goods manufacturing;
dd)
ee) Building material sales yards and lumber yards, including the sale of rock, sand, gravel, and the likes as an incidental part of the main business, but not including a concrete batch plant or transit mix plant;
ff)
gg) Contractor's equipment storage yards or plants, or rental of equipment commonly used by contractors;
hh)
ii) Freighting or trucking yards or terminals;
jj)
kk) Oil field equipment storage yards;
ll)
mm) Public utility service yards or electrical receiving or transforming stations; or
nn)
oo) Sale barns.

ii. The following uses, when conducted within a completely enclosed building:

a) The manufacture, compounding, processing, packaging, or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, and food products;
b)
c) The manufacture, compounding, assembling, or treatment of articles or merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semiprecious metals or stone, shell,

textiles, tobacco, wood, yarn, and paint not employing a boiling process;

d)

e) The manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas;

f)

g) The manufacture and maintenance of electric and neon signs, commercial advertising structures, light sheet metal products, including heating and ventilating ducts and equipment, cornices, eaves, and the like;

h)

i) Manufacture of musical instruments, toys, novelties, and rubber and metal stamps;

j)

k) Automobile assembling, painting, upholstering, rebuilding, reconditioning, body and fender works, truck repairing and overhauling, tire retreading or recapping, and battery manufacturing;

l)

m) Blacksmith shops and machine shops, excluding punch presses over 20 tons rated capacity, drop hammers, and automatic screw machines;

n)

o) Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacture of small parts only, such as coils, condensers, transformers, crystal holders, and the like; or

p)

q) Wholesale storage or manufacture of alcoholic beverages.

iii. Buildings, structures, and uses accessory and customarily incidental to any of the above uses.

2. No article or material permitted in the I-1 district shall be kept, stored, or displayed outside the confines of a building unless it be so screened by fences, walls, or planting that it cannot be seen from adjoining public streets or adjacent lots when viewed by a person standing on ground level.

3.

4. No dwelling use, except sleeping facilities required by caretakers or night watchmen employed on the premises, shall be permitted in an I-1 light industrial district;

5.

6. The uses permitted under this subsection (B) 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.

C. *Uses permitted on review.* There shall be no uses permitted on review within the I-1 district.

D. Area regulations.

1. *Front and side yard requirements.* There are no specific front or side yard requirements for uses in the I-1 district.

2. *Rear yard requirements.* Where a building is to be serviced from the rear, there shall be provided an alleyway, service court, rear yard or combination thereof of not less than 30 feet in width or of adequate area and width to provide for maneuver of service vehicles, whichever is greater. In all other cases, no rear yard is required.

3.

4. *Yard area requirements.* Buildings shall be provided with a yard area adequate to meet the off-street parking requirements set forth in division 2 of article V of this chapter.

5.

6. *Screening; lighting.* Whenever any industrial district or parking lot or parking area is established so as to abut the side or rear line of a lot in a residential district an opaque ornamental fence, wall or dense evergreen hedge not less than five feet high and not more than six feet high shall be constructed and maintained in good condition along the side or rear lot line up to, but not beyond, the abutting residential setback building line, except that where the front yard is used for off-street parking, then the provisions pertaining to off-street parking lots shall apply. In addition, the lighting, including any permitted illuminated sign, shall be arranged so that there will be no annoying glare directed or reflected toward residential buildings in a residential district.

E. *Height regulations.* No buildings shall exceed 35 feet in height, except as hereinafter provided in section 48-176.

(Ord. No. 475, §§ 12-270--12-274, 12-4-1989)

Sec. 48-145. I-2 heavy industrial district.

A. *Generally.* This section applies to the I-2 heavy industrial district. This industrial district is intended to provide for heavy industrial uses and other uses not otherwise provided for in the districts established by this chapter. The intensity of uses permitted in this district makes it desirable that they can be located downwind and separated from residential and commercial uses wherever possible.

B. *Uses permitted.* Property and buildings in an I-2 heavy industrial district may be used for any use except the following:

1. All residential uses except sleeping facilities required by night watchmen and caretakers employed upon the premises;

2. All uses not complying with this chapter or any other county, state, or federal regulation or law;

3. All of the following uses until they have been studied by the planning commission and have received the express approval of the city commission; the commission may require approval of the city or county health department, the state fire marshal, and other state and county

regulating agencies, and may attach to the approval specific restrictions designed to protect the public welfare:

i. Acid manufacture;

ii. Cement, lime, gypsum, or plaster of Paris manufacture;

iii. Explosives, manufacture or wholesale storage;

iv.

v. Gas manufacture;

vi.

vii. Petroleum or its products, refining of;

viii.

ix. Wholesale or bulk storage or gasoline, propane, or butane, or other petroleum products;

x.

xi. Paper products manufacturing;

xii.

xiii. Foundry casting lightweight nonferrous metal not causing noxious fumes or odors;

4. Property and buildings in an I-2 heavy industrial district, when used for the following purposes, shall have the uses thereon conducted in such a manner that all operation, display, or storage of material or equipment is so screened by ornamental fences, walls, or permanent evergreen planting that it cannot be seen from a public street:

i. Automobile salvage or junk yards;

ii.

iii. Building materials salvage yards;

iv.

v. Junk or salvage yards of any kind; or

vi.

vii. Scrap metal storage yards.

C. *Uses permitted on review.* There shall be no uses permitted on review within the I-2 district.

D. Area regulations.

1. *Front and side yard requirements.* There are no specific front or side yard requirements for uses in the I-2 district.

2.

3. *Rear yard requirements.* Where a building is to be serviced from the rear, there shall be provided an alleyway, service court, rear yard, or combination thereof of not less than 30 feet in width or of adequate area and width to provide for maneuver of service vehicles, whichever is the greater. In all other cases, no rear yard is required.

4.

5. *Yard area requirements.* Buildings shall be provided with a yard area adequate to meet the off-street parking requirements set forth in division 2 of article V of this chapter.

6.

7. *Screening; lighting.* Whenever any commercial or industrial district or parking lot or parking area is established so as to abut the side or rear line of a lot in a residential district, an opaque, ornamental fence, wall, or dense evergreen hedge not less than five feet high and not more than six feet high shall be constructed and maintained in good condition along the side or rear lot line up to, but not beyond, the abutting residential setback building line, except where front yard is used for off-street parking, then the provisions of division 2 of article V of this chapter pertaining to off-street parking lots shall apply. In addition, the lighting, including any permitted illuminated sign, shall be arranged so that there will be no annoying glare directed or reflected toward residential buildings in a residential district.

E. *Height regulations.* Where a lot adjoins a dwelling district, the building shall not exceed 35 feet in height, unless it is set back one foot from all front and side yard lines for each foot of additional height above 45 feet.

(Ord. No. 475, §§ 12-280--12-283, 12-4-1989)

Secs. 48-146--48-173. Reserved.

Article V. Supplemental District Regulations

Division 1. Generally

Sec. 48-174. Condition of more restricted district applied to residential uses.

Whenever the specific district regulations pertaining to one district permit residential uses of a more restricted district, such residential uses shall be subject to the conditions as set forth in the regulations of the more restricted district unless otherwise specified.

(Ord. No. 475, § 12-290, 12-4-1989)

Sec. 48-175. Open space.

