

TONKAWA MUNICIPAL CODE 2021

CHAPTER 1 GENERAL PROVISIONS

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CHAPTER 1: GENERAL PROVISIONS

ARTICLE 1

USE AND CONSTRUCTION OF THE CODE

SECTION 1-101 HOW CODE DESIGNATED AND CITED.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated as "The City Code of Tonkawa Oklahoma," and may be so cited. The Code may also be cited as the City Code or in the provisions which follow, as the "Code."

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

SECTION 1-102 RULES OF CODE CONSTRUCTION; DEFINITIONS.

A. In the construction of this code and all ordinances, the following rules of construction and definitions shall be observed unless inconsistent with the manifest intent of the city council or the context clearly requires otherwise:

1. "Administrative regulations" means written orders which are issued by approval of the City Manager of the City;
2. Administrator" see "manager"
3. "And/or" means "or," and "or" may be read "and" if the sense requires it;
4. "Bond" means an obligation in writing, binding the signatory to pay a sum certain upon the happening or failure of an event;
5. "Building" means any structure intended to have walls and a roof;
6. "Building official" means the person appointed by the City Manager and designated as the city's building official;
7. "Business" means any profession, trade, occupation and any other commercial enterprise conducted for monetary reward;
8. "City" means the City of Tonkawa, in the County of Kay and State of Oklahoma;

9. "City limits" means within the city and includes not only the corporate limits of the city but also any property which it owns, or which is under its jurisdiction;
10. "City Manager" or "manager" means the City Manager of the city;
11. "Clerk" means the City Clerk;
12. "Council" means the governing body of the city, the city council;
13. "County" means Kay County, Oklahoma;
14. "Definitions" given within a chapter or article apply only to words or phrases used in such chapter or article unless otherwise provided;
15. "Designee," following an official of the city, means the authorized agent, employee or representative of such official;
16. "Gender" Words importing the masculine gender include the feminine and neuter as well as masculine;
17. "Health officer" means administrator of the cooperative department of the county and the city;
18. "Keeper" means one in possession of or who has the care, custody or superintendence of a thing, place, or business whether or not the owner or proprietor, and includes any person, firm, association, corporation, club and copartnership whether acting by themselves or by a servant, agent or employee;
19. "Law" means applicable federal law and court decisions, court decisions and provisions of the constitution and statutes of the state and ordinances of the city, and, when appropriate, any and all rules and regulations promulgated thereunder;
20. "Manager" means the City Manager of the city;
21. "May" is permissive and discretionary;
22. "Mayor" means the mayor of the city;
23. "Month" means a calendar month;

24. "Number" Words used in the singular include the plural and the plural includes the singular;
25. "Oath" means any form of attestation by which a person signifies that he is bound in conscience to perform an act or to speak faithfully and truthfully, and includes an affirmation or declaration in cases whereby law an affirmation may be substituted for an oath;
26. "Occupant" means tenant or person in actual possession;
27. "Operate" means carry on, keep, conduct, maintain, manage, direct, or superintend;
28. "Ordinances" mean the ordinances of the city and all amendments and supplements thereto;
29. "Owner" means one who has complete dominion over particular property and who is the one in whom legal or equitable title rests; when applied to a building or land, "owner" means any part owner, joint owner, owner of a community or partnership interest, life tenant, tenant in common, or joint tenant, of the whole or part of such building or land;
30. "Person" means any individual, natural person, joint stock company, partnership, voluntary association, club, firm, company, corporation, business trust, organization, or any other bodies corporate or politic or group acting as a unit, or the manager, lessee, agent, servant, partner, member, director, officer, or employee of any of them including an executor, administrator, trustee, receiver, or other representative appointed according to law;
31. "Personal property" means any money, goods, movable chattels, things in action, evidence of debt, all objects and rights which are capable of ownership, and every other species of property except real property;
32. "Preceding" and "following" means next before and next after, respectively;
33. "Proprietor" means an owner of the property or premises, including any person, firm, association, corporation, club, partnership, or other group acting as a unit, whether acting by themselves or by a servant, agent or employee;

33. "Public Place" means and includes any public street, road or highway, alley, lane, sidewalk, crosswalk, or other public way, or any public resort, place of amusement, stadium, athletic field, park, playground, public building, or grounds appurtenant thereto, school building or school grounds, public parking lot or vacant lot, the elevator, lobby, halls, corridors and areas open to the public of any store, office or apartment building, or any other place commonly open to the public;
34. "Real property" means land together with all things attached to the land so as to become a part thereof;
35. "Shall". The word "shall" is mandatory;
36. "Sidewalk" means that portion of a street between the curblineline and the adjacent property along the margin of a street or other highway, designed, constructed, and intended for the use of pedestrians to the exclusion of vehicles;
37. "Signature and subscription" mean the name of a person, mark or symbol appended by him to a writing with intent to authenticate the instrument as one made or put into effect by him;
38. "State" means the State of Oklahoma;
39. "Statutes" means the Oklahoma Statutes as they are now or as they may be amended to be;
40. "Street" means all streets, highways, avenues, boulevards, parkways, roads, lanes, viaducts, bridges and the approaches thereto, docks built on the public street, alleys, courts, places, squares, curbs, sidewalks, recreation and park lands used for vehicular traffic, or other public ways or thoroughfares in this city, over which it has jurisdiction, which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state;
41. "Tenant" means any person occupying the premises, building or land of another in subordination to such other person's title and with his express or implied assent, whether he occupies the whole or a part of those premises, building or land, whether alone or with others;

42. "Tense" Words used in the past or present tense include the future, past, and present where applicable unless the context clearly indicates otherwise;
43. "Time" means the hour of the day according to the official time of the day;
44. "Time of performance" means the time within which an act is to be done as provided in any section or any order issued pursuant to any section, when expressed in days, and is computed by excluding the first and including the last day. If the last day is a Sunday or legal holiday, that day shall not be counted in the computation. When the time is expressed in hours, the whole of Sunday or a legal holiday from midnight to midnight is excluded;
45. "Treasurer" means the city treasurer;
46. "Watercourse" means any drain, ditch, and stream, flowing in a definite direction or course in a bed with banks;
47. "Week" means seven (7) days;
48. "Writing" and "written" means any representation of words, letters, or figures, whether by printing or otherwise, capable of comprehension by ordinary visual means; and
49. "Year" means a calendar year.

B. Words and phrases are construed according to the common and approved usage of the language, but technical words and phrases and others that have acquired a peculiar and appropriate meaning in the law are construed and understood according to such meaning. (Prior Code, Sec. 10-1 - 10-5, as amended)

SECTION 1-103 CATCHLINES OF SECTIONS; CITATIONS.

The catchlines of sections in this code are printed in CAPITAL LETTERS and citations included at the end of sections are intended to indicate the contents of the section and original historical source respectively and shall not be deemed or taken to be titles and official sources of such sections; nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of the sections, including the catchlines, or citations, are amended or re-enacted.

SECTION 1-104 EFFECT OF REPEAL OF ORDINANCES.

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

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

SECTION 1-105 SEVERABILITY OF PARTS OF CODE.

It is hereby declared to be the intention of the Council that the sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph, or section of this code or of any ordinance in the code is declared unconstitutional, illegal or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code of ordinances.

SECTION 1-106 AMENDMENT TO CODE; EFFECT OF NEW ORDINANCES; AMENDATORY LANGUAGE.

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

B. Amendments to any of the provisions of this code may be made by amending the provisions by specific reference to the section of this code in substantially the following language: "Be it ordained by the Council of the City of Tonkawa, Oklahoma, that Section ___ of the code of ordinances of the City of Tonkawa, Oklahoma, is hereby amended to read as follows:" (Set out new provisions in full).

C. When the Council desires to enact an ordinance of a general and permanent nature on a subject not heretofore existing in the code, which the City desires to incorporate into the code, a section in substantially the following language may be made part of the ordinance:

Section _____. Be it ordained by the Council of the City of Tonkawa, Oklahoma, that the provisions of this ordinance shall become and be made a part of the code of ordinances of the City of Tonkawa, Oklahoma, and the sections of this ordinance may be re-numbered to accomplish this intention.

D. All sections, articles, chapters, or provisions of this code desired to be repealed may be specifically repealed by section or chapter number, as the case may be.

State Law Reference: Enactment of ordinances, 11 O.S. Sections 14-103 et seq.

SECTION 1-107 ALTERING CODE.

It is unlawful for any person to change or amend by additions or deletions any part or portion of this code, or to insert or delete pages or portions thereof, or to alter or tamper with this code in any manner whatsoever which will cause the law of the City to be misrepresented thereby. Any person violating this section shall be punished as provided in Section 1-108 of this Code.

Section 1-108 GENERAL PENALTY.

A. Except as otherwise provided by state law, whenever in this code or in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in the code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any provision of this code or of any ordinance, upon conviction, shall be punished by a fine of not exceeding:

1. The maximum fine or deferral fee in lieu of a fine for traffic-related offenses relating to speeding or parking shall not exceed Two Hundred Dollars (\$200.00). The maximum fine or deferral fee in lieu of a fine for alcohol-related or drug-related offenses shall not exceed Eight Hundred Dollars (\$800.00). For all other offenses, the maximum fine or deferral fee in lieu of a fine shall not exceed Seven Hundred Fifty Dollars (\$750.00).

2. Each day or any portion of a day during which any violation of this code or of any ordinance shall continue shall constitute a separate offense.

B. Any person who shall aid, abet or assist in the violation of any provision of this code or any other ordinance shall be

deemed guilty of a misdemeanor and upon conviction shall be punished as provided in this Section.

C. Subject to the provisions of Chapter 15, Section 15-406, or other limitation as imposed by law, costs may be charged and collected by the municipal court not of record not to exceed the sum of Thirty Dollars (\$30.00), any state authorized assessments or fees, and fees and mileage of jurors and witnesses.

State Law Reference: Maximum fine levied in courts not of record, \$200.00, 11 O.S. Section 14-111. Maximum fine levied without jury trial, \$100.00, 11 O.S. Section 27-119. Maximum fine levied by court with non-lawyer judge with appropriate CLE, \$100.00, 11 O.S. Section 27-119.

SECTION 1-109 FINES RECOVERABLE BY CIVIL ACTION.

All fines shall be recoverable by civil action before any court of competent jurisdiction in addition to any other method provided by law.

SECTION 1-110 ORDINANCES IN EFFECT IN OUTLYING TERRITORY OF CITY.

All ordinances of the City now in effect within the City are hereby extended to all real property belonging to, or under the control of, the City outside the corporate limits of the City, and shall be in full effect therein, insofar as they are applicable. All ordinances of the City which shall go into effect in the future, shall also apply to, and be in full effect within the boundaries of all outlying real property, insofar as they may be applicable. Any words in any ordinance indicating that the effect of an ordinance provision is limited to the corporate limits of the City shall be deemed to mean and include also the outlying real property belonging to, or under the control of, the City, unless the context clearly indicates otherwise.

SECTION 1-111 SCHEDULE OF FEES AND CHARGES CREATED.

A. There is hereby created a schedule of fees and charges, which shall contain those fees and charges for the various licenses, permits and other fees and charges as designated by the City Council. The schedule shall be kept on file in the office of the clerk, to whom all fees and charges shall be paid unless otherwise provided. A copy may be obtained upon payment of a fee as set forth in the schedule of fees and charges.