The following requirements are intended to provide exceptions to or to qualify and supplement, as the case may be, the specific district regulations set forth in article IV of this chapter:

A. *Open space to serve one building.* No open space or lot area required for a building or structure shall, during its life, be occupied by or counted as open space for any other building or structure.

B.

C. *Projections into yards.* Open eaves, cornices, window sills, and belt courses may project into any required yard a distance not to exceed two feet. Open porches may project into a front or rear yard a distance not to exceed five feet.

D.

E. *Street right-of-way width.* Where the dedicated street right-of-way is less than 50 feet, the depth of the front yard shall be measured at a starting point 25 feet from the centerline of the street easement.

F.

G. *Street access for dwellings.* No dwelling shall be erected on a lot which does not abut on at least one street for at least 35 feet and have a width of at least 50 feet at the building line. A street shall form the direct and primary means of ingress and egress for all dwelling units. Alleys, where they exist, shall form only a secondary means of ingress and egress. A garage apartment may be built to the rear of a main dwelling

if all other provisions of these regulations are complied with.

H.

I. *Commercial and industrial lot sizes.* No minimum lot sizes and open spaces are prescribed for commercial and industrial uses. It is the intent of this chapter that lots of sufficient size be used by any business or industry to provide adequate parking and loading and unloading space required for operation of the enterprises.

J.

K. *Site lines at intersections.* On any corner lot on which a front and side yard is required, no wall, fence, sign, structure, or any plant growth which obstructs sight lines at elevations between two feet and six feet above the crown of the adjacent roadway shall be placed or maintained within a triangle formed by measuring from the point of intersection of the front and exterior side lot lines a distance of 25 feet along the front and side lot lines and connecting the points so established to form a sight triangle on the area of the lot adjacent to the street intersection.

L.

M. *Location of attached private garage.* An attached or detached private garage which faces on a street shall not be located closer than 25 feet to the street easement line.

N.

O. *Time for accessory building construction.* No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used unless the main building on the lot is also being used.

P.

Q. *Site planning requirements.* Whenever one or more residential, institutional, commercial, or industrial buildings are proposed to be located in a cluster or grouping which has a different arrangement, orientation, or other site planning variation from that of other buildings, structures, or uses in the area or on adjacent properties, the architectural design, location, orientation, service, and parking areas of such buildings shall be planned so as not to adversely affect the use of adjacent or other properties in the area, as determined by the planning commission.

(Ord. No. 475, § 12-291, 12-4-1989)

Sec. 48-176. Height.

The regulations herein set forth qualify or supplement, as the case may be, the specific district regulations appearing in division 2 of article V of this chapter:

A. In measuring heights, a habitable basement or attic shall be counted as a story, provided that a story in a sloping roof, the area of which story at a height of four feet above the floor does not exceed two-thirds of the floor area of the story immediately below it and which does not contain an independent apartment shall be counted as a half story.

B. Chimneys, elevators, poles, spires, tanks, towers, and other projections not used for human occupancy may extend above the height limit.

C. Churches, schools, hospitals, sanatoriums, and other public and semipublic buildings may exceed the height limitation of the district if the minimum depth of rear yards and the minimum width of the side yards required in the district are increased one foot for each two feet by which the height of such public or semipublic structure exceeds the prescribed height limit.

(Ord. No. 475, § 12-292, 12-4-1989)

Sec. 48-177. Court requirements for multiple-family dwellings.

Whenever a multiple-family dwelling or group of multiple-family dwellings is designed with an inner or outer court, the following requirements shall be complied with:

A. *Outer court width.* The width of an outer court upon which windows open shall be not less than ten feet, or equal to the height of the opposing wall, whichever is greater, and in no case shall an outer court be less than five feet in width or equal to 70 percent of the height of the opposing wall, whichever is greater.

B. *Inner court width.* The width of an inner court of a multiple-family dwelling shall be not less than two times the height of the lowest wall forming the court, but in no case shall it be less than 20 feet.

C. *Passageway for inner court.* An open unobstructed passageway shall be provided at the grade of each inner court. Such passageway shall be not less than 12 feet in height and shall provide a straight and continuous passage from the inner court to a yard or open space having a direct connection with a street.

D. *Accessory buildings prohibited.* No accessory building shall be located in a court of a multiple-family dwelling.

(Ord. No. 475, § 12-293, 12-4-1989)

Sec. 48-178. Storage and parking of trailers and commercial vehicles.

Commercial vehicles and trailers of all types, including travel, camping and hauling trailers and mobile homes shall not be parked or stored on any lot occupied by a dwelling or on any lot in any residential district except in accordance with the following provisions:

A. Not more than one commercial vehicle which does not exceed one tractor truck per family living on the premises shall be permitted, and in no case shall a commercial vehicle used for hauling explosives, gasoline, or liquefied petroleum products be permitted.

B. Not more than one camping or travel trailer or hauling trailer per family living on the premises shall be permitted, and the trailer shall not exceed 35 feet in length or eight feet in width, and such trailer shall not be parked or stored for more than one week unless it is located behind the front yard building line. A camping or travel trailer shall not be occupied permanently while it is parked or stored in any area within the incorporated limits except in a mobile home park authorized under the ordinances of the city.

C. A mobile home shall be parked or stored only in a trailer court which is in conformity with the ordinances of the city.

D.

1. Notwithstanding the prohibition found in paragraph B above, a camping or travel trailer may be temporarily occupied in excess of the one-week period for so long as an applicant holds a valid temporary trailer permit from the City. The City shall only issue such a permit upon the applicant (1) paying an administrative fee of $50.00 and (2) possessing a valid building permit for the residence at which the camping or travel trailer will be located. The City shall issue only one such permit per residence.

2. A temporary trailer permit shall be valid for a period 90 days from the date of issuance, provided the applicant may request an additional 90 days. Extensions shall only be granted if, in the opinion of the City, the applicant has made satisfactory progress on the construction for which the underlying building permit was issued. For each extension, the applicant shall pay an additional $50.00 administrative fee. Multiple extensions are allowed, provided, under no circumstance shall the total period of validity of such a permit exceed 1 year.

3. The continued validity of a temporary trailer permit shall be subject to the continued validity of the underlying building permit. Should the underlying building permit be expired, cancelled, or revoked for any reason, the temporary trailer permit shall also expire, cancel, and be revoked by operation of law. In such instance, the applicant shall have 5 days to remove the associated trailer. Failure to do so shall constitute an offense and each day in violation shall constitute a separate offense.

4. No more than one camping or travel trailer may be located at any residence by virtue of a temporary trailer permit. Such temporary trailer permit shall be prominently displayed on the exterior of the associated trailer during the period of its validity and such permit may not be transferred or assigned to different camping or travel trailer.

5. Upon the expiration of a temporary trailer permit, the City shall not issue a new temporary trailer permit for the same residence for a period of 2 years from the date of expiration except in circumstances which, in the opinion of the City, constitute exigent, nonrecurring circumstances which could not have been reasonably foreseen by the applicant.

6. An applicant aggrieved by the decision of the City to not issue a permit or, having so issued one, to not grant an extension may appeal such decision to the Board of Adjustment as otherwise provided by this Code.

(Ord. No. 475, § 12-294, 12-4-1989; Ord. No. 514, § 1, 4-13-1998)

Sec. 48-179. Child care center.

Child care centers authorized under uses permitted on review shall meet the following provisions:

A. The dwelling shall meet all state department of human services requirements, all building code and fire safety code requirements, and all other city, county and state health department requirements as to safety, design, facilities, equipment and other features.
B.
C. All portions of the lot used for outdoor play space shall be fenced not less than 42 inches in height.
D.
E. The center shall be operated in a manner that will not adversely affect other properties and uses in the area.
F.
G. Signs shall not exceed three feet by five feet in dimension.

(Ord. No. 475, § 12-295, 12-4-1989; Ord. No. 522, § 4, 6-28-1999)

Sec. 48-180. Swimming pools.

A private swimming pool may be constructed as accessory use, but shall be completely enclosed by a permanent wall or fence not less than four feet in height and shall meet the requirements of the county health department. A swimming pool shall not be constructed in front of the front building line, and no portion of the pool, equipment, walkway, or other facilities related thereto shall be located closer than ten feet to the side or rear lot line.

(Ord. No. 475, § 12-290, 12-4-1989)

Sec. 48-181. Storage of liquefied petroleum gases.

The use of land or buildings for the commercial wholesale or retail storage of liquefied petroleum gases shall be in accordance with the ordinances of the city and the regulations of the state Liquefied Petroleum Gas Administration.

(Ord. No. 475, § 12-298, 12-4-1989)

Sec. 48-182. Trailer court regulations.

Trailer parks shall be constructed in accordance with the requirements of the ordinances of the city relating thereto.

(Ord. No. 475, § 12-299, 12-4-1989)

Sec. 48-183. Appropriate services and buildings required; referral to planning commission.

It is in the intent of these regulations that all uses shall be located on a site or within a building which has sufficient utilities and services and is of appropriate space and design to satisfactorily accommodate each use of land or building, in terms of safety, function, aesthetic quality, and harmony with other uses in the area. Whenever a request for a use of land or building does not meet these conditions, in the opinion of the administrative office enforcing these regulations, but all other provisions of these regulations are complied with, the administrators shall refer such case to the planning commission for their review and recommendations. The recommendations shall be submitted to the city council who shall stipulate the requirements which shall be followed to comply with the intent of these regulations, and the requirements shall be made a part of the conditions for issuance of the permit authorizing construction and occupancy.

(Ord. No. 475, § 12-300, 12-4-1989)

Sec. 48-184. Buildings designed as dwellings not to be occupied by commercial uses.

Whenever buildings designed for dwelling purposes are located in commercial or industrial districts, no commercial or industrial use shall be permitted on the lot on which the dwelling is situated until the dwelling building complies with commercial or industrial use requirements.

(Ord. No. 475, § 12-301, 12-4-1989; Ord. No. 503, § 1, 10-14-1996)

Sec. 48-185. Architectural design of accessory buildings and fences.

The architectural design and materials used for the construction of accessory buildings and fences shall harmonize with the main building to which the building or fence is accessory.

(Ord. No. 475, § 12-302, 12-4-1989)

Sec. 48-186. Temporary buildings.

Temporary buildings shall be permitted only in accordance with the provisions of these regulations and the regulations governing such buildings as contained in this Code and subsequent amendments thereto.

(Ord. No. 475, § 12-303, 12-4-1989)

Sec. 48-187. Manufactured homes, residential design manufactured home mobile home, and Modular homes.

A. *Intent.* It is not the intent of this chapter to discourage alternative modest income housing, but to control their placement, to protect existing property values and to assure acceptable similarity in exterior appearance between such manufactured homes and dwellings that have been or might be constructed under these and other lawful regulations on adjacent or nearby lots in the same district.

B. Definitions.

1. *Manufactured home* means a residential dwelling in one or more sections built in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C., Section 5401, et seq.

And rules promulgated pursuant thereto, (and the rules promulgated by the Oklahoma Motor Vehicle and Parts Commission pursuant to Section 582 of Title 47 of the Oklahoma Statutes, 68 O.S. 1999 § 2101(j)) 47 O.S. 1991 § 581.4.

2. *Residential design manufactured home* means a manufactured home that is architectural compatible in appearance to neighboring conventionally built dwellings, taxed like a conventional dwelling, and placed on a permanent foundation.
3.
4. *Mobile home* means a residential dwelling fabricated in an off-site manufacturing facility, designed to be a permanent residence, but which is still transportable, that was built prior to the enacting of the National Manufactured Housing Construction and Safety Standards Act of 1974. 47 O.S. 1991 § 581.8.

C. *Permit required.* Before any manufactured home, residential design manufactured home or mobile home can be moved onto any property within the city limits of Checotah, Oklahoma, a permit from the planning and zoning commission must be obtained.

1. An application on a form specified by the planning and zoning commission must be filed with the code enforcement officer.

2. A hearing on the application shall be held after notice is given as required by the planning and zoning commission.

D. *Standards; permitted placement.* The establishment, location, and use of manufactured/modular homes as scattered site residences shall be permitted in any zone permitting installation of a dwelling unit, subject to requirements and limitations applying generally to such residential use in the district and provided such homes shall meet the following requirements and limitations:

1. The home shall meet all requirements applicable to single-family dwellings and possess all necessary improvement, location, building and occupancy permits and other certifications required by this Code;
2.
3. The Manufactured/Modular home shall be not less than 1650 square feet of occupied space. Any Manufactured home placed in a District designed R-M Mobile Home Park shall not be less than 1400 square feet of occupied space;
4.
5. The home shall be attached and anchored to a permanent foundation in conformance with applicable laws and ordinances and with manufacturer's installation specifications;
6.
7. A manufactured home may be of any model year so long as the City Code Enforcement Officer certifies the manufactured home meet all applicable city codes;
8.
9. The home shall be covered with exterior material customarily used on site-built residential dwellings, such material shall extend over the top of the foundation, including skirting and siding material; or meet the community's site-built residential dwelling home standards; and
10.
11. The home shall have a roof composed of a material customarily used on site-built residential dwellings, such as fiberglass, shake, asphalt, metal or tile, which shall be installed onto a surface appropriately pitched for the materials used.

12. No manufactured/modular home shall be allowed or permitted to be placed within One Hundred Feet (100') of the frontage of Gentry Avenue or Business 69/Broadway Avenue. Designated R-M

Mobile Home Park Districts are specifically excluded from this requirement.

13. Any manufactured home or modular home not placed in a District designated R-M Mobile Home Park must meet the zoning and criteria of MH-1 mobile home site district zoning, prior to being placed upon any lot within the City of Checotah.

14. Any manufactured home or modular home shall have a front porch made from concrete or wood no less than Thirty-six (36) square feet in area. Said porch shall be placed at the entrance of the manufactured or modular home facing the City street.

15. No variances of the foregoing Manufactured/Modular Home Placement Standards shall be allowed except as follows:

    i. A variance from the minimum square footage requirement may be allowed if, due to the physical size and dimensions of the particular lot upon which the manufactured home is proposed to be located, the manufactured home cannot fit upon the lot when accounting for setbacks and other similar zoning requirements. PROVIDED, a variance under this paragraph shall only be to the extent necessary to comply with such setbacks and other zoning requirements and no further.

    ii. A variance from the minimum square footage requirement may be allowed if the character of the community surrounding the lot upon which the manufactured home is proposed to be located is not inconsistent with the size of the manufactured home proposed to be located on the lot. PROVIDED, no variance under this paragraph may authorize the installation of any manufactured home with a square footage size of less than 720 square feet of occupiable space.