B. The schedule of fees and charges hereby created shall also be known and may be cited as the fee schedule.

C. The following shall be the bond schedule as of the adoption of this Code:

Charge	Fine	\$ of Ok. Stat. or Tonkawa MC
SPEED		
1 to 10 mph over posted limit	\$125.00	TMC \$ 15-401
11 to 20 mph over posted limit	\$150.00	TMC \$ 15-401
21 to 30 mph over posted limit	\$175.00	TMC \$ 15-401
31 or over posted Limit	\$200.00	TMC \$ 15-401
School Zone (1 to 15 over)	\$175.00	TMC \$ 15-402
School Zone (16 over)	\$200.00	TMC \$ 15-402
Failure to reduce weather/road	\$185.00	TMC \$ 15-403
Impede traffic movement	\$200.00	47 \$11-804(a)
Operating MV at speed not proper	\$200.00	TMC \$ 15-525
Reckless Driving	\$500.00	TMC \$ 15-406
Careless Driving	\$200.00	TMC \$ 15-523
Following too Closely	\$150.00	TMC \$ 15-508

DRIVER'S LICENSE

No Driver's License	\$150.00	TMC \$ 15-215
No Driver's License (subsequent)	\$150.00	TMC \$ 15-215
No Driver's License in possession	\$50.00	TMC \$ 15-215
Driving Under Suspension (DUS)	\$250.00	TMC \$ 15-216
DUS (subsequent)	\$300.00	TMC \$ 15-216
Violation of License Restriction	\$150.00	TMC \$ 15-215

ALCOHOL & DRUGS

Possession of Marijuana	\$400.00	TMC \$-1-114
Possession of Drug Paraphernalia	\$500.00	TMC \$ 10-805
Failure to Display License/Permit	\$250.00	TMC \$ 3-201
Drinking alcoholic beverage in public place	\$250.00	TMC \$ 3-202
Public Intoxication	\$250.00	TMC \$ 3-203
Minors, Parents, Guardians and Alcohol	\$500.00	TMC \$3-204
Possession or Consumption other Locations	\$250.00	TMC \$3-205
Social Host Ordinance	\$500.00	TMC \$3-206
Transportation of Open Container	\$500.00	TMC \$ 3-208
Contributing to Delinquency/Minor	\$500.00	21 O.S. \$ 856
Permitting Minor to Loiter	\$250.00	PMC \$3-210.11
Oper/Employee permitting intox person to remain	\$250.00	PMC \$3-210.12

Misrepresentation of Age to obtain alcohol beverage	\$250.00	PMC §3-210.13
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EQUIPMENT

Improper Equipment	\$150.00	TMC § 15-303
Mufflers	\$150.00	TMC § 15-304

Charge	Fine	§ of Ok. Stat. or Tonkawa MC
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Failure to use Seat Belt	\$20.00	TMC § 15-552
Failure to use Child Restraint	\$75.00	TMC § 15-552
Failure to Dim Headlights	\$150.00	47 §12-222

INSURANCE

Failure to Carry Security Verify	\$125.00	TMC § 15-228
Failure to Have Security Verify	\$250.00	TMC § 15-228
Failure to Pay Taxes due the State	\$150.00	47 §1151

TRAFFIC SIGNS

Failure to Stop at Stop Sign	\$150.00	TMC § 15-544
Failure to Stop for Red Light	\$150.00	TMC § 15-539
Failure to Yield from Stop Sign	\$150.00	TMC § 15-536
Failure to Stop for Bus	\$150.00	TMC § 15-514
Passing in no Passing Zone	\$150.00	47 §11-307.B.
Improper Passing on Right Side	\$150.00	TMC § 15-503
Driving Left of Center	\$150.00	47 §11-307.B.
Improper U-Turn	\$100.00	TMC § 15-904
Failure to Yield to Emergency MV	\$250.00	TMC § 15-211
Failure to Signal	\$150.00	47 §11-604

CRIMES AGAINST PUBLIC

Assault & Battery on Police Off.	\$500.00	21 § 649
Aggravated Assault & Battery	\$500.00	21 §646
Assault	\$250.00	TMC § 10-201
Battery	\$500.00	TMC § 10-202
Resisting Arrest	\$500.00	TMC § 10-602
Obstructing an Officer	\$500.00	TMC § 10-601
Petit Larceny	\$500.00	TMC § 10-305
Eluding an Officer	\$500.00	TMC § 10-507

MINORS

Minor in Possession of Alcohol	\$185.00	TMC § 10-3-204
Minor in Possession of Tobacco	\$100.00	TMC § 10-1003
Truancy - Minor or Parent	\$100.00	TMC § 10-1001

Curfew

\$150.00

TMC § 10-901

OTHER OFFENSES

Animal at Large	\$150.00	TMC § 4-102
Failure to Remain at Accident	\$250.00	TMC § 15-219
Failure to Provide information	\$250.00	TMC § 15-219
Failure to Report Accident	\$250.00	TMC § 15-219
Allowing unauthorized driver	\$250.00	47 §6-304
Interfering with Driver's View	\$150.00	47 §11-1104
Operating MV in unsafe condition	\$150.00	47 §13-101
Improper Backing	\$150.00	TMC § 15-517
Parking in Handicap Space	\$250.00	TMC § 15-726
Trespassing (private)	\$250.00	TMC § 10-303
Trespassing (public)	\$250.00	TMC § 10-302
Tampering with Property	\$250.00	TMC § 10-304
Disturbing the Peace	\$250.00	TMC § 10-501
Fighting Words	\$250.00	TMC § 10-504
Obtaining Utility Service W/out	\$500.00	TMC § 10-307
Failure to Appear or Obey Promise	\$500.00	TMC § 6-134
Accumulation Weeds and Trash	\$250.00	TMC § 8-101
Violation of Building/Zoning Code	\$250.00	Throughout TMC

Except for seat belt and parking violations, costs in all cases shall be Thirty Dollars (\$30.00).

In addition to the above-mentioned fines and costs, all appropriate state assessments are required to be paid.

For those charges specifically listed hereinabove, the bond will be the amount of the fine plus costs and assessments.

All traffic violations not otherwise listed shall be bonded for \$200.00 and costs, unless the fine for such same offense in district court is less than \$200.00, in which case the fine shall be the amount charged in the district court for the same offense.

All Criminal violations not otherwise listed shall be bondable for \$500.00 and costs unless the fine for such same offense in district court is less than \$500.00, in which case the fine shall be the amount charged in the district court for the same offense.

The following deferral fees and administrative fees are properly charged in appropriate cases:

The maximum fine or deferral fee in lieu of a fine for traffic-related offenses relating to speeding or parking shall not exceed Two Hundred Dollars (\$200.00). The maximum fine or deferral fee in lieu of a fine for alcohol-related or drug-related offenses shall

not exceed Eight Hundred Dollars (\$800.00). For all other offenses, the maximum fine or deferral fee in lieu of a fine shall not exceed Seven Hundred Fifty Dollars (\$750.00). The court shall remit Fifty Dollars (\$50.00) of each alcohol fine or deferral fee to a restricted cash account of the City that shall be used to defray costs for enforcement of laws relating to juvenile access to alcohol, other laws relating to alcohol and other intoxicating substances, and traffic-related offenses involving alcohol or other intoxicating substances. The maximum fine requiring a jury trial if demanded shall be a fine greater than Five Hundred Dollars (\$500.00), excluding court costs. If a deferred sentence is imposed, a deferral fee in the amount of Fifty Dollars (\$50.00) may be imposed by the court as costs in the case, in addition to any administrative fee otherwise authorized by law and in addition to other fines, costs, fees and assessments authorized by ordinance or otherwise. The court shall require a person who is received into custody at the jail facility, for any offense, to reimburse the City for the costs of incarceration, both before and after conviction, upon conviction or receiving a deferred sentence. The costs of incarceration of \$30.00 shall be collected by the Court Clerk as provided for the collection of other fines and costs. Costs of incarceration shall include booking, receiving, and processing out, housing, food, clothing, medical care, dental care and psychiatric services, and applies whether such incarceration occurs in the city jail or county jail. There is hereby established a technology fee in the amount of Eleven Dollars (\$11.00). The fee shall be in addition to and not in substitution of any fine and penalty otherwise provided for by law for all offenses and assessed on every citation disposed of in the municipal court except those that are voided, declined for prosecution, dismissed without costs, or the defendant is acquitted. The revenues generated by this fee shall be deposited in a nontransferable interest-bearing account and used solely and exclusively for the acquisition, operation, maintenance, repair and replacement of data processing equipment and software related to the administration of the criminal justice system and costs of prosecution.

SECTION 1-112 INSPECTIONS AND RIGHT OF ENTRY.

A. To enforce the provisions of this code, the City Manager or his designee or any other person designated by this code or otherwise shall have a right of entry on premises for inspection purposes in the manner and to the extent as may be authorized by applicable law. This right of entry shall be a condition of any permit, license, grant or any utility service with or provided by the city. For the purpose of this section, inspection includes records and papers on the premises or of the permittee, licensee, grantee, or customer relating to the permit, license, grant or

service.

B. Emergency inspections may be authorized if the City Manager or his designated representative has reason to believe that a condition exists which poses an immediate threat to life, health, or safety. Such procedure shall take place in accordance with applicable law.

C. Where the City Manager or other designated representative is otherwise impeded or prevented by the owner, occupant, or operator from conducting an inspection of the premises, such person shall be in violation of this section.

SECTION 1-113 SEARCH WARRANT OR ACCESS WARRANT

A. Any officer designated by the city to inspect a premise may, upon affidavit, apply to the judge of competent jurisdiction for a search warrant setting forth factually the actual conditions and circumstances that provide a reasonable basis for believing that a nuisance or violation of this code may exist, including one or more of the following;

1. That the premises or records require inspection according to the cycle established by the inspecting officer for periodic inspections of records, buildings or premises of the type involved;
2. That observation of external conditions of the premises and its public areas has resulted in the belief that violations of this code exist; or
3. That any other reasonable basis exists as may be authorized by law.

B. If the judge of competent jurisdiction is satisfied as to the matters set forth in the affidavit, he shall authorize the issuance of a search warrant permitting access to and inspection of that part of the premises on which the nuisance or violation may exist.

Section 1-114 ADOPTION BY REFERENCE OF TITLES 21, 37, 37A AND CERTAIN SECTIONS OF TITLE 47 AND TITLE 63 OF THE OKLAHOMA STATUTES, AS AMENDED, AS MUNICIPAL ORDINANCES; DRUGS AND RELATED SUBSTANCES.

A. Title 21 of the Oklahoma Statutes, as amended, is hereby adopted, and incorporated herein by reference, but only to the extent such sections provide for criminal misdemeanor offenses and are enforceable by the city within the city limits as if set out at length herein. Unless otherwise specifically provided otherwise

in this Code, all violations of such sections shall be punishable by a maximum fine of \$500.00, plus court costs, fees, and state assessments, provided however, if the penalty including costs for the state offense is less than the amount as provided hereinabove, then the fine and costs shall not exceed the amount charged by statute for the same offense.

B. Titles 37 and 37A of the Oklahoma Statutes, as amended, are hereby adopted, and incorporated herein by reference, but only to the extent such sections provide for criminal misdemeanor offenses and are enforceable by the city within the city limits as if set out at length herein. Unless otherwise specifically provided otherwise in this Code, all violations of such sections shall be punishable by a maximum fine of \$500.00, plus court costs, fees, and state assessments; provided however, if the penalty including costs for the state offense is less than the amount as provided hereinabove, then the fine and costs shall not exceed the amount charged by statute for the same offense.

C. The following sections of Title 47 of the Oklahoma Statutes, as amended, namely, §§ 4-101 et seq., §§ 6-101 et seq., §§ 7-101 et seq., §§ 10-101 et seq., §§ 11-101 et seq., §§ 12-101 et seq., §§ 13-101 et seq., and §§ 14-101 et seq., are hereby adopted and incorporated herein by reference, but only to the extent such sections provide for criminal misdemeanor offenses and are enforceable by the city within the city limits as if set out at length herein. Unless otherwise specifically provided otherwise in this Code, all violations of such sections shall be punishable by a maximum fine of \$200.00, plus court costs, fees, and state assessments, provided however, if the penalty including costs for the state offense is less than the amount as provided hereinabove, then the fine and costs shall not exceed the amount charged by statute for the same offense.

D. The following sections of Title 63 of the Oklahoma Statutes, as amended, namely, §§ 2-402 and 2-405, are hereby adopted and incorporated herein by reference, but only to the extent such sections provide for criminal misdemeanor offenses and are enforceable by the city within the city limits as if set out at length herein. Unless otherwise specifically provided otherwise in this Code, all violations of such sections shall be punishable by a maximum fine of \$500.00, plus court costs, fees, and state assessments, provided however, if the penalty including costs for the state offense is less than the amount as provided hereinabove, then the fine and costs shall not exceed the amount charged by statute for the same offense.

E. Drugs and Related Substances:

1. Definitions: As used in this section, the following words and phrases shall have the meanings respectively ascribed to them in this section:

"Controlled Dangerous Substance" shall be as defined in 63 Oklahoma Statutes section 2-101.

"Marijuana" shall be defined as all parts of a plant of the genus cannabis, whether growing or not; the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture, or preparation of a plant of that type or of its seeds or resin. "Marijuana" does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination.

2. Possession of Illegal Drugs:

a. It is unlawful for any person knowingly or intentionally to possess any controlled dangerous substance other than marijuana unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner, while acting in the course of his professional practice, or except as authorized by State law.

b. The violation of this subsection 2a, shall be punishable by a fine of not more than five hundred dollars (\$500.00) plus court costs, fees and state assessments.

3. Possession of Marijuana:

a. It is unlawful for any person to knowingly or intentionally possess marijuana without an Oklahoma State issued medical marijuana license.

b. It is unlawful for any person with an Oklahoma State issued medical marijuana license to knowingly or intentionally possess marijuana in quantities greater than permitted by state law.

c. The violation of subsections 3a and/or 3b, shall be punishable by a fine of not more than four hundred dollars (\$400.00) plus costs, fees and state assessments.

ARTICLE 2

CORPORATE LIMITS

SECTION 1-201 MAP OF CITY DESIGNATED AS OFFICIAL MAP.

The map of the City showing its territorial limits is hereby designated as the official map of the City, and the corporate limits as shown thereon are declared to be the true and correct corporate limits of the City, including all annexations made to the City through and including the date of this code.

SECTION 1-202 WARD BOUNDARIES.