E. *Structural additions or alteration.* Due to its integral design, any structural alteration or modification of a manufactured home after it is placed on the site must be approved by the authorized building inspector of the city. All structured additions shall comply with the city's building codes.

(Ord. No. 475, §§ 12-501, 12-503, 12-505, 12-4-1989; Ord. No. 563, § 2, 3-9-2009; Ord. No. 566, 2-8-2010)

Secs. 48-188--48-212. Reserved.

Division 2. Off-Street Automobile and Vehicle Parking and Loading

Sec. 48-213. General intent and application.

It is the intent of this division that adequate parking and loading facilities be provided off the street for each use of land within the city. Requirements are intended to be based on the demand created by each use. These requirements shall apply to all uses in all districts.

(Ord. No. 475, § 12-310, 12-4-1989)

Sec. 48-214. Required open space.

A. Off-street parking or loading space shall be a part of the required open space associated with the permitted use and shall not be reduced or encroached upon in any manner.

B. The area required for off-street parking shall be in addition to the yard areas herein required, except that the front yard required in a C-1 commercial district or I-1 light industrial district may be used for uncovered parking area and the front yard of a residential district may be used for the uncovered parking area for six or less vehicles associated with a residential use when the area is surfaced with a pavement adequate to prevent the occurrence of mud and dust with continued use, and may be used for uncovered areas for more than six vehicles in accordance with the provisions of section 48-215.

(Ord. No. 475, § 12-311, 12-4-1989)

Sec. 48-215. Location.

The off-street parking lot shall be located within 200 feet, exclusive of street and alley widths, of the principal use and shall have direct access to a street or alley, except as otherwise provided herein.

(Ord. No. 475, § 12-312, 12-4-1989)

Sec. 48-216. Joint parking facilities.

Whenever two or more uses are located together in a common building, shopping center, or other integrated building complex, the parking requirements may be complied with by providing a permanent common parking facility, cooperatively established and operated, which contains the requisite number of spaces for each use. The total number of spaces provided shall not be less than the sum of the individual requirements. Spaces provided for permanent residents of dwellings shall be clearly designated and separated from spaces provided for employees, customers, and service.

(Ord. No. 475, § 12-313, 12-4-1989)

Sec. 48-217. Ownership or control of lot.

The land upon which the off-street parking lot is located shall be owned or controlled by the same entity which owns or controls the land on which the principal use is located.

(Ord. No. 475, § 12-314, 12-4-1989)

Sec. 48-218. Size of off-street parking space.

The size of a parking space for one vehicle shall consist of a rectangular area having dimensions of not less than nine feet by 20 feet plus adequate area for ingress and egress.

(Ord. No. 475, § 12-315, 12-4-1989)

Sec. 48-219. Off-street parking and loading.

A. *Spaces required for certain uses.* Off-street parking and loading facilities shall be provided in all districts in accordance with the following schedule:

1. *Dwelling.* One and one-half parking spaces for each separate dwelling unit within the structure.
2.
3. *Boardinghouse, roominghouse, or hotel.* One parking space for each two guests provided overnight accommodations.
4.
5. *Hospitals.* One space for each four patient beds, exclusive of bassinets, plus one space for each staff or existing doctor, plus one space for each three employees, including nurses, plus adequate area for the parking of emergency vehicles.
6.
7. *Medical or dental clinics or offices.* Seven spaces per doctor, plus two spaces for each three employees.
8.
9. *Sanatoriums or convalescent or nursing homes.* One space for each six patient beds, plus one space for each staff or visiting doctor, plus one space for each four employees, including nurses.
10.
11. *Community center, theater, auditorium.* One parking space for each five seats, based on maximum seating capacity.
12.
13. *Convention hall, lodge, club, library, museum, place of amusement or recreation.* One parking space for each 50 square feet of floor area used for assembly or recreation in the building.
14.
15. *Office building.* One parking space for each 300 square feet of gross floor area in the building, exclusive of the area used for storage, utilities, and building service area.
16.
17. *Commercial establishments not otherwise classified.* One parking space for each 150 square feet of floor space in the building used for retail trade, or used by the public, whichever is the greater.
18.
19. *Industrial establishments.* Adequate area to park all employees' and customers' vehicles at all times and adequate space for loading, unloading and storing all vehicles used incidental to or as a part of the primary operation of the establishment.
20.
21. *Church sanctuary.* One parking space for each three seats, based on maximum seating capacity; provided, however, that churches may establish joint parking facilities for not to exceed 50 percent of the required spaces, with public institutions and agencies that do not have a time conflict in parking demand. The joint parking facility shall be located not more than 400 feet from the church sanctuary.

B. *Spaces required for other uses.* For all uses not covered in subsection (a) of this section, the planning commission shall make a determination of the parking demand to be created by the purposed use, and the amount of parking thus determined shall be the off-street parking requirement for the permitted use.

(Ord. No. 475, § 12-316, 12-4-1989)

Sec. 48-220. Lots in residential districts; construction and maintenance.

Whenever off-street parking lots for more than six vehicles are to be located within or adjacent to a residential district, the following provisions shall apply:

A. All sides of the lot abutting the residential district shall be enclosed with an opaque, ornamental fence, wall, or dense evergreen hedge having a height of not less than five nor more than six feet. Such fence, wall, or hedge shall be maintained in good condition.

B. No parking shall be permitted within a front yard setback line established ten feet back of the property line of interior and corner lots wherever the parking lot is located in a residential district or immediately abuts the front yard of a residential unit. In all other cases, no setback shall be required; provided, however, that on any corner lot formed by two intersecting streets no parking shall be permitted, and no wall, fence, sign, structure or plant growth having a height in excess of three feet above the elevation of the crown of the adjacent roadway surface shall be maintained in a triangle formed by measuring a distance of 30 feet along the front and side lot lines, from their point of intersection, and connecting the points so established to form a triangle on the area of the lot adjacent to the street intersection.

C. All yards shall be landscaped with grass, shrubs, and evergreen ground cover and maintained in good condition year round.

D. All of the lot used for parking and driveway purposes shall be paved with a sealed surface pavement and maintained in such a manner that no dust will be produced by continued use.

E.

F. The intensity of light and arrangement of reflectors shall be such as not to interfere with residential district use.

G.

H. No sign of any kind shall be erected except information signs used to guide traffic and to state the conditions and terms of the use of the lot. Only non-intermittent incandescent lighting of signs shall be permitted.

(Ord. No. 475, § 12-317, 12-4-1989)

Sec. 48-221. Paved surface required.

All parking spaces required under the provisions of this division shall be paved with a sealed surface pavement and maintained in a manner such that no dust will result from continued use.

(Ord. No. 475, § 12-318, 12-4-1989)

APPENDIX A – SUPPLEMENTAL ORDINANCES

Supplemental ordinances can be found at codemgmt.net.

AN ORDINANCE OF THE CITY OF CHECOTAH, OKLAHOMA

ORDINANCE NO. 569

AN ORDINANCE AMENDING SECTIONS 4.1, 6.4, 8.1 OF THE EMPLOYEE RETIREMENT SYSTEM, DEFINED BENEFIT PLAN FOR CITY OF CHECOTAH, OKLAHOMA; PROVIDING RETIREMENT BENEFITS FOR ELIGIBLE EMPLOYEES OF CITY OF CHECOTAH, OKLAHOMA; PROVIDING FOR CONTINUTED RETIREMENT BENEFITS FOR A RETIRED PARTICIPANT WHO RETURNS TO WROK FOR THE EMPLOYER IN AN EMPLOYEMENT CLASSIFICAITON WHICH IS NOT ELIGIBLE TO PARTICIPATE IN THIS PLAN; PROVIDING FOR REPEALER AND SEVERABILITY; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY CITY COUNCIL OF THE CITY OF CHECOTAH, OKLAHOMA.

Section 1. The Employee Retirement System, Defined Benefit Plan, of the City of Checotah, Oklahoma, is hereby amended as reflected on the attached Exhibit "A" & Exhibit "B", which is incorporated herein and adopted by reference. These amendments shall become effective on October 1, 2010.

Section 2. The City Clerk and Mayor be and they are hereby authorized and directed to execute the amended Retirement System Plan documents and to do all the other acts necessary to put said amendment into effect and to maintain IRS qualification of the Plan. The executed amended document attached hereto as Exhibit "A" & Exhibit "B" is hereby ratified and confirmed in all respects.

Section 3. If, regardless of cause, any section, subsection, paragraph, sentence, or clause of this ordinance, including the System as set forth in Exhibit "A" & Exhibit "B" is held invalid or to be unconstitutional, the remaining sections, subsections, paragraphs, sentences, or clauses shall continue in full force and effect and shall be construed thereafter as being the entire provisions of this ordinance.

Section 4. Any ordinance inconsistent with the terms and provisions of this ordinance is hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

Section 5. Whereas, in the judgment of the City Council of City of Checotah, Oklahoma, the public peace, health, safety, and welfare of the City of Checotah, Oklahoma, and the inhabitants thereof demand the immediate passage of this ordinance, an emergency is hereby declared, the rules are suspended, and this ordinance shall be in full force and effect on its passage and approval.

*****END*****

The foregoing ordinance was introduced before the City of Checotah on the 12 day of October, 2010, and was duly adopted and approved by the Mayor and City Council on the 12 day of October, 2010, after compliance with notice requirements of the Open Meeting Law (25 OSA, Section 301, et seq.).

City of Checotah

MAYOR

ATTEST:

CITY CLERK

Approved as to form and legality on October 12, 2010.

CITY ATTORNEY

ORDINANCE NO. 570

AN ORDINANCE AMENDING THE EMPLOYEE RETIREMENT SYSTEM, DEFINED BENEFIT PLAN FOR THE **CITY OF CHECOTAH**, OKLAHOMA BY ADOPTING A REVISED AND RESTATED RETIREMENT PLAN; PROVIDING RETIREMENT BENEFITS FOR ELIGIBLE EMPLOYEES OF THE **CITY OF CHECOTAH**, OKLAHOMA; PROVIDING FOR PURPOSE AND ORGANIZATION; PROVIDING FOR DEFINITIONS; PROVIDING FOR ELIGIBILITY AND PARTICIPATION; PROVIDING FOR NON-ALIENATION OF BENEFITS; LOSS OF BENEFITS FOR CAUSE AND LIMITATIONS OF BENEFITS; PROVIDING FOR EMPLOYER AND EMPLOYEE CONTRIBUTIONS; PROVIDING FOR ACCOUNTING, ALLOCATION, AND VALUATION; PROVIDING BENEFITS; PROVIDING FOR REQUIRED NOTICE; PROVIDING FOR AMENDMENTS AND TERMINATION; PROVIDING FOR TRANSFER TO AND FROM OTHER PLANS; CREATING A RETIREMENT COMMITTEE AND PROVIDING FOR POWERS, DUTIES, AND RIGHTS OF RETIREMENT COMMITTEE; PROVIDING FOR PAYMENT OF CERTAIN OBLIGATIONS; PROVIDING FOR DURATION AND PAYMENT OF EXPENSES; PROVIDING FOR EFFECTIVE DATE; PROVIDING FOR VESTING SCHEDULES; PROVIDING FOR A FUND TO FINANCE THE SYSTEM TO BE POOLED WITH OTHER INCORPORATED CITIES, TOWNS AND THEIR AGENCIES AND INSTRUMENTALITIES FOR PURPOSES OF ADMINISTRATION, MANAGEMENT, AND INVESTMENT AS PART OF THE OKLAHOMA MUNICIPAL RETIREMENT FUND; PROVIDING FOR PAYMENT OF ALL CONTRIBUTIONS UNDER THE SYSTEM TO THE OKLAHOMA MUNICIPAL RETIREMENT FUND FOR MANAGEMENT AND INVESTMENT; PROVIDING FOR REPEALER AND SEVERABILITY; ADOPTING THOSE AMENDMENTS MANDATED BY THE INTERNAL REVENUE CODE; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF CHECOTAH, OKLAHOMA:

Section 1. That pursuant to the authority conferred by the laws of the State of Oklahoma, and for the purpose of encouraging continuity and meritorious service on the part of City employees and thereby promote public efficiency, there is hereby authorized created, established, and approved and adopted, effective as of **January 1, 2011,** the amended and restated Plan designated "Employee Retirement System of the City of Checotah, Oklahoma, Defined Benefit Plan," (hereinafter called System), an executed counterpart of which is marked Exhibit "A" (Joinder Agreement) and Exhibit "B" (amended and restated plan) and attached hereto as part hereof.

Section 2. FUND. A fund is hereby provided for the exclusive use and benefit of the persons entitled to benefits under the System. All contributions to such fund shall be paid over to and received in trust for such purpose by the City. Such Fund shall be pooled for purposes of management and investment with similar funds of other incorporated cities, towns, and municipal trusts in the State of Oklahoma as a part of the Oklahoma Municipal Retirement Fund in accordance with the trust agreement of the Oklahoma Municipal Retirement Fund, a public trust. The City shall hold such contributions in the form received, and from time to time pay over and transfer the same to the Oklahoma Municipal Retirement Fund, as duly authorized and directed by the Board of Trustees. The Fund shall be nonfiscal and shall not be considered in computing any levy when the annual estimate is made to the County Excise Board.

Section 3. APPROPRIATIONS. The City of Checotah, Oklahoma, is hereby authorized to incur the necessary expenses for the establishment, operation, and administration of the System, and to appropriate and pay the same. In addition, the City of Checotah, Oklahoma, is hereby authorized to appropriate annually such amounts as are required in addition to employee contributions to maintain the System and the Fund in accordance with the provisions of the Defined Benefit Plan. Any appropriation so made to maintain the System and Fund shall be for deferred wages or salaries, and for the payment of necessary expenses of operation and administration to be transferred to the trustees of the Oklahoma Municipal Retirement Fund for such purposes and shall be paid into the Fund when available, to be duly transferred to the Oklahoma Municipal Retirement Fund.

Section 4. EXECUTION. The Mayor and City Clerk be and they are each hereby authorized and directed to execute (in counterparts, each of which shall constitute an original) the System instrument, and to do all other acts and things necessary, advisable, and proper to put said System and related trust into full force and effect, and to make such changes therein as may be necessary to qualify the same under Sections 401(a) and 501(a) of the Internal Revenue Code of the United States. The counterpart attached hereto as Exhibit "A" and Exhibit "B", which has been duly executed as aforesaid simultaneously with the passage of this Ordinance and made a part hereof, is hereby ratified and confirmed in all respects.