The four (4) wards of the city shall consist of the territory located within the city limits and containing the territory shown as follows:

1. Ward One (1) consists of that portion of the city limits enclosed within the following described boundaries: All that part of the city lying east of the former Atchison, Topeka and Santa Fe Railway and lying north of the center line of Grand Avenue and north of a line which line shall begin at the intersection of the center lines of Grand Avenue and the former Atchison, Topeka and Santa Fe Railway and extend east to the east city limits of the city and which line shall coincide with and be parallel to the center line of Grand Avenue;
2. Ward Two (2) consists of that portion of the city limits enclosed within the following described boundaries: All that part of the city lying west of the former Atchison, Topeka and Santa Fe Railway and lying north of the center line of Grand Avenue and east of the center lines of Main Street and east of Main Street and Grand Avenue and extend north to the north city limits of the city and which line shall coincide with and be parallel to the center line of Main Street;
3. Ward Three (3) consists of that portion of the city limits enclosed within the following described boundaries: All that part of the city lying west of Main Street and west of a line which line shall begin at the south city limits of the city and extend north to the north city limits of the city and which line shall coincide with and be parallel to the center line of Main street: and
4. Ward Four (4) consists of that portion of the city limits enclosed within the following described boundaries: All that

part of the city lying east of the center line of Main Street and lying south of the center line of Grand Avenue; and east of a line which line shall begin at the intersection of the center lines of Main street and Grand Avenue and extend south to the south city limits of the city and which line shall coincide with and be parallel to the center line of Main Street, and south of a line which line shall begin at the intersection of the center lines of Main street and Grand Avenue and extend east to the east city limits of the city and which line shall coincide with and be parallel to the center line of Grand Avenue.

State Law Reference: Review of wards after each federal census, 11 O.S. 20-101; changing wards, 11 O.S. 20-102 to 20-105.

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CHAPTER 2: ADMINISTRATION AND GOVERNMENT

ARTICLE 1

GOVERNMENT ORGANIZATION

SECTION 2-101 FORM OF GOVERNMENT

The city is governed under the council-manager form of government. All powers of the city shall be exercised in the manner prescribed by state law, by the city code, and in such manner prescribed by ordinances adopted by the city council.

State Law Reference: Council-manager form of government, Sections 10-101 et seq. of Title 11 of the Oklahoma Statutes.

SECTION 2-102 CITY COUNCIL

A. The City Council shall consist of five (5) members. Four (4) Councilmembers shall be selected from each ward of the city and one (1) councilmember at large.

B. Qualifications of Councilmembers. The councilmembers shall be residents and registered voters of the city. The councilmembers from wards shall be actual residents of their respective wards at the time of their candidacy and election; but removal of a councilmember from one ward to another within the city after his election, or a change in ward boundaries, shall not disqualify him from completing the term for which he was elected.

C. Election of Mayor and Vice-Mayor. The council shall elect from among its members a Mayor and a Vice-Mayor. The Mayor and vice-Mayor shall be elected in each odd-numbered year at the first council meeting held after council terms begin, or as soon thereafter as practicable, and they shall serve until their respective successors have been elected and qualified.

SECTION 2-103 MEETINGS OF THE COUNCIL

A. A regular meeting of the council shall be held at a date, time, and location as pe-determined and set pursuant to the Oklahoma Open Meting Act and normally held in the council chambers at city hall unless, in the case of an emergency or special meeting, the Mayor, City Manager or council members calling the emergency or special meeting designate another place, date or time for holding the emergency or special meeting. The City Clerk shall make available the date, time, and location of all regular meeting of the City Council on the window at City Hall by January 1 of each successive year. Any adjourned meeting may be held at any other

place in the city designated by the council. If such a Tuesday falls on a holiday, the regular meeting may be held at that time of the next day which is not a regular holiday or Sunday, or other day as determined by the City Council.

B. Emergency or special meetings may be called by the Mayor, City Manager or any two (2) council members.

C. The council may from time to time adopt rules to govern the proceedings of the council.

State Law Reference: See also Open Meetings Act, 25 O.S. Sec. 301 et seq.

SECTION 2-104 MAYOR'S POWERS AND DUTIES, VICE MAYOR.

The Mayor shall preside at meetings of the council and shall certify to the correct enrollment of all ordinances and resolutions passed by it. He shall be recognized as head of the city government for all ceremonial purposes and by the Governor for purposes of military law. He shall have no regular administrative duties except that he shall sign all conveyances and other written obligations of the city as the council may require. The Vice-Mayor shall act as Mayor during the absence, disability, or suspension of the Mayor. The Mayor and Vice Mayor shall have all the powers and duties, prescribed by the city code, and state law, and as may be prescribed by ordinance.

State Law Reference: Mayor powers and duties, 11 O.S. 10-105.

SECTION 2-105 COUNCIL'S POWERS AND DUTIES; DESIGNATED POWERS.

All powers of a statutory council-manager city, including the determination of matters of policy, shall be vested in the council. Without limitation of the foregoing, the council may:

1. Appoint and remove the City Manager as provided by law;
2. Enact municipal legislation subject to limitations as may now or hereafter be imposed by the Oklahoma Constitution and law;
3. Raise revenue, make appropriations, regulate salaries and wages, and all other fiscal affairs of the city, subject to such limitations as may now or hereafter be imposed by the Oklahoma Constitution and law;

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

5. Appoint or elect and remove its own subordinates, members of commissions and boards and other quasi-legislative or quasi-judicial officers as provided by law, or prescribe the method of appointing or electing and removing them;

6. Create, change, and abolish offices, departments and agencies other than those established by law, and assign additional functions and duties to offices, departments and agencies established by this article; and

7. Grant pardons for violations of municipal ordinances, including the remission of fines and costs, upon the recommendation of the municipal judge.

SECTION 2-106 VACANCY IN THE OFFICE OF MAYOR OR VICE-MAYOR.

When a vacancy occurs in the office of Mayor, the Vice-Mayor shall become the Mayor for the duration of the unexpired term. When a vacancy occurs in the office of Vice-Mayor, the council shall elect another Vice-Mayor from among its members for the duration of the unexpired term.

SECTION 2-107 CITY MANAGER APPOINTMENT BY COUNCIL, POWERS AND DUTIES

A. The council shall appoint a City Manager for an indefinite term by a vote of a majority of all its members. It shall choose him solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office. At the time of his appointment, the City Manager need not be a resident of the city or state; but during the tenure of his office, he shall reside within the city. The City Manager may appoint himself, or the council or other authority may appoint or elect him, to other offices and positions in the city government, subject to regulations prescribed by ordinance; but he may not receive compensation for service in such other offices or positions. Neither the Mayor nor any members of the city council may be appointed City Manager during the term for which he shall have been elected nor within two (2) years after the expiration of his term.

B. The City Manager shall be the chief executive officer and head of the administrative branch of the city government. He shall

execute the laws and administer the government of the city and shall be responsible therefor to the council. He shall:

1. Appoint, and when necessary for the good of the service, remove, demote, lay off or suspend all heads of administrative departments and other administrative officers and employees of the city except as otherwise provided by law. The manager or the council by ordinance may authorize the head of a department, office, or agency to appoint and remove the subordinates in such department, office or agency;

2. Supervise and control all administrative departments, officers, and agencies;

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

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

5. Keep the council advised of the financial condition and future needs of the city, and make recommendations as he deems desirable; and

6. Perform such other duties as may be prescribed by law or by ordinance.

SECTION 2-108 LIMITATION OF COUNCIL AUTHORITY TO ACT THROUGH CITY MANAGER.

Except for the purposes of inquiry, the council and its members shall deal with the administrative service of the city solely through the City Manager. The council and its members may not:

1. Direct or request the City Manager or other authority to appoint or remove officers or employees;

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

3. Give orders on ordinary administrative matters to any subordinate of the City Manager either publicly or privately.

SECTION 2-109 DESIGNATION OF ACTING CITY MANAGER.

The City Manager, by letter filed with the City Clerk, may appoint a qualified administrative officer of the city to be acting City Manager during the temporary absence or disability of the City Manager. The council may appoint an acting City Manager whenever:

1. The manager fails to make such designation;
2. The council suspends the City Manager; or
3. There is a vacancy in the office of City Manager.

SECTION 2-110 SUSPENSION OR REMOVAL OF CITY MANAGER.

The council may suspend or remove the City Manager or acting City Manager at any time by a vote of a majority of all its members.

SECTION 2-111 PURCHASES AND SALES BY CITY MANAGER; COMPETITIVE BIDDING; TRANSFER OF MANAGER'S POWERS.

A. The City Manager shall contract for, purchase, or issue purchase authorizations for all supplies, materials, and equipment for offices, departments, and agencies of the city government, subject to any regulations which the council may prescribe. Every contract or purchase exceeding an amount to be established by the council shall require the prior approval of the council. The City Manager may also sell or transfer to or between offices, departments, and agencies surplus or obsolete supplies, materials, and equipment, subject to regulations the council may prescribe.

B. The council may prescribe requirements and procedures for competitive bidding. Notice and opportunity for competitive bidding shall be given before a purchase or contract for supplies, materials, or equipment is made, and before a sale of any surplus or obsolete supplies, materials, or equipment is made, in accordance with regulations the council may prescribe. The council shall not exempt a particular contract, purchase, or sale from the requirement of competitive bidding.

C. The council may transfer some or all of the power granted to the City Manager pursuant to the provisions of this section to an employee appointed by and subordinate to the City Manager.

SECTION 2-112 APPOINTMENTS AND REMOVALS.

Appointments and promotions shall be made solely on the basis of merit and fitness; and removals, demotions, suspensions, and layoffs shall be made solely for the good of the service. The council by ordinance may establish a merit system and provide for its organization and functioning and provide for personnel administration and regulation of personnel matters.

SECTION 2-113 CITY OFFICIALS AND EMPLOYEES; SUSPENSION OR REMOVAL; SUCCESSORS.

An officer or employee may be suspended, demoted, laid off or removed by the City Manager or other authority which has the power to appoint or elect the officer or employee. The City Manager or other authority which has the power to appoint or elect the successor of an officer or employee may appoint or elect a person to act during the temporary absence, disability or suspension of such officer or employee, or, in the case of a vacancy, until a successor is appointed or elected and qualified. The council may ordain that a particular superior or subordinate or deputy of such officer or employee shall act in such cases.

SECTION 2-114 CITY CLERK APPOINTMENT, DUTIES.

The City Clerk is an officer of the city, appointed by the City Manager for an indefinite term and removable by the City Manager. The City Clerk is an officer of the city and has supervision and control of the department of finance. The City Clerk shall collect or receive all revenue and other monies of the city and shall deposit same with the city treasurer or for the city treasurer in an account or accounts maintained by the treasurer in a depository. The City Clerk shall maintain a general accounting system for the city government. He shall have such other powers, duties and functions as may be prescribed by applicable law or ordinance.

State Law Reference: City Clerk appointment and duties, 11 O.S. 10-117.

SECTION 1-115 CITY TREASURER APPOINTMENT, DUTIES.

The city treasurer is an officer of the city, appointed by the city council for an indefinite term. The city treasurer shall deposit daily all funds coming into his hands for the city in such depositories as the council may designate and shall disburse such funds in the manner provided by applicable laws or ordinances. He shall have such other powers, duties and functions as may be

prescribed by applicable law or by ordinance.

State Law Reference: Treasurer appointment and duties, 11 O.S. 10-118.

SECTION 2-116 SAME PERSON MAY SERVE AS CLERK AND TREASURER.

The same person may hold both the office of City Clerk and city treasurer. If the offices of city treasurer and City Clerk are held by the same person, such person shall be paid for the duties of such offices with a single paycheck.

SECTION 2-117 CITY ATTORNEY.

There shall be a department of law, the head of which is the city attorney, appointed by the City Manager for an indefinite term, and removable by the City Manager. The city attorney is an officer of the city. The city attorney is the chief legal adviser of the council, all officers, departments, and agencies of the city in matters relating to their official powers and duties. He represents the city in proceedings in the courts and performs all services incident to his position which may be required by law or ordinances.

Note: City Manager made appointing authority by Ordinance No. 96-4 adopted on September 17, 1996.

SECTION 2-118 ADMINISTRATIVE DEPARTMENTS, OFFICERS AND AGENCIES.

A. The following departments are established and may be changed by motion or action of the city council: street and alley, water, and sewer, electric, fire and police. These departments shall have such duties as the council and manager may prescribe.

B. There shall be such other administrative departments, agencies and officers as the council may establish.

SECTION 2-119 BONDS FOR CITY OFFICERS AND EMPLOYEES.

The City Manager, the clerk, the treasurer, the municipal court clerk, the city utility clerk and such officers and employees as are designated by the city council shall, before entering upon the discharge of their duties, execute and file with the City Clerk surety bonds issued by a surety company authorized to operate in the state conditioned upon the faithful performance of their duties. The city shall pay the premium on such bonds.

SECTION 2-120 COOPERATIVE HEALTH DEPARTMENT.

The cooperative health department of the county and its director shall have the powers of a city health department and city health officer respectively of the city. References to health department or health officer or director of the health department in this code and in other ordinances of the city mean the cooperative health department and its director unless the context clearly indicates another meaning.

SECTION 2-121 RULES OF ORDER AND PROCEDURE.

A. The Council may determine its own rules and may compel the attendance of absent members in the manner and under penalties as the Council may prescribe. Whenever a councilmember is absent from more than one-half of all meetings of the Council, regular and special, held within any period of four (4) consecutive months, he shall thereupon cease to hold office.

B. The order of business for each meeting of the Council may be as posted on the agenda for the meeting.

C. The following rules of procedure shall apply to any regular or special meeting of the Council unless two (2) councilmembers agree to waive the rule or rules:

1. If requested by the Mayor or any councilmember, any motion shall be reduced to writing;

2. A motion to reconsider any of the proceedings of the Council shall not be entertained unless it is made by a councilmember who previously voted in the majority;

3. No motion shall be debated or put until it be seconded and stated by the Mayor. It is then and not until then in possession of the Council and cannot be withdrawn but by leave of the Council;

4. A motion to adjourn shall be in order at any time, except as follows:

- a. When repeated without intervening business or discussion;
- b. When made as an interruption of a councilmember while speaking;
- c. When the previous question has been ordered; or

- d. While a vote is being taken.

A motion to adjourn is debatable only as to the time to which the meeting is adjourned;

5. When a question is under debate, no motion shall be received but:

- a. To adjourn;
- b. To lay on the table;
- c. For the previous question;
- d. To postpone to a day certain;
- e. To commit;
- f. To amend; or
- g. To postpone indefinitely,

which several motions shall have precedence in the order they stand arranged;

6. When a proper motion is made, but information is wanted, the motion is to postpone to a day certain;

7. Matters claiming present attention for which it is desired to reserve for more suitable occasion, the order is a motion to lay on the table; the matter may then be called for at any time. If the proposition may need further consideration at the hands of a committee, the motion is to refer to a committee, but if it needs but a few and simple amendments, the Council shall proceed to consider and amend at once;

8. On an amendment being moved, a councilmember who has spoken on the main question may speak again to the amendment;

9. The question is to be put first on the affirmative and then on the negative side. After the affirmative part of the question has been put, any councilmember who has not spoken before to the question may arise and speak before the negative to be put; and

10. When a question has been moved and seconded and has been put by the presiding officer in the affirmative and negative, it cannot be debated unless under motion for reconsideration.

SECTION 2-122 PERSONNEL MANUAL ADOPTED

A. There is hereby created a Personnel Policy and Procedures Manual for the employees of the City of Tonkawa, which Personnel Manual is adopted as of the 21st day of June 2017, as amended. The Personnel Manual sets out guidelines which may be used in implementing the personnel policies, employee benefit programs and wage plans of the City of Tonkawa. The Personnel Manual establishes no property or contract rights or liberty interests in continued employment, wages or benefits or any other matter for employees of the City. Except as otherwise provided by state law, all employees of the City of Tonkawa shall serve at the will of the appointing authority and removals, demotions, suspensions, and layoffs shall be made solely for the good of the service. Appointments and promotions shall be made solely on the basis of merit and fitness.

SECTION 2-123 COMPENSATION

Neither the Mayor nor any councilmember shall receive any compensation for service to the City but may receive reimbursement of reasonable expenses.

SECTION 2-124 COMPENSATION OF EMPLOYEES, NUMBER AND CLASSES OF PERSONNEL.

A. The compensation of all other officers and employees excepting those whose compensation the law requires to be set by ordinance, may be determined by motion or resolution adopted by the City Council, and may be changed at any time in the same manner.

SECTION 2-125 SALARIES OF CERTAIN OFFICERS NOT TO BE CHANGED AFTER ELECTION OR APPOINTMENT.

In no case shall the salary or emoluments of any City officer elected or appointed for a definite term, be changed after his election or appointment or during his term of office unless by operation of an ordinance passed prior to such election or appointment, such being prohibited by the Constitution, Article 23, Section 10. This provision shall not apply to officers chosen for indefinite terms nor to employees.

SECTION 2-126 OATHS.

A. All officers of the City, but not employees, are required to take the oath or affirmation of office prescribed by the state constitution before they enter upon their duties.

B. Both officers and employees are currently required to take and subscribe to the loyalty oath prescribed by state law.

SECTION 2-127 OFFICERS TO CONTINUE UNTIL SUCCESSORS ARE ELECTED AND QUALIFY.

Every officer who is elected or appointed for a definite term, shall continue to serve thereafter until his successor is elected or appointed and qualifies, unless his services are sooner terminated by resignation, disqualification, removal, death, abolition of the office, or other legal matter.

SECTION 2-128 APPOINTMENT OF PERSONNEL IN EMERGENCIES.

The City Manager may, in an emergency situation, appoint such other officers and employees as he may deem necessary to protect the health, safety and welfare of the citizens of the City during the existence of an emergency, subject to the approval of the City Council as soon as a special meeting or regular meeting can reasonably be called or held therefor. The City Council may determine the compensation of such emergency employees by motion or resolution and may direct the demotion, layoff, or removal of such personnel at the conclusion of the emergency. For the purposes of this section, the term "emergency" shall be defined to mean an unexpected or unforeseen contingency or catastrophic event affect the health, safety, or welfare of the citizens of the City.

ARTICLE 2 AND 3 - RESERVED

ARTICLE 4

SOCIAL SECURITY

SECTION 2-401 DECLARATION OF POLICY TO COME UNDER COVERAGE.

Except those employees whose may be specifically and legally exempted from compliance with this ordinance, it is hereby declared to be the policy and purpose of the City to extend, at the earliest date, to the eligible employees and officials of the City the benefits of the system of Federal Old-Age and Survivors Insurance as authorized by the Federal Social Security Act and all amendments thereto, and Sections 121 et seq. of Title 51 of the Oklahoma Statutes. In the pursuance of this policy, the officers and employees of the City shall take such action as may be required by applicable state or federal laws or regulations.

State Law Reference: Social security coverage for local governments, 51 O.S. § 125.

SECTION 2-402 EXECUTION OF AGREEMENT WITH STATE AGENCY.

The Mayor is authorized and directed to execute all necessary agreements and amendments with the State Department of Human Services to accomplish the provisions of Section 2-401 of this code.

SECTION 2-403 WITHHOLDINGS.

Withholdings from salaries or wages of employees and officials for the purposes provided in Section 2-401 of this code are hereby authorized to be made in the amounts and at such times as may be required by applicable state and federal laws or regulations and shall be paid over to the state or federal agency designated by the laws and regulations.

SECTION 2-404 CONTRIBUTIONS.

Employer contributions shall be paid from amounts appropriated for these purposes from available funds to the designated state or federal agency in accordance with applicable state or federal laws or regulations.

SECTION 2-405 RECORDS AND REPORTS.

The City shall keep such records and submit such reports as may be required by applicable state or federal laws or regulations.

SECTION 2-406 EXCLUSIONS.

Excluded from this chapter authorizing the extension of social security benefits to City officers and employees are the following:

1. Any authority to make any agreement with respect to any position, employee or official now covered or authorized to be covered by any other ordinance creating any retirement system for any employee or official of the City; or

2. Any authority to make any agreement with respect to any position, employee or official for which compensation is on a fee basis, or any position, employee or official not authorized to be covered by applicable state or federal laws or regulations.

SECTION 2-407 POLICE INCLUDED.

All police personnel of the City shall hereafter be covered by the social security program along with personnel already covered by the program, and proper deductions from police payrolls shall

hereafter be made in order to comply with social security laws and regulations.

ARTICLE 5

RETIREMENT AND PENSIONS

DIVISION 1

FIRE PENSION SYSTEM

SECTION 2-501 FIRE FIGHTER PENSION AND RETIREMENT SYSTEM

There is hereby created, for the purpose of providing pension retirement allowance and other benefits for fire fighters of the city, a fire fighters pension and retirement system. It is declared to be the official policy of the city to participate in the pension system as provided by state law.

State Law Reference: Firefighter's pension system, 11 O.S. Secs. 49-101 et seq.

SECTION 2-502 SYSTEM TO BE OPERATED IN ACCORDANCE WITH LAW.

- A. The fire fighters' pension and retirement system as established by Sections 49-100.1 et seq. of Title 11 of the Oklahoma Statutes is hereby adopted by reference.
- B. There is hereby created the Council of the fire relief and pension fund of the city. The Council of the fire fighters' pension and retirement system, servicing the fire fighters of the city, shall be constituted as provided by state law and shall have the powers and duties prescribed thereby.

DIVISION 2

POLICE PENSION AND RETIREMENT SYSTEM

SECTION 2-510 POLICE PENSION AND RETIREMENT SYSTEM

There is hereby created the "Council of the Police Pension and Retirement System", which board is hereby vested with full power and authority to administer and provide for the distribution of all sums of money coming into and constituting the funds of the "Police Pension and Retirement System" as provided for by Title 11 of the Oklahoma Statute, and any amendments that may be made thereto in the future. For such purpose, the provisions of the statutes with reference thereto upon the taking effect of this article are hereby

adopted as though literally rewritten and restated herein, except insofar as the other provisions prescribe or this and other ordinances of the city shall conflict therewith, in which event the provisions of this and such other ordinances shall be effective and prevail.

SECTION 2-511 CONTRIBUTIONS AND APPROPRIATIONS

- A. The city shall appropriate for the use and benefit of the police pension system a sum as required, reflecting a percent of annual salaries of its police officers.

2. Police officers shall contribute to the funds of the police pension system a sum as required, equal to a percent of salaries, and shall authorize the city to deduct such sum from their salaries. No police officer shall receive any of the benefits provided for in the police pension system unless he shall have contributed to such funds as provided herein while hereafter employed as such police officer. Any police officer who is employed by the city shall as a condition of his employment, agree to contribute to the fund a percent of his salary as required.

DIVISION 3

EMPLOYEE RETIREMENT SYSTEM

SECTION 2-520 EMPLOYEE RETIREMENT SYSTEM CREATED

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 efficient there is hereby authorized created, established, and approved and adopted, effective as of October 1, 2015, the amended and restated Plan designated "Employee Retirement System of the City of Tonkawa, Oklahoma, Defined Contribution 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.

Ed Note: Exhibit A is on file in the City Clerk's office and is available for public inspection. The latest amendment was approved by Ordinance No. 2019-07, which amendments are incorporated by reference as if fully set out and are found in the Office of the City Clerk.

SECTION 2-521 ADMINISTRATION.

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

SECTION 2-522 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 2-523 APPROPRIATIONS.

The City of Tonkawa, Oklahoma, is hereby authorized to incur the necessary expenses for the establishment, operation, and administration of the System, and to appropriate and pay the share. In addition, the City of Tonkawa, 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 Contribution 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 2-524 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 Tonkawa, Oklahoma, to pool and combine the Fund into the Oklahoma Municipal Retirement Fund as part thereof, with similar funds of such other cities and towns, for purposes of pooled management and investment.

SECTION 2-524 CONFLICTING LAWS.

Any ordinance inconsistent with the terms and provisions of this chapter is hereby repealed, provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this chapter shall be cumulative of other ordinances regulating and governing subject matter covered by this chapter.

ARTICLE 6

CITY RECORDS

SECTION 2-601 APPOINTMENT OF OFFICIAL CUSTODIANS.

The following City officials are hereby appointed as official custodians for purposes of the Oklahoma Open Records Act and are charged with responsibility for compliance with that act with respect to the following listed public records:

1. City Clerk. All public records kept and maintained in the City and court clerk's office and all other public records not provided for elsewhere in this chapter;

2. City treasurer. All public records not on file in the office of the City Clerk and kept and maintained in the City treasurer's office;

3. Chief of police. All public records not on file in the office of the City Clerk and kept and maintained in the City police department;

4. Fire chief. All public records not on file in the office of the City Clerk and kept and maintained in the City fire department;

5. City attorney. All public records not on file in the office of the City Clerk and kept and maintained in the City attorney's office;

6. City Manager. All public records not on file in the office of the City Clerk and kept and maintained in the City Manager's office;

6. Court clerk. All public records not on file in the office of the City Clerk and kept and maintained in the municipal court.

State Law Reference: Open Records Act, 51 O.S. §§ 24A.1 to 24A.18.

SECTION 2-602 DESIGNATION OF ADDITIONAL RECORD CUSTODIANS.

A. Each of the official custodians appointed in Section 2-601 of this code is hereby authorized to designate any subordinate officers or employees to serve as record custodian. The record custodians shall have such duties and powers as are set out in the Oklahoma Open Records Act.

B. Whenever an official custodian shall appoint another person as a record custodian, he or she shall notify the City Clerk of such designation and the City Clerk shall maintain a register of all such designations.

SECTION 2-603 DUTIES OF CUSTODIANS.