This Committee is hereby authorized and directed to proceed immediately on behalf of the City of Checotah, Oklahoma, to pool and combine the Fund into the Oklahoma Municipal Retirement Fund as a part thereof, with similar funds of such other cities and towns, for purposes of pooled management and investment.

Section 5. REPEALER. Any Ordinance inconsistent with the terms and provisions of this Ordinance is hereby repealed, provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this Ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this Ordinance.

Section 6. SEVERABILITY. If, regardless of cause, any section, subsection, paragraph, sentence or clause of this Ordinance, including the System as set forth in Exhibit "A" and Exhibit "B", is held invalid or to be unconstitutional, the remaining sections, subsections, paragraphs, sentences, or clauses shall continue in full force and effect and shall be construed thereafter as being the entire provisions of this Ordinance.

Section 7. EMERGENCY. Whereas, in the judgment of the City Council of the City of Checotah, Oklahoma, the public peace, health, safety, and welfare of the City of Checotah, Oklahoma, and the inhabitants thereof demand the immediate passage of this Ordinance, an emergency is hereby declared, the rules are suspended, and this Ordinance shall be in full force and effective on its passage, approvals and publication.

EXIBITS A&B
Are on File at Checotah City Hall

The undersigned hereby certifies that the foregoing Ordinance was introduced before the City Council of the City of Checotah on the 8 day of November, 2010, and was duly adopted and approved by the Mayor and City Council, on the 8 day of November, 2010, after compliance with notice requirements of the Open Meeting Law (25 OSA, Sections 301, et. seq.).

City of Checotah

By _____
Mayor

ATTEST:

_____
Clerk

Approved as to form and legality on November 8, 2010.

_____
CITY ATTORNEY

ORDINANCE NO. 578

AN ORDINANCE CLOSING OF THE EAST AND WEST ALLEY IN BLOCK 88 TO THE CITY OF CHECOTAH, MCINTOSH COUNTY, OKLAHOMA, RESERVING EASEMENT FOR UTILITY LINES

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHECOTAH, OKLAHOMA:

SECTION 1. The alley described as:

East and West Alley in Block 88 to the City of Checotah, McIntosh County, Oklahoma,

is hereby closed, but upon the condition that easements for electric, telephone, gas, water, sewer or other utility lines now present in or as may be hereafter necessary shall be and are hereby reserved for the benefit of said City and such utilities.

ENACTED this 13th day of February, 2017.

DANIEL TARKINGTON, MAYOR

(SEAL)

ATTEST:

LouAnn Moore, Deputy City Clerk

Publish One Time:

AN ORDINANCE OF THE CITY OF CHECOTAH, OKLAHOMA

ORDINANCE NO. 587

AN ORDINANCE AMENDING THE EMPLOYEE RETIREMENT SYSTEM, DEFINED BENEFIT PLAN FOR THE CITY OF CHECOTAH, OKLAHOMA; PROVIDING RETIREMENT BENEFITS FOR ELIGIBLE EMPLOYEES OF THE CITY OF CHECOTAH, OKLAHOMA; PERTAINING TO PLAN OPTIONS; PROVIDING FOR CONTRIBUTIONS BY EMPLOYEES; PROVIDING FOR EMPLOYER PICKUP OF MANDATORY CONTRIBUTIONS; PROVIDING FOR REPEALER AND SEVERABILITY; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY CITY COUNCIL OF THE **CITY OF CHECOTAH**, OKLAHOMA.

Section 1. AMENDATORY. The Employee Retirement System, Defined Benefit Plan, of the City of Checotah, Oklahoma, is hereby amended as reflected on the attached Exhibit "A", which is incorporated herein and adopted by reference. These amendments shall become effective on **July 1, 2019**.

Section 2. EXECUTION AUTHORIZATION. The City Clerk and Mayor be and they are hereby authorized and directed to execute the amended Retirement System Plan documents and to do all the other acts necessary to put said amendment into effect and to maintain IRS qualification of the Plan. The executed amended document attached hereto as Exhibit "A" is hereby ratified and confirmed in all respects.

Section 3. SPECIAL INCOME TAX TREATMENT FOR CONTRIBUTIONS UNDER IRC414. The Plan contains provisions which are intended to constitute a pick-up program by the Employer which satisfies the requirements of section 414(h)(2) of the Internal Revenue Code of 1986 (the "Code"); and the Plan, be, and it is, approved and adopted as of the date therein stated; and Mandatory Contributions (as defined in the Plan) are designated "picked-up" by the employer so as to not be included in Plan Participants' gross income for Federal income tax purposes as provided in Section 414(h)(2) of the Code. All Mandatory Contributions are to be paid by the employer in lieu of contributions by the Plan Participant. No Participant in the Plan shall have the option of choosing to receive the amounts of Mandatory Contributions directly in lieu of having such amounts paid by the employer to the Trustees of the Plan.

Section 4. SEVERABILITY. If, regardless of cause, any section, subsection, paragraph, sentence, or clause of this ordinance, including the System as set forth in Exhibit "A" is held invalid or to be unconstitutional, the remaining sections, subsections, paragraphs, sentences, or clauses shall continue in full force and effect and shall be construed thereafter as being the entire provisions of this ordinance.

Section 5. REPEALER. Any ordinance inconsistent with the terms and provisions of this ordinance is hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

Section 6. EMERGENCY. Whereas, in the judgment of the City Council of the **City of Checotah**, Oklahoma, the public peace, health, safety, and welfare of the **City of Checotah**, Oklahoma, and the inhabitants thereof demand the immediate passage of this ordinance, an emergency is hereby declared, the rules are suspended, and this ordinance shall be in full force and effect on its passage and approval.

END

The foregoing ordinance was introduced before the City of Checotah on the 13 day of May, 2019, and was duly adopted and approved by the Mayor and City Council on the 13 day of May, 2019, after compliance with notice requirements of the Open Meeting Law (25 OSA, Section 301, et seq.).

City of Checotah

MAYOR

ATTEST:

CITY CLERK – Deputy

Approved as to form and legality on May 13, 19.