All City officials and employees appointed or designated under this chapter shall: protect public records from damage and disorganization; prevent excessive disruption of the essential functions of the City; provide assistance and information upon request; insure efficient and timely action and response to all applications for inspection of public records; and shall carry out the procedures adopted by this City for inspecting and copying open public records.

SECTION 2-604 REQUESTS TO BE DIRECTED TO CUSTODIANS.

A. All members of the public, in seeking access to, or copies of, a public record in accordance with the provisions of the Oklahoma Open Records Act, shall address their requests to the custodian charged with responsibility for maintenance of the record sought to be inspected or copied.

B. Whenever any City official or employee appointed or designated as a custodian under this chapter is presented with a request for access to, or copy of, a public record which the custodian does not have in his possession and which he has not been given responsibility to keep and maintain, the custodian shall so advise the person requesting the record. The person making the request shall be informed as to which custodian the request should be addressed to, if such is known by the custodian receiving the request.

SECTION 2-605 PROCEDURES REGARDING BOTH INSPECTION AND COPYING OF OPEN PUBLIC RECORDS.

The following procedures are hereby adopted and shall be applied by each official custodian and record custodian:

1. Consistent with the policy, duties and procedures established by the Oklahoma Open Records Act, record custodians shall provide full access and assistance in a timely and efficient manner to persons who request access to open public records;

2. Record custodians shall protect the integrity and organization of public records with respect to the manner in which such records are inspected and copied;

3. Record custodians may prevent excessive disruptions of essential functions and provide the record at the earliest possible time;

4. All inspections and copying of open public records shall be performed by, or under the supervision of, the record custodian responsible for such records;

5. All persons requesting the inspection of or a copy of open public records shall make such request in writing prior to the request being honored, except that no form shall be required for requests made for records which have been reproduced for free public distribution;

6. All record inspection and copying forms are to be completed by the person requesting the record. The record custodian may demand reasonable identification of any person requesting a record;

7. Any fees for record inspection or for copies are due at the time the records, or copies thereof, are provided to the requester, unless the record custodian has demanded that prepayment of all or part of such fees be made. Fees are to be paid to the record custodian or City Clerk;

8. The record custodian or City Clerk shall demand full or partial prepayment of the fees when the estimate for such fees exceeds the amount set out in Section 2-612 of this code;

9. No record search or copying charge shall be assessed against officers or employees of the City who make requests which are reasonably necessary to the performance of their official duties;

10. Hours for making requests for inspection or copying shall be all regular working hours for each day the office maintains regular office hours;

11. Removal of open public records from the office where kept and maintained, for purposes of inspection or the making of copies, shall not be permitted; and

12. The above procedures, as well as any other inspection and copying procedures, shall be posted in a conspicuous place in the office of the record custodian.

SECTION 2-606 PROCEDURES REGARDING INSPECTION OF OPEN PUBLIC RECORDS.

The following procedures are hereby adopted and shall be applied by every official custodian and record custodian:

1. Record custodians shall handle all inspection requests in accordance with their duties to protect and preserve public records and to assist persons requesting inspection of open public records.

2. All request forms must be completed by the party requesting the record. In all cases the party so requesting must sign his or her individual name to the form. Written requests shall be made on the form provided by the record custodian and presented to the record custodian;

3. A written request is sufficient if it reasonably describes the record sought. In instances where the requester cannot provide sufficient information to identify a record, the custodian shall assist in making such identification; and

4. The record custodian shall, upon making a denial of an inspection request, forward a copy of the denial to the Mayor.

SECTION 2-607 PROCEDURES REGARDING COPIES OF OPEN PUBLIC RECORDS.

The following procedures are hereby adopted and shall be applied by each official custodian and record custodian:

1. Record custodians shall handle all copy requests in accordance with their duties to protect and preserve public records and to assist persons requesting copies of open public records;

2. All request forms must be completed by the party requesting the copies. In all cases the party so requesting must sign his or her individual name to the form. Written requests shall be made on the form provided by the record custodians;

3. Mechanical reproduction of a record shall not be undertaken when it is the judgment of the record custodian that any available means of mechanical reproducing the subject record is likely to cause damage to such record; and

4. No copy fee shall be assessed when multiple copies of the record requested have been prepared for free public distribution, or when the record custodian determines that the cost of charging and handling the fee exceeds the cost of providing a copy without charge.

SECTION 2-608 NO FEE FOR INSPECTION.

Where a request has been made for the inspection of an open public record, no fee shall be charged.

SECTION 2-609 COPYING FEE.

A fee per page as set by Fee Schedule shall be charged for photocopying an open public record, such fee to cover the cost of labor, materials, and equipment.

SECTION 2-610 FEE FOR MECHANICAL REPRODUCTION.

For copying any open public record which cannot be reproduced by photocopying, such as a computer printout or a blueprint, the requester shall be charged the actual cost to the City, including the cost of labor, materials, and equipment.

SECTION 2-611 SEARCH FEE.

The fee provided in Fee Schedule shall be charged a requester who is using the record solely for a commercial purpose. Such fee shall be charged to recover the direct cost of document search.

SECTION 2-612 PREPAYMENT OF FEES.

A record custodian may demand prepayment of a fee. The prepayment amount shall be an estimate of the cost of copying, mechanical reproduction or searching for the record. Any overage or underage in the prepayment amount shall be settled prior to producing the requested record or delivering the copy or mechanical reproduction of the record.

SECTION 2-613 FEES.

Fees shall be charged for copies and services rendered hereunder pursuant to the City's fee schedule.

SECTION 2-614 DESTRUCTION OF PUBLIC RECORDS; SCANNING AND STORING PUBLIC RECORDS

A. Purpose. The purpose of this section is to provide for the retention, digital storage and/or destruction of public records in accordance with state law and this section.

B. The City Council hereby authorizes the legal custodian, with the written approval from the City Manager, to destroy, sell for salvage or otherwise dispose of the following papers, documents, and records after the expiration of the specified period of time following the end of the fiscal year in which the paper, document or record was created, except as otherwise specified:

1. One (1) year: parking citations may be destroyed or otherwise permanently disposed of one (1) year after the date of issuance;

2 Two (2) years: municipal court warrants, water, sewer, garbage and utility receipts and statements, which have been previously audited; inspection records relating to water meters and sewer inspections; miscellaneous petitions and letters addressed to the governing body on matters other than pertaining to the items hereinafter set forth; utility billing ledger or register; utility cash receipts ledger or register; and utility accounts receivable ledger or register. Fire run contracts may be destroyed or otherwise disposed of two (2) years after their expiration;

3. Five (5) years: successful and unsuccessful bids for the purchase or furnishing of equipment, material and improvements; inspection records except as provided for in paragraph 2 of this section; claims that have been denied; license applications; bonds; special, primary and general election payrolls; election tabulations and returns; withholding statements; garnishment records; traffic tickets and receipts; bond receipts and fine receipts; information and complaints; court dockets; paid general obligation and revenue bonds; paid street improvement, sewer and sidewalk district bonds; warrants; claims; checks; vouchers; purchase orders; payrolls;

4. Ten (10) years: inventories; appropriation ledgers; sidewalk assessment records, except payment records; cash receipt book or register for the general fund, the street and alley fund, any bond fund or sinking fund and all other trust funds that have been audited; and

5. Fifteen (15) years: sewer and improvement district records, except payment records.

C. No records pertaining to pending litigation shall be disposed of until such litigation is finally terminated.

D. Other Records. Public records not addressed in Subsection B or C hereinabove, may be destroyed by their legal custodian, with written approval from the City Manager, seven (7) years after their creation.

E. Retention of Public Records. Except as otherwise provided in Subsection F, all public records shall be retained for the time periods provided by Subsections B, C and D and may thereafter be scanned as digital files and stored, either on and/or off site, and/or destroyed by their legal custodian, with written authorization from the City Manager. This procedure shall apply to all files of the City and its public

trust authorities. Notwithstanding the foregoing, the following public records shall be held in perpetuity: deeds, records bearing signatures of historical persons or other public records of historic or legal significance, city, and authority meeting minutes, and testing laboratory results or the inspection records of public improvements.

F. Scanning and Storing of Public Records. Any public records may be scanned as digital files and stored, either on or off site, as determined appropriate by their legal custodian, with written approval from the City Manager. The method of reproduction shall be durable and safely preserve the public record and shall accurately reproduce and perpetuate the original public record in all details. All public records which are scanned and stored shall be placed in conveniently accessible files and provision made for preserving, examining, scanning and using the same. Whenever public records are scanned and stored, a certification of these facts shall be furnished to the City Council or other governing body, as appropriate, and thereafter the original public records and papers may be disposed of, destroyed, or archived in permanent storage prior to the expiration of the retention periods established by this section.

CHAPTER 3: ALCOHOLIC BEVERAGES

Article 1

Alcoholic Beverages and Occupation Tax

- Section 3-101 DEFINITIONS: ADOPTION BY REFERENCE AND PENALTIES
- Section 3-102 OCCUPATION TAX LEVIED.
- Section 3-103 PAYMENT REQUIRED; PENALTY.
- Section 3-104 ANNUAL REPORT.
- Section 3-105 APPLICATION FOR CERTIFICATES; INVESTIGATION
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Article 2

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PROHIBITED IN OTHER LOCATIONS WITHOUT PERMISSION.
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CONSUMING ALCOHOLIC BEVERAGES
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- Section 3-210 PROHIBITED ACTS

Chapter 3

Alcoholic Beverages

Article 1

Alcoholic Beverages and Occupation Tax

Section 3-101 DEFINITIONS: ADOPTION BY REFERENCE AND PENALTIES

All of the terms and phrases used in this Chapter shall be given the same use and meaning as defined by the Oklahoma Alcoholic Beverage Control Act, 37A O.S. §1-101 et seq. Titles 37 and 37A of the Oklahoma Statutes, as amended, are hereby adopted, and incorporated herein by reference, but only to the extent such sections provide for criminal misdemeanor offenses and are enforceable by the Town within the Town limits as if set out at length herein. Unless otherwise specifically provided otherwise in this Code, all violations of such sections shall be punishable by a maximum fine of \$500.00, plus court costs, fees, and state assessments; provided however, if the penalty including costs for the state offense is less than the amount as provided hereinabove, then the fine and costs shall not exceed the amount charged by statute for the same offense.

Section 3-102 OCCUPATION TAX LEVIED.

There is hereby levied and assessed an annual occupation tax on every business or occupation that has its principal place of business in Tonkawa, Oklahoma and is required to have a licensee from the Alcoholic Beverage Laws Enforcement Commission as specifically enumerated hereinbelow, and in the amount therein stated:

<u>Brewer</u>	<u>\$100.00</u>
<u>Small Brewer</u>	<u>\$100.00</u>
<u>Small Brewer Self-Distribution</u>	<u>\$100.00</u>
<u>Brew Pub</u>	<u>\$100.00</u>
<u>Brew Pub Self-Distribution</u>	<u>\$100.00</u>
<u>Distiller</u>	<u>\$100.00</u>
<u>Winemaker</u>	<u>\$100.00</u>

<u>Winemaker Self-Distribution</u>	<u>\$100.00</u>
<u>Small Farm Winery</u>	<u>\$75.00</u>
<u>Wine and Spirits Wholesaler</u>	<u>\$100.00</u>
<u>Beer Distributor</u>	<u>\$100.00</u>
<u>Retail Spirits</u>	<u>\$100.00</u>
<u>Retail Wine</u>	<u>\$100.00</u>
<u>Retail Beer</u>	<u>\$100.00</u>
<u>Mixed Beverage Initial</u>	<u>\$100.00</u>
<u>Mixed Beverage Renewal</u>	<u>\$100.00</u>
<u>Mixed Beverage/Caterer Combination</u>	<u>\$100.00</u>
<u>On Premises Beer and Wine Initial</u>	<u>\$100.00</u>
<u>On Premises Beer and Wine Renewal</u>	<u>\$100.00</u>
<u>Bottle Club Initial</u>	<u>\$100.00</u>
<u>Bottle Club Renewal</u>	<u>\$100.00</u>
<u>Caterer</u>	<u>\$100.00</u>
<u>Caterer Renewal</u>	<u>\$100.00</u>
<u>Annual Special Event</u>	<u>\$55.00</u>
<u>Quarterly Special Event</u>	<u>\$55.00</u>
<u>Hotel Beverage Initial</u>	<u>\$100.00</u>
<u>Hotel Beverage Renewal</u>	<u>\$100.00</u>
<u>Charitable Auction</u>	<u>\$1.00</u>
<u>Charitable Alcoholic Beverage</u>	<u>\$55.00</u>
<u>Annual Public Event</u>	<u>\$100.00</u>
<u>One-time Public Event</u>	<u>\$100.00</u>

Such tax rate shall only be effective upon initiation or renewal of the license, as applicable, and no refund shall be made for any prior occupation tax paid which was higher than as established by this section.

Section 3-103 PAYMENT REQUIRED; PENALTY.

A. Payment; Provide Copy of State License: Any state licensee or interim licensee listed in Section 3-103 of this code that has a principal place of business in Tonkawa, Oklahoma, shall pay the tax therefor at the office of the city clerk on or before the date upon which he enters upon such occupation. Said licensee or interim licensee shall provide a copy of his current state license or interim license before payment of an occupation tax will be accepted.

B. Term; Prorating Fee: The tax levied under this article shall be for one year, expiring on the date upon which the licensee's state license expires. If paid during the year, the fee shall be prorated on a monthly basis. If paid before the fifteenth day of any month, the tax shall be on the basis as of the first day of said month and if paid after the fifteenth day of any month, the tax shall be on the basis of the last day of the month.

C. Violation: Any person who engages in any of the occupations taxed by this article without paying said occupation tax imposed therefor, or without paying said occupation tax imposed therefor in advance of such operation, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a maximum fine of five hundred dollars (\$500.00) plus costs, fees, and state assessments.

Section 3-104 ANNUAL REPORT.

The city clerk shall make an annual report to the ABLE Commission, covering the fiscal year, showing the number and class of license subject to the occupation tax and the amount of money collected from said tax.

Section 3-105 APPLICATION FOR CERTIFICATES; INVESTIGATION

A. Filing of Application; Fee: Every applicant for a certificate of compliance with the zoning, fire, health, and safety codes of the city, required by the ABLE Commission shall apply at the office of the city clerk by:

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

2. Paying a verification and certification fee in an amount as provided by Section 3-106 at the time of filing.

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

C. Time Limit for Acting on Application: The city clerk shall act on all such applications within twenty (20) days of receipt thereof.

Section 3-106 ISSUANCE OF CERTIFICATES.

A. Certificate of Zoning: Upon finding that the premises of an applicant for a certificate is in compliance with all applicable zoning ordinances, a certificate of zoning shall be issued to the ABLE commission.

B. Certificate of Compliance: Upon finding that the premises of an applicant for a certificate is in compliance with all applicable fire, safety and health codes, a certificate of compliance shall be issued to the ABLE commission.

C. Every applicant for a certificate of compliance with the zoning, fire, health, and safety codes of the city, required by ABLE Commission, shall pay a verification and certification fee in the amount of fifty dollars (\$50.00) at the time of filing.

Section 3-107 through Section 3-109 Reserved

Article 2

Alcoholic Beverages and Specific Offenses

Section 3-201 DISPLAY LICENSE.

Any person required to possess a state license/permit for sale or distribution of beer, wine, mixed beverages, and any other classification of alcohol beverage now in existence or which may be created by the legislature in the future, is required to have, possess, and display, in the same location as their state license/permit, a city occupation tax permit for distribution or sale of the same product classification with the City of Tonkawa.

Section 3-202 DRINKING IN PUBLIC.

It is unlawful for any person to drink any alcoholic beverage, to include beer and wine (hereinafter "alcoholic beverage"), while such person is upon any public street, alley, or other public highway, or in any public building or other public place within the City. This Section shall not prohibit a person who is of age from drinking such beverage in a place licensed to sell it for consumption on the premises or any person who is of age who is consuming any alcoholic beverage at any special event from an authorized seller, which special event is authorized in writing by the City Council. The specific site at any such authorized special event wherein alcoholic beverages shall be permitted to be consumed shall be plainly and clearly marked with signage warning the public that no consumption is permitted outside the area completely encircled with appropriate barriers and any person who shall consume alcoholic beverages outside the designated barrier or who shall consume alcoholic beverages from any source other than an authorized seller and not in an otherwise authorized location shall be guilty of an offense of Section 3-202.

Section 3-203 PUBLIC INTOXICATION AND DRINKING PROHIBITED.

Any person who shall, in any public place, or in or upon any passenger coach, streetcar, or in or upon any other vehicle commonly used for the transportation of passengers, or in or about any depot, platform, waiting station or room, drink or otherwise consume any intoxicating liquor unless authorized by the Oklahoma Alcoholic Beverage Control Act or any provision of this municipal code, intoxicating substance, or intoxicating compound of any kind, or inhale glue, paint or other intoxicating substance, or if any person shall be drunk or intoxicated in any public or private road, or in any passenger coach, streetcar, or any public place or building, or at any public gathering, from drinking or consuming such intoxicating liquor, intoxication substance or intoxicating compound or from inhalation of glue, paint or other intoxicating substance, except if otherwise permitted by this municipal code, or if any person shall be drunk or intoxicated from any cause and shall disturb the peace of any person, he shall be guilty of an offense.

Section 3-204 MINORS AND ALCOHOLIC BEVERAGES.

It is unlawful for any person under the age of twenty-one (21) years to be in possession of any alcoholic beverage while such person is upon any public street, road, or highway or in any public place within the city limits or to consume or possess with the intent to consume any alcoholic beverage.

Section 3-205 POSSESSION OR CONSUMPTION OF ALCOHOLIC BEVERAGES PROHIBITED IN OTHER LOCATIONS WITHOUT PERMISSION.

It shall be unlawful for any person within the city limits, to consume or to have in his or her possession an open container of any alcoholic beverage upon private property belonging to any person other than the individual in possession or consuming such alcoholic beverage, without said person first obtaining the permission of the owner or person in lawful possession of said property.

Section 3-206 PERMITTING OR ALLOWING GATHERINGS WHERE MINORS ARE CONSUMING ALCOHOLIC BEVERAGES

A. Definitions. For purposes of Section 3-206, the following definitions shall apply:

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

"Alcoholic Beverage" means and 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 ($1/2$ of 1%) or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

"Control or Controlling" means any form of dominion including ownership, tenancy or other possessory right however temporary.

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

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

"Minor" means any person under twenty-one years of age.

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

"Premises" means any hotel or motel room, home, yard, apartment, condominium, or other dwelling unit, or a hall or meeting room, park or public place whether occupied on a temporary or permanent basis, whether occupied as a dwelling or for a party or other social function,

and whether owned, leased, rented, or used with or without compensation.

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

B. Consumption of Alcoholic Beverages 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, an alcoholic beverage; or

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

C. Hosting, Permitting, or Allowing a Party, Gathering, or Event Where Minors Consuming Alcoholic Beverages Prohibited.

1. In General

a. It is the duty of any person having control of any premises, who knowingly hosts, permits, or allows a gathering at said premises to take all reasonable steps to prevent the consumption of alcoholic beverages by any minor at the gathering. Reasonable steps are controlling access to alcoholic beverages at the gathering; controlling the quantity of alcoholic beverages present at the gathering; verifying the age of persons attending the gathering by inspecting drivers' licenses or other government-issued identification cards to ensure that minors do not consume alcoholic beverages while at the gathering; and supervising the activities of minors at the gathering.

b. It is unlawful for any person having control of any premises to knowingly host, permit, or allow a gathering to take place at said premises where at least one minor consumes an alcoholic beverage, whenever the person having control of the premises either knows that the minor has consumed an alcoholic beverage or reasonably should have known that a minor consumed an alcoholic beverage or failed to take all reasonable steps to prevent the consumption of an alcoholic beverage by a minor as set forth in subsection C.1.a of this section.

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

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

4. Nothing in this section should be interpreted to prohibit any religious practice which includes the use of alcoholic beverages. However, if a minor leaves such a religious gathering intoxicated and is found to be in public then said providers of alcohol beverages 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.

6. Reservation of Legal Options. Violation of this section may be prosecuted by the City 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 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.

7. Local Authority

This Section shall not apply where prohibited or preempted by

state or federal law.

Section 3-207 LOCATION OF RETAIL PACKAGE STORE, MIXED BEVERAGE ESTABLISHMENTS, BEER OR WINE ESTABLISHMENTS OR BOTTLE CLUBS.

A. Location Near School Or Church: It shall be unlawful for any mixed beverage establishment, beer and wine establishment, or bottle club, which has been licensed by the alcoholic beverage laws enforcement (ABLE) commission and which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, or retail package store, to be located within three hundred feet (300') of any public or private school or church property primarily and regularly used for worship services and religious activities.

B. Measuring Distance: The distance indicated in this section shall be measured from the nearest property line of such public or private school or church to the nearest perimeter wall of the premises of any such mixed beverage establishment, beer and wine establishment, bottle club, retail package store.

C. Exceptions:

1. The provisions of this section shall not apply to mixed beverage establishments, beer and wine establishments, bottle clubs, which have been licensed to sell alcoholic beverages for on premises consumption, or retail package stores prior to November 1, 2000; provided, if at the time of application for license renewal, the licensed location has not been in actual operation for a continuous period of more than sixty (60) days, the license shall not be renewed.

2. If any school or church shall be established within three hundred feet (300') of any retail package store, mixed beverage establishment, beer and wine establishment, or bottle club, subject to the provisions of this section after such retail package store, mixed beverage establishment, beer and wine establishment, or bottle club has been licensed, the provisions of this section shall not be a deterrent to the renewal of such license if there has not been a lapse of more than sixty (60) days.

3. Change In Ownership: When any mixed beverage establishment, beer and wine establishment, or bottle club, subject to the provisions of this section which has a license to sell alcoholic beverages for on premises consumption, or retail package store changes ownership or the operator thereof is changed and such change of ownership results in the same type of business being conducted on the premises, the

provisions of this section shall not be a deterrent to the issuance of a license to the new owner or operator if he or she is otherwise qualified.

Section 3-208 TRANSPORTING OPEN CONTAINERS OF ALCOHOLIC BEVERAGES

A. Except as provided in subsection B of this section, it shall be unlawful for any operator to knowingly transport or for any passenger to possess in any moving vehicle upon a public highway, street or alley any alcoholic beverage, except in the original container which shall not have been opened and from which the original cap or seal shall not have been removed, unless the opened container be in the rear trunk or rear compartment, which shall include the spare tire compartment in a station wagon or panel truck, or any outside compartment which is not accessible to the driver or any other person in the vehicle while it is in motion. Any person violating the provisions of this section shall be deemed guilty of an offense and shall pay the fine as provided in the schedule of fines and bonds.

B. The provisions of subsection A of this section shall not apply to the passenger area of buses and limousines; however, it shall be unlawful for the driver of the bus or limousine to consume or have in the driver's immediate possession any intoxicating beverage or low-point beer.

C. As used in this section:

1. "Bus" means a vehicle as defined in Section 1-105 of Title 47 of the Oklahoma Statutes chartered for transportation of persons for hire. It shall not mean a school bus, as defined by Section 1-160 of Title 47 of the Oklahoma Statutes, transporting children or a vehicle operated pursuant to a franchise with a city or town operating over a regularly scheduled route; and

2. "Limousine" means a chauffeur-driven motor vehicle, other than a bus or taxicab, as defined by Section 1-174 of Title 47 of the Oklahoma Statutes, designed, and used for transportation of persons for persons for compensation.

Section 3-209 MUNICIPALITY MAY INITIATE LICENSE SUSPENSION.

The City, as to any mixed beverage, beer and wine, caterer, public event, or bottle club licensee having its principal place of business in the City, may initiate a license suspension or revocation proceeding as to such licensee by filing a written complaint with the ABLE Commission. The complaint shall set forth the grounds for the proposed suspension or revocation. Such complaint may be based on any ground that the ABLE Commission might have asserted. Upon receipt of such

complaint, the ABLE Commission shall forward a copy of the complaint to the licensee together with written notice of the time and place of hearing thereon. The hearing shall be held within the time limits and in the manner prescribed for suspension or revocation proceedings initiated by the ABLE Commission. In any proceeding initiated pursuant to this section, the City shall be deemed an interested party, shall have the right to be heard and to present evidence at the hearing on the complaint and shall be entitled to appeal from any final order entered by the ABLE Commission in the manner otherwise provided in the Oklahoma Alcoholic Beverage Control Act. The City shall not be required to give bond on appeal.

Section 3-210 PROHIBITED ACTS

No person shall:

1. Knowingly sell, deliver, or furnish alcoholic beverages to any person under twenty-one (21) years of age;
2. Sell, deliver or knowingly furnish alcoholic beverages to an intoxicated person or to any person who has been adjudged insane or mentally deficient;
3. Open a retail container or consume alcoholic beverages on the premises of a package store, grocery store, convenience store or drug store, unless otherwise permitted by law;
4. Import into this state, except as provided for in the Oklahoma Alcoholic Beverage Control Act, any alcoholic beverages; provided, that nothing herein shall prohibit the importation or possession for personal use of not more than one (1) liter of alcoholic beverages upon which the Oklahoma excise tax is delinquent;
5. Receive, possess, or use any alcoholic beverage in violation of the provisions of the Oklahoma Alcoholic Beverage Control Act;
6. Knowingly transport into, within or through this state more than one (1) liter of alcoholic beverages upon which the Oklahoma excise tax has not been paid unless the person accompanying or in charge of the vehicle transporting same shall possess a true copy of a bill of lading, invoice, manifest or other document particularly identifying that alcoholic beverages are being transported and showing the name and address of the consignor and consignee; provided, this prohibition shall not apply to the first one hundred eighty (180) liters of alcoholic beverages classified as household goods by military personnel, age twenty-one (21) or older, when entering Oklahoma from

temporary active assignment outside the contiguous United States;

7. Consume spirits in public except on the premises of a licensee of the ABLE Commission who is authorized to sell or serve spirits by the individual drink, or be intoxicated in a public place, except as otherwise permitted by this municipal code.