CITY ATTORNEY

ORDINANCE NO. 590

AN ORDINANCE AMENDING THE EMPLOYEE RETIREMENT SYSTEM, DEFINED BENEFIT PLAN FOR THE CITY OF CHECOTAH, OKLAHOMA BY ADOPTING A REVISED AND RESTATED RETIREMENT PLAN; PROVIDING RETIREMENT BENEFITS FOR ELIGIBLE EMPLOYEES OF THE CITY OF CHECOTAH, OKLAHOMA; PROVIDING FOR PURPOSE AND ORGANIZATION; PROVIDING FOR DEFINITIONS; PROVIDING FOR ELIGIBILITY AND PARTICIPATION; PROVIDING FOR NON-ALIENATION OF BENEFITS; PROVIDING FOR EMPLOYER AND EMPLOYEE CONTRIBUTIONS; PROVIDING FOR ACCOUNTING, ALLOCATION, AND VALUATION; PROVIDING BENEFITS; PROVIDING FOR REQUIRED NOTICE; PROVIDING FOR AMENDMENTS AND TERMINATION; PROVIDING FOR TRANSFER TO AND FROM OTHER PLANS; CREATING A RETIREMENT COMMITTEE AND PROVIDING FOR POWERS, DUTIES, AND RIGHTS OF RETIREMENT COMMITTEE; PROVIDING FOR PAYMENT OF CERTAIN OBLIGATIONS; PROVIDING FOR DURATION AND PAYMENT OF EXPENSES; PROVIDING FOR EFFECTIVE DATE; PROVIDING FOR VESTING SCHEDULES; PROVIDING FOR A FUND TO FINANCE THE SYSTEM TO BE POOLED WITH OTHER INCORPORATED CITIES, TOWNS AND THEIR AGENCIES AND INSTRUMENTALITIES FOR PURPOSES OF ADMINISTRATION, MANAGEMENT, AND INVESTMENT AS PART OF THE OKLAHOMA MUNICIPAL RETIREMENT FUND; PROVIDING FOR PAYMENT OF ALL CONTRIBUTIONS UNDER THE SYSTEM TO THE OKLAHOMA MUNICIPAL RETIREMENT FUND FOR MANAGEMENT AND INVESTMENT; PROVIDING FOR REPEALER AND SEVERABILITY; ADOPTING THOSE AMENDMENTS MANDATED BY THE INTERNAL REVENUE CODE; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF CHECOTAH, OKLAHOMA:

Section 1. That pursuant to the authority conferred by the laws of the State of Oklahoma, and for the purpose of encouraging continuity and meritorious service on the part of City employees and thereby promote public efficiency, there is hereby authorized created, established, and approved and adopted, effective as of **January 1, 2020**, the amended and restated Plan designated "Employee Retirement System of the City of Checotah, Oklahoma, Defined Benefit Plan," (hereinafter called System), an executed counterpart of which is marked Exhibit "A" (Joinder Agreement) and Exhibit "B" (amended and restated plan) and attached hereto as part hereof.

Section 2. FUND. A fund is hereby provided for the exclusive use and benefit of the persons entitled to benefits under the System. All contributions to such fund shall be paid over to and received in trust for such purpose by the City. Such Fund shall be pooled for purposes of management and investment with similar funds of other incorporated cities, towns, and municipal trusts in the State of Oklahoma as a part of the Oklahoma Municipal Retirement Fund in accordance with the trust agreement of the Oklahoma Municipal Retirement Fund, a public trust. The City shall hold such contributions in the form received, and from time to time pay over and transfer the same to the Oklahoma Municipal Retirement Fund, as duly authorized and directed by the Board of Trustees. The Fund shall be nonfiscal and shall not be considered in computing any levy when the annual estimate is made to the County Excise Board.

Section 3. APPROPRIATIONS. The City of Checotah, Oklahoma, is hereby authorized to incur the necessary expenses for the establishment, operation, and administration of the System, and to appropriate and pay the same. In addition, the City of Checotah, Oklahoma, is hereby authorized to appropriate annually such amounts as are required in addition to employee contributions to maintain the System and the Fund in accordance with the provisions of the Defined Benefit Plan. Any appropriation so made to maintain the System and Fund shall be for deferred wages or salaries, and for the payment of necessary expenses of operation and administration to be transferred to the trustees of the Oklahoma Municipal Retirement Fund for such purposes and shall be paid into the Fund when available, to be duly transferred to the Oklahoma Municipal Retirement Fund.

Section 4. EXECUTION. The Mayor and City Clerk be and they are each hereby authorized and directed to execute (in counterparts, each of which shall constitute an original) the System instrument, and to do all other acts and things necessary, advisable, and proper to put said System and related trust into full force and effect, and to make such changes therein as may be necessary to qualify the same under Sections 401(a) and 501(a) of the Internal Revenue Code of the United States. The counterpart attached hereto as Exhibit "A" and Exhibit "B", which has been duly executed as aforesaid simultaneously with the passage of this Ordinance and made a part hereof, is hereby ratified and confirmed in all respects.

This Committee is hereby authorized and directed to proceed immediately on behalf of the City of Checotah, **Ok**lahoma, to pool and combine the Fund into the Oklahoma Municipal Retirement Fund as a part thereof, with similar funds of such other cities and towns, for purposes of pooled management and investment.

Section 5. REPEALER. Any Ordinance inconsistent with the terms and provisions of this Ordinance is hereby repealed, provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this Ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this Ordinance.

Section 6. SEVERABILITY. If, regardless of cause, any section, subsection, paragraph, sentence or clause of this Ordinance, including the System as set forth in Exhibit "A" and Exhibit "B", is held invalid or to be unconstitutional, the remaining sections, subsections, paragraphs, sentences, or clauses shall continue in full force and effect and shall be construed thereafter as being the entire provisions of this Ordinance.

Section 7. EMERGENCY. Whereas, in the judgment of the City Council of the City of Checotah, Oklahoma, the public peace, health, safety, and welfare of the City of Checotah, Oklahoma, and the inhabitants thereof demand the immediate passage of this Ordinance, an emergency is hereby declared, the rules are suspended, and this Ordinance shall be in full force and effective on its passage, approvals and publication.

*****END*****

The undersigned hereby certifies that the foregoing Ordinance was introduced before the City Council of the City of Checotah on the 9 day of December, 2019, and was duly adopted and approved by the Mayor and City Council, on the 9 day of December, 2019, after compliance with notice requirements of the Open Meeting Law (25 OSA, Sections 301, et. seq.).

City of Checotah

By _____
Mayor

ATTEST:

_____
Clerk

Approved as to form and legality on December 9, 2019.

_____
CITY ATTORNEY

TOWN OF CHECOTAH ORDINANCE NO. 591

AN ORDINANCE OF THE TOWN OF CHECOTAH, OKLAHOMA, ADOPTING AND ENACTING THE (2020) "CHECOTAH CODE OF ORDINANCES"; COMPILED, REVISED AND PUBLISHED BY THE AUTHORITY OF THE TOWN OF CHECOTAH BOARD OF TRUSTEES, OKLAHOMA, CONTAINING THE PERMANENT AND GENERAL ORDINANCES OF THE TOWN OF CHECOTAH; ALSO REPEALING ALL ORDINANCES OF A PERMANENT AND GENERAL NATURE NOT INCLUDED IN THE CODE; PROVIDING FOR ADDITIONS AND AMENDMENTS TO THE CODE AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE MAYOR AND BOARD OF TRUSTEES OF THE TOWN OF CHECOTAH, OKLAHOMA:

SECTION 1. Code Adopted and Enacted; Title.

The Code of Ordinances entitled "Checotah Code of Ordinances" is hereby adopted and enacted for the Town of Checotah, Oklahoma, and shall be treated and considered as a new and original comprehensive Code of Ordinances which shall supersede all general and permanent Ordinances of the Town, adopted on or before January 13, 2020, to the extent provided in Sections 2 and 3 hereof. Said Code may also be cited as the "Checotah Town Code" or other appropriate title.

SECTION 2. Ordinance Provisions Adopted.

All of the Ordinance provisions included in the Code are hereby adopted and enacted, and shall be in full effect, whether (a) such provisions are included in the form as originally adopted, (b) are included in amended form, (c) are composed wholly or partially of new material, as authorized by law, or (d) such provisions include material contained in full or adopted by reference.

SECTION 3. Certain Permanent and General Ordinances Are Repealed.

All Ordinances and parts of Ordinances of a permanent and general nature in effect at the time of adoption of this Code but not included in this Code, are hereby repealed at the time this Code goes into effect.

SECTION 4. Temporary or Special Ordinances Omitted from Code Remain Effective.

The continuance in effect of any temporary and/or special Ordinances omitted from this Code, shall not be affected by such omission therefrom; the adoption of the Code shall not repeal or amend any such Ordinance or parts of any Ordinance omitted therefrom.

SECTION 5. Addition and Amendments to Code.

Any and all additions and amendments to such Code, when passed in such form as to indicate the intention of the Checotah, Oklahoma, Board of Trustees to make the same a part of such Code, shall be deemed to be incorporated in such so that reference to the "Checotah Code of Ordinances," or any other appropriate title, shall be understood and intended to include such additions and amendments.

SECTION 6. Emergency.

It being necessary for the health, safety and welfare of the residents of the Town of Checotah, Oklahoma, that the new "Code of Ordinances" now available to the Town, be adopted and implemented immediately, an emergency is hereby declared to exist, by reason whereof the provisions of this Ordinance and the "Code of Ordinances" adopted by reference herein, shall become effective immediately upon the passage and approval of this Ordinance, all as required by Law.

PASSED, ADOPTED AND APPROVED THIS 13 DAY OF January, 2020

Town of Checotah

(SEAL)

By: [signature]
Title: Mayor

ATTEST:

[signature], Clerk

AN ORDINANCE OF THE CITY OF CHECOTAH, OKLAHOMA

ORDINANCE NO. 597

AN ORDINANCE AMENDING THE EMPLOYEE RETIREMENT SYSTEM, DEFINED BENEFIT PLAN FOR CITY OF CHECOTAH, OKLAHOMA; PROVIDING RETIREMENT BENEFITS FOR ELIGIBLE EMPLOYEES OF CITY OF CHECOTAH, OKLAHOMA; PERTAINING TO NORMAL RETITEMENT AGE; PROVIDING FOR REPEALER AND SEVERABILITY; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY CITY COUNCIL OF THE **CITY OF CHECOTAH**, OKLAHOMA.

Section 1. **AMENDATORY.** The Employee Retirement System, Defined Benefit Plan, of the City of Checotah, Oklahoma, is hereby amended as reflected on the attached Exhibit "A", which is incorporated herein and adopted by reference. These amendments shall become effective on ~~July 1,~~ August 10, 2020.

Section 2. **EXECUTION AUTHORIZATION.** The City Clerk and Mayor be and they are hereby authorized and directed to execute the amended Retirement System Plan documents and to do all the other acts necessary to put said amendment into effect and to maintain IRS qualification of the Plan. The executed amended document attached hereto as Exhibit "A" is hereby ratified and confirmed in all respects.

Section 3. **SEVERABILITY.** If, regardless of cause, any section, subsection, paragraph, sentence, or clause of this ordinance, including the System as set forth in Exhibit "A" is held invalid or to be unconstitutional, the remaining sections, subsections, paragraphs, sentences, or clauses shall continue in full force and effect and shall be construed thereafter as being the entire provisions of this ordinance.

Section 4. **REPEALER.** Any ordinance inconsistent with the terms and provisions of this ordinance is hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

Section 5. **EMERGENCY**. Whereas, in the judgment of the City Council of the City of Checotah, Oklahoma, the public peace, health, safety, and welfare of the City of Checotah, Oklahoma, and the inhabitants thereof demand the immediate passage of this ordinance, an emergency is hereby declared, the rules are suspended, and this ordinance shall be in full force and effect on its passage and approval.

END

The foregoing ordinance was introduced before the City Council of the City of Checotah on the 10 day of August, 2020, and was duly adopted and approved by the Mayor and City Council on the 10 day of August, 2020, after compliance with notice requirements of the Open Meeting Law (25 OSA, Section 301, et seq.).

City of Checotah

MAYOR

ATTEST:

CITY CLERK

Approved as to form and legality on _____, _____.

CITY ATTORNEY

CITY OF CHECOTAH ORDINANCE NO. 602

AN ORDINANCE OF THE CITY OF CHECOTAH, OKLAHOMA, ADOPTING AND ENACTING THE (2021) "CHECOTAH CODE OF ORDINANCES"; COMPILED, REVISED AND PUBLISHED BY THE AUTHORITY OF THE CITY OF CHECOTAH CITY COUNCIL, OKLAHOMA, CONTAINING THE PERMANENT AND GENERAL ORDINANCES OF THE CITY OF CHECOTAH; ALSO REPEALING ALL ORDINANCES OF A PERMANENT AND GENERAL NATURE NOT INCLUDED IN THE CODE; PROVIDING FOR ADDITIONS AND AMENDMENTS TO THE CODE AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CHECOTAH, OKLAHOMA:

SECTION 1. Code Adopted and Enacted; Title.

The Code of Ordinances entitled "Checotah Code of Ordinances" is hereby adopted and enacted for the City of Checotah, Oklahoma, and shall be treated and considered as a new and original comprehensive Code of Ordinances which shall supersede all general and permanent Ordinances of the City, adopted on or before January 10, 2022, to the extent provided in Sections 2 and 3 hereof. Said Code may also be cited as the "Checotah City Code" or other appropriate title.

SECTION 2. Ordinance Provisions Adopted.

All of the Ordinance provisions included in the Code are hereby adopted and enacted, and shall be in full effect, whether (a) such provisions are included in the form as originally adopted, (b) are included in amended form, (c) are composed wholly or partially of new material, as authorized by law, or (d) such provisions include material contained in full or adopted by reference.

SECTION 3. Certain Permanent and General Ordinances Are Repealed.

All Ordinances and parts of Ordinances of a permanent and general nature in effect at the time of adoption of this Code but not included in this Code, are hereby repealed at the time this Code goes into effect.

SECTION 4. Temporary or Special Ordinances Omitted from Code Remain Effective.

The continuance in effect of any temporary and/or special Ordinances omitted from this Code, shall not be affected by such omission therefrom; the adoption of the Code shall not repeal or amend any such Ordinance or parts of any Ordinance omitted therefrom.

SECTION 5. Addition and Amendments to Code.

Any and all additions and amendments to such Code, when passed in such form as to indicate the intention of the Checotah, Oklahoma, City Council to make the same a part of such Code, shall be deemed to be incorporated in such so that reference to the "Checotah Code of Ordinances," or any other appropriate title, shall be understood and intended to include such additions and amendments.

SECTION 6. Emergency.

It being necessary for the health, safety and welfare of the residents of the City of Checotah, Oklahoma, that the new "Code of Ordinances" now available to the City, be adopted and implemented immediately, an emergency is hereby declared to exist, by reason whereof the provisions of this Ordinance and the "Code of Ordinances" adopted by reference herein, shall become effective immediately upon the passage and approval of this Ordinance, all as required by Law.

PASSED, ADOPTED AND APPROVED THIS 10 DAY OF January, 2022

City of Checotah

(SEAL)

By: David Terhune

Title: Mayor

ATTEST:

Tamara Moore

Deputy City, Clerk