8. Forcibly resist lawful arrest, or by physical contact interfere with an investigation of any infringement of the Oklahoma Alcoholic Beverage Control Act or with any lawful search or seizure being made by a law enforcement officer or an employee of the ABLE Commission, when such person knows or should know that such acts are being performed by a state, county or municipal officer or employee of the ABLE Commission;

9. Knowingly and willfully permit any individual under twenty-one (21) years of age who is an invitee to the person's residence, any building, structure, or room owned, occupied, leased or otherwise procured by the person or on any land owned, occupied, leased or otherwise procured by the person, to possess or consume any alcoholic beverage.

10. Any person selling or keeping a mixed beverage establishment, package store, bottle club or other ABLE licensed establishment open to sell any alcoholic beverage during any day or hours not authorized by the Oklahoma Alcoholic Beverage Control Act, and any person selling or permitting the sale of alcoholic beverages at a grocery store, convenience store or drug store during any day or hours not authorized by the Oklahoma Alcoholic Beverage Control Act shall be guilty of an offense.

11. No minor shall be employed in the selling, manufacture, distribution, or other handling of alcoholic beverages at any place within the City. No person shall employ or assist or aid in causing the employment of any minor at any place within the City in the selling, manufacture, distribution, or other handling of alcoholic beverages. No minor shall be permitted to remain within or to loiter about the premises of a retail alcoholic beverage store. Violation of this provision shall subject the owner or proprietor, as well as the underage person, to prosecution.

12. No person within this City shall drink intoxicating liquor or alcoholic beverage in any public place, nor shall any person be intoxicated in a public place within this City, nor shall any owner, operator, or manager of any business or public place to which the public is generally invited allow an intoxicated person to remain in or upon the premises.

13. No person shall knowingly sell, deliver, or furnish alcoholic beverages, at any place within the City limits of the City to any person who is a minor. Neither shall any minor misrepresent his age verbally nor in writing, or present false documentation of age or otherwise for the purpose of inducing any other person to sell him alcoholic beverages

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CHAPTER 4

ANIMAL REGULATIONS

Article 1

IN GENERAL

SECTION 4-101 DEFINITIONS.

As used in this chapter:

1. "Animal" means any horse, mule, donkey, pony, cow, sheep, goat, swine, dog, cat, rabbit, chicken, goose, duck, turkey or any other animal or fowl;

2. "Animal shelter" means any premises designated by action of the council for the purposes of impounding and caring for animals;

3. "Animal control officer" means the person or persons employed by the city as its enforcement officer in the impoundment of animals, controlling of animals running at large, and as otherwise provided or required in this chapter;

4. "At large" or "running at large" means not securely confined by a fence or other means on premises under the control of, or occupied by, the owner of the animal, and not under the control of the owner, a member of his immediate family, twelve (12) years of age or older, or an agent of the owner, by leash or otherwise;

5. "Confined on the premises" means that condition in which an animal is securely and physically confined and restrained on and within the premises of the owner by means of walls, fences, rope, chain, leash or other device of such strength and size as to physically prevent the animal from leaving the premises and to physically prevent the animal from causing physical injury to persons or other animals which are off the premises upon which the confined animal is located;

6. "Exposed to rabies" means any animal that has been bitten by or exposed to any other animal known to have been infected with rabies;

7. "Fowl" means chickens, guineas, geese, ducks, and pigeons;

8. "Impoundment" means placing an animal in the animal

control vehicle or unit or holding an animal in custody at the animal control shelter;

9. "Keeper" means any person, family, firm, or corporation owning or actually keeping, having, using or maintaining any of the animals herein referred to;

10. "Menacing fashion" means that an animal would cause any person observing the animal to reasonably believe that the animal will cause physical injury to persons or other animals;

11. "Neuter" means to render a male dog or cat unable to reproduce;

12. "Nuisance" means the conduct or behavior of any small or large animal, cat or dog which molests persons passing by or passing vehicles; attacks other animals; damages private or public property; barks, whines, howls, crows or makes other noises in an excessive, continuous fashion which annoys the comfort, repose, health, or safety of the people in the community; unconfined in season; or a vicious animal not confined as required by this chapter;

13. "Owner" or "keeper" means any person, group of persons or corporation owning, keeping, maintaining, or harboring, or having care or custody of, an animal or animals or fowl or birds. For the purpose of a dog running at large or being subject to the city license tax, an owner is any person harboring or caring for a dog for three (3) days or more;

14. "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;

15. "Restraint" means that an animal is controlled by leash or tether, either of which shall not exceed six (6) feet in length, by a competent person or within any vehicle, trailer or other conveyance being driven, pulled, or parked on the street, or confined within the property limits of its owner or keeper;

16. "Severe injury" means any physical injury that results in broken bones or lacerations requiring multiple sutures or cosmetic surgery;

17. "Spay" means to remove the ovaries of a female dog or cat in order to render the animal unable to reproduce;

"Vaccination" means an injection of United States Department of Agriculture approved rabies vaccine administered every twelve (12) calendar months by a licensed veterinarian;

18. "Without provocation" means that an 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.

B. All other words or phrases used herein shall be defined and interpreted according to their common usage.

SECTION 4-102 ANIMALS NOT TO BE AT LARGE.

A. No owner shall permit any animal, including fowl, owned, harbored, or kept by him to be at large within the city.

B. Any animal in violation of this section shall be subject to impound and disposition as provided in this chapter.

SECTION 4-103 TURNING ANIMALS AT LARGE UNLAWFUL

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

SECTION 4-104 BUILDINGS, STRUCTURES FOR ANIMALS, LOCATION.

A. Every building or place where any animal or fowl is kept shall be constructed of such material and in such manner that it can be kept clean and sanitary at all times.

B. Excepting dogs and cats, no place where an animal is kept shall be kept closer than forty (40) feet to the premises of an apartment, hotel, restaurant, boarding house, food store, building used for educational, religious or hospital purposes, or dwelling other than that occupied by the owner or occupant of the premises upon which the animal is kept.

C. Every building where any livestock is kept, if located within two hundred (200) feet of any apartment, hotel, restaurant, boarding house, food store, building used for educational, religious or hospital purposes, or any dwelling other than that occupied by the owner or occupant of the premises upon which the animal is kept, shall be provided with a watertight and fly tight receptacle for manure, of such size as to hold all accumulation of manure. The receptacle shall be emptied sufficiently often and, in such manner, as to prevent it from being or becoming a Nuisance, and shall be kept covered at all times except when open during

the deposit or removal of manure or refuse. No manure shall be allowed to accumulate on such premises except in the receptacle.

D. The animal control officer or health officer shall inspect any structure or place where an animal is kept on his own initiative or upon complaint. He may issue any such reasonable order as he may deem necessary to the owner of such animal to cause the animal to be kept as required in this chapter or in a manner so as not to constitute a nuisance. He may make a complaint before the city court against any person for violation of any provision of this chapter, or any such reasonable order.

SECTION 4-105 NOISY ANIMALS; COMPLAINT PROCEDURE FOR ANIMALS WHICH DISTURB, ARE IN VIOLATION OF CODE.

A. No person shall keep any animal which causes frequent or long-continued noise or otherwise so as to disturb the comfort or repose of any person in the vicinity. Any violation of this section is declared to be a nuisance and as such maybe abated.

B. Any person with knowledge thereof may file a complaint in the municipal court against the owner or keeper of an animal which disturbs the comfort or repose of any person in the vicinity or which is in violation of this chapter. If the court finds that an animal is a nuisance or in violation of this chapter, then the court may order the owner or keeper to prevent and abate the nuisance, or order the animal impounded with the owner or keeper to pay impoundment costs, or order punishment as provided in Section 1-108 of this code.

SECTION 4-106 PASTURING IN PUBLIC AREAS ILLEGAL.

It is unlawful for any person to pasture any animal on any public property or private property without the consent of the person owning or controlling the property.

SECTION 4-107 ANIMALS WHICH MAY NOT BE KEPT IN CITY.

A. It is unlawful to keep, maintain or permit to be kept or maintained any swine within the city.

B. The keeping or maintaining or permitting to be kept or maintained any swine in the city is hereby declared to be a public nuisance.

SECTION 4-107A LARGE ANIMAL REGULATIONS; REGULATIONS FOR STABLES, KENNELS, COOPS, BUILDINGS OR OTHER ESTABLISHMENTS FOR ANIMALS.

A. Large Animal Regulations:

1. For purpose of this Chapter the term "large animal" shall mean horse, mules, donkeys, cattle, goats, sheep or any other animal of similar size or stature.

2. Large animals shall only be permitted in agricultural zoned property and residential zoned property pursuant to the terms of this Chapter. An owner of any large animal must provide required pastureland per large animal, of owned or leased land, based on the type of large animal to be kept. Pre-weaned large animals will not be counted in calculating the pastureland square footage for each animal.

a. Large animals, with the exception of those listed in subsection 2 hereinbelow, shall require 10,000 square feet of pastureland per large animal.

b. Miniature horses, sheep and goats require 5,000 square feet of pastureland per animal.

c. An owner must keep any large animals at least fifty feet (50') from any private dwelling or place used for residential purposes; and all real property shall be appropriately fenced to prevent the large animal from escaping.

d. An owner must own or be in lawful possession of at least one-half acre of contiguous land to keep a large animal. This land may be comprised of several individual lots as long as all lots are under common ownership or leasehold.

e. Except on agriculturally zoned property, an owner must reside on the real property with the large animals or within one-quarter mile of the real property where the large animals are being kept.

3. Owners who cannot meet the conditions listed in subsection 2a through e hereinabove may apply to the Tonkawa Planning Commission for a special exception. Public notice of the same type and nature as required in a zoning application shall be given prior to the public hearing wherein the special exception will be considered, with the applicant paying all the costs of such

application fee and notice. The Commission will submit their recommendation to the City Council. The annual permit shall be subject to those conditions and requirements. The Commission and City Council shall consider the following conditions when recommending or granting the special exception:

a. The presence of other large animals being kept within the neighborhood;

b. The quality of the conditions in which the animal(s) are being kept;

c. The distance of the pasture and shelters from the impacted neighboring dwelling or placed used for residential purposes.

d. The conditions of the barns, stables or pasture and their impact on adjacent properties;

e. The provision of any additional setback or screening to mitigate possible impacts to adjacent properties; and

f. Whether the property owner had the large animal on such property prior to the effective date of this section.

g. The nature of ownership or leasehold, including duration of the leasehold, of the real property upon which the large animal will be kept.

B. The recommendation of the Tonkawa Planning Commission shall be considered by the Tonkawa City Council. The City Council may take such action as deemed appropriate and shall detail their reasons for the approval, disapproval, conditional approval, or other action taken in the approved motion, which reasons shall be included as a part of the minutes. Any conditional permit can be revoked based on change of conditions, after notice and an opportunity to be heard by the property owner or person in lawful custody and control of the large animal. The City Clerk shall issue an annual permit to the property owner, which permit shall specifically detail the type and number of large animals to be kept on the property and any special conditions required by the Planning Commission and approved by the City Council and require conformance with this municipal code. The annual permit shall be subject to those conditions and requirements.

C. This section shall not apply to facilities owned or operated by the City of Tonkawa, Kay County, and Tonkawa Public

Schools, Northern Oklahoma College, 4H, Rodeo and FFA but only during the appropriate time of the lesson, contest, activity, or event and not thereafter.

D. Any owner or person in lawful custody or control of any large animal located within the City of Tonkawa on the date of the enactment of this section shall be given a period of eighteen months from and after the effective date of this section to come into compliance with the terms of this section. Such period of time is given in fairness in order to provide a reasonable amortization period within which time the owner or person in lawful custody or control of any large animal may continue such use and time to provide for a new location in complete conformance with the terms of this section.

E. No stable, kennel, coop, building or other establishment wherein large animals are owned, harbored, or kept, shall be maintained closer than fifty feet (50') to any tenant or apartment house, hotel, restaurant, boarding house, retail food store, building used for educational, religious, or hospital purposes, or residence other than that occupied by the owner or occupant of the premises upon which such animal is owned, harbored, or kept.

F. Every stable, kennel, coop, building or other establishment wherein large animals are owned, harbored, or kept shall be maintained in a clean and sanitary condition, devoid of rodents and vermin, and free from objectionable odors.

G. Every stable, kennel, coop, building or other establishment shall be provided with a water-tight and fly-tight receptacle for manure, of such size as to hold all accumulations of manure. Such receptacle shall be emptied sufficiently often and in such manner as to prevent it from being a nuisance and shall be kept covered at all times except when opened during the deposit or removal of manure or refuse. No manure shall be allowed to accumulate on such premises except in such receptacle. Manure shall be hauled outside the City of Tonkawa in a manner which does not jeopardize the public health, or else shall be spread evenly upon the ground and turned under at once.

SECTION 4-108 KENNELS, LICENSES.

A. For the purpose of this chapter, a "kennel" is any location or premises where more than (3) dogs or three (3) cats or more than five (5) dogs or cats, whether residential or business, within the city. Any litter or offspring of a dog or cat owned or harbored on the premises shall not be counted

in the three (3) or five (5) maximum numbers required herein during a grace period beginning sixty (60) days after the birth of such litter or offspring. The sixty-day is not extended for any other subsequent litter or offspring born during the sixty-day period. For the purpose of this chapter, the term "cattery" shall be interchangeable with the term kennel.

B. It is unlawful for any owner or harborer to keep a kennel in the city unless the owner or harborer shall first possess a license for such kennel.

C. The annual license fee for a kennel or cattery shall be as set by the council by motion or resolution.

D. Upon proof of proper zoning and payment of the required license fee, the license provided for by this section shall be issued.

E. A license issued herein shall be posted on the licensed premises at all times.

F. A license issued herein shall be in lieu of all other license fees prescribed, provided that all dogs in the kennel shall at all times be confined. Should a dog belonging to an owner or harborer be allowed off the premises, the owner or harborer shall pay the same tax and license fee as required for all dogs over six (6) months of age as provided in this chapter.

G. Kennels shall be subject to inspection by the animal control officer at all times.

SECTION 4-109 RECORDS KEPT BY KENNELS, PET SHOPS.

A. All pet shops, kennels and catteries shall maintain records and retain such records for a two-year period on all dogs and cats maintained in such facility. Such records shall show breed, color, markings, sex, and age; date and source of animal; period for which the animal is maintained; date and disposition of animal, including name and address of the new owner, disease prevention or treatment and by whom.

B. A pet shop, cattery or kennel shall provide general environmental conditions to control parasites, clean food and water, weather protection and clean and sanitary facilities.

C. A pet shop, cattery or kennel shall provide cages and pens of easily cleanable materials, is used for confinement, and shall be kept clean and sanitary at all times.

Article 2

VACCINATION AND LICENSING

SECTION 4-121 RABIES VACCINATION REQUIRED; CERTIFICATE OF VACCINATION; TAGS.

A. No person shall own, keep, or harbor any dog or cat within the city limits unless such dog or cat three (3) months of age or older is vaccinated for rabies annually every year before July 1 thereof, and in any event before the cat or dog becomes three (3) months of age.

B. Unless the owner of any dog or cat furnishes written proof that the dog or cat has been vaccinated for rabies by a licensed veterinarian in the past twelve (12) months, the owner shall be guilty of an offense.

C. When a veterinarian vaccinates a dog or cat against rabies, he shall issue to the owner of such dog or cat a metal tag or check evidencing such vaccination and the year of vaccination.

1. Locally license veterinarians shall forward to the Tonkawa Police Department on a weekly basis a list of all vaccination tags issued.

2. Owners of dogs and cats who use other than local license veterinarians must provide to the Tonkawa Police Department proof of the vaccination and the tag number.

3. If no tag is given by the veterinarian, the Tonkawa Police Department shall issue a tag upon proof of vaccination for a fee of \$1.00.

D. It shall be the duty of the owner of the dog or cat to attach the tag or check issued to him pursuant to Subsection C to the dog or cat and it shall be unlawful for any person to remove such tag or check without the owner's consent.

State Law Reference: City's power to regulate dogs, 11 O.S. Sec 22-115.

Note: Amended by ordinance 1996-6 on September 5, 1995.

SECTION 4-122 REGISTRATION.

A. A tax as set by the council by motion or resolution is levied for each dog over six (6) months of age in the city. The

tax does not apply to any dog temporarily brought and kept within the city, nor to a dog brought within the city to participate in a dog show, nor to a "seeing eye" dog when such dog is actually being used by a blind person to aid him in going from place to place.

B. The owner shall pay such tax to the City Clerk for every year before the first day of July thereof, or upon acquiring after that day any dog within the city upon which the tax has not been paid for the year in which acquired, or upon bringing a dog into the city after that day.

C. Before the clerk accepts money offered in payment of the tax for a dog or issues a license for it, the person offering the tax shall present to the City Clerk the certificate of a veterinarian or other person legally authorized to immunize dogs showing that the dog has been immunized against rabies during the preceding year.

D. The owner of the dog shall, at the time of paying the tax, register the dog by giving the City Clerk the name and address of the owner, the name, breed, color and sex of the dog, and such other reasonable information as the City Clerk may request.

E. The City Clerk thereupon shall deliver an original receipt to the owner and also an appropriate tag for the dog. Such tag shall constitute a license for the dog.

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

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

H. No person shall counterfeit, or attempt to counterfeit, any tag issued for a dog as provided in this chapter or take from any dog a tag legally placed upon it or place such tag upon a dog for which the tag was not specifically issued.

Article 3

IMPOUNDMENT REGULATIONS

SECTION 4-131 IMPOUNDMENT RECORD, DISPOSITION OF ANIMALS

A. The city may establish an animal shelter or pound or contract with an outside agency to serve as the city's animal shelter or pound to provide for the impoundment of animals pursuant to this chapter.

B. Any dog or other animal found running at large or in violation of this chapter shall be picked up and immediately impounded in the animal shelter and confined in a human manner.

C. The city animal control officer, upon receiving an animal for impoundment shall record or cause to be recorded the description, breed, color, tag number, if any, and sex of the animal and the name and address of the owner as may be shown on applicable city animal control records. If the owner is known, the officer shall:

1. Notify the owner at an address or telephone number available to the city; or

2. Leave a notice by telephone with a member of the owner's family, or other person residing at the owner's home, as shown in the city's records, over the age of fifteen (15) years, or by mail, first class letter, if no personal contact is accomplished within forty-eight (48) hours after receipt of the animal notifying the owner that unless reclaimed within forty-eight (48) hours after impoundment, Saturdays, Sundays and city holidays excluded, the animal will be destroyed or otherwise disposed of.

SECTION 4-132 BREAKING POUND OR INTERFERING WITH OFFICERS.

A. If any person breaks open, or in any manner directly or indirectly aids in, or counsels or advises the breaking open of any city pound or contract pound, or hinders, delays, or obstructs any person duly authorized in taking up or taking to the city pound any animal liable to be impound, he shall be guilty of an offense.

B. No person shall interfere with, or hinder, or molest any agent of the city in the performance of any duty of such agent or seek to release any animal in the custody of the city or its agents, except as provided by law.

SECTION 4-133 ANIMAL SHELTER FEES.

A. Fees for impounding and keeping an animal, to be paid upon redemption, are as set by the city council by motion or resolution. In computing a fee, a fraction of a day during which an animal or fowl has been fed shall be deemed a full day.

B. Any person redeeming an impounded animal or fowl shall pay the fees to the City Clerk and present the receipt therefore to the person in charge of the animal shelter before the latter releases the animal or fowl.

C. Any dog or cat not vaccinated against rabies being held or impounded by the city shall not be released to the owner or any other person without proof of current vaccination against rabies or without paying a deposit in such sum as is set by the city, which deposit shall be refunded to the person putting up the same upon proof of current vaccination being shown to the animal control officer within seventy-two (72) hours of the release of the animal. If such proof is not presented, then the animal control officer may retake the animal into custody and deposit the deposit with the City Clerk to be retained as expenses of taking the animal into custody.

D. In addition to the above fees, any person requesting impoundment or disposal of an animal by the shelter shall pay a fee for such service as set by the council by motion or resolution.

E. No dog or other animal suffering from rabies or other infectious or dangerous disease may be released from the animal control shelter.

SECTION 4-134 REDEMPTION, ADOPTION, OF ANIMAL.

A. An owner of an impounded animal or his agent may redeem the animal prior to its sale or destruction as provided for herein by paying the required fees against the animal and meeting any other requirements which may be prescribed in this chapter. If the owner or his agent has not redeemed the animal within the first forty-eight (48) hours after the impoundment of the animal, the animal may be otherwise disposed of as provided for herein.

B. A person desiring to adopt an animal from impoundment shall pay an adoption fee, costs of any necessary vaccinations.

SECTION 4-135 ADOPTION OF IMPOUNDED ANIMALS.

A. Animals of apparent value not reclaimed within the time provided in this chapter may be sold for cash under the

direction of the animal control officer. The purchaser of an animal at a sale held as provided herein shall acquire absolute title to the animal purchased. All money received for such sale shall be paid to the City Clerk on the day it is received or by noon on the next day the office of the City Clerk is open.

B. The owner of an impounded animal sold as prescribed herein may claim the excess of the sale price of the animal above the fees for impounding and keeping the same and a fee to reimburse the city for any expense it has had in making the sale, at any time within three (3) months after the sale. If a claim is so made and approved by the council, the City Clerk shall pay him such excess, but if a claim is not so made, the excess shall belong to the city.

SECTION 4-141 CRUELTY TO ANIMALS.

It is unlawful for any person, willfully and maliciously, to pour on, or apply to, any animal any drug or other thing which inflict pain on the animal; or to knowingly treat an animal in a cruel or inhumane manner; or to knowingly neglect an animal belonging to him or in his custody in a cruel or inhumane manner.

SECTION 4-142 POISONING ANIMALS.

It is unlawful for a person willfully to poison any dog or other animal except a noxious, non-domesticated animal, or to knowingly expose poison so that the same may be taken by an animal.

SECTION 4-143 ENCOURAGING ANIMALS TO FIGHT.

It is unlawful for any person to instigate or encourage a fight between animals or to encourage one animal to attack, pursue or annoy another animal except a noxious, non-domesticated animal, or to keep a house, pit or other place used for fights between animals.

Article 5

ZONING ORDINANCE

SECTION 4-151 ZONING ORDINANCE TO PREVAIL.

In case of any conflict between the provisions of this chapter and the zoning ordinance, the zoning ordinance shall prevail.

Article 6

RABIES AND ANIMAL BITES

SECTION 4-161 ANIMAL BITES; RABIES EXAMINATION; QUARANTINE

A. Every animal that bites or scratches a person shall be reported within four (4) hours to the animal control officer and shall thereupon be securely quarantined at a veterinarian hospital for a period of ten (10) days from the date the person was bitten and shall not be released from such quarantine except by permission of the animal control officer of the city and the veterinarian in charge of the quarantined animal. Such quarantine may be at any veterinarian hospital chosen by the owner. Failure of the owner or keeper to quarantine his animal within the four-hour period herein will make him guilty of an offense.

B. The owner, upon demand by any city officer or animal control officer, shall surrender any animal that has bitten or scratched a human, or which is suspected as having been exposed to rabies, for supervised quarantine testing or euthanasia, the expense for which shall be borne by the owner; and the animal may be reclaimed by the owner if adjudged free of rabies.

SECTION 4-162 RABIES DIAGNOSES; QUARANTINE OF CITY; TIME LIMIT.

A. When an animal under quarantine has been diagnosed as being rabid, or suspected by a licensed veterinarian as being rabid, and dies while under such observation, the animal control officer or veterinarian shall immediately send the head of such animal to the state health department for pathological examination and shall notify the proper public health officer of reports of human contacts and diagnosis made of the suspected animal.

B. When one or both reports give a positive diagnosis of rabies, the health or animal control officer of the city may recommend a citywide quarantine for a period of six (6) months; and upon the invoking of such quarantine, no animal shall be taken into the streets or permitted to be in the streets during such period of quarantine. During such quarantine, no animal shall be taken or shipped from the city without written permission of the animal control officer of the city.

C. During such period of rabies quarantine as herein designated, every animal bitten by an animal adjudged to be rabid shall be treated for such rabies infection by a licensed veterinarian or held under six (6) months quarantine by the owner in the same manner as other animals are quarantined.

D. In the event there are additional positive cases of rabies occurring during the Period of quarantine, such period of quarantine may be extended for an additional six (6) months.

State Law Reference: State quarantine of animals, 63 O.S. Sec. 1-508

SECTION 4-163 KILLING OR REMOVING RABID ANIMAL PROHIBITED.

A. No person shall kill or cause to be killed any rabid animal, any animal suspected of having been exposed to rabies, or any animal biting or scratching a human, except as herein provided, nor to remove the animal from the city limits without written permission from the health officer of the city, or the animal control officer.

B. The carcass of any dead animal exposed to rabies shall upon demand be surrendered to the animal control officer.

C. The animal control officer shall direct the disposition of any animal found to be infected with rabies.

D. No person shall fail or refuse to surrender any animal for quarantine or destruction as required herein when demand is made therefore by an employee empowered to enforce this chapter. Such refusal shall be deemed an offense.

SECTION 4-164 REPORTS OF BITE CASES; REPORT BY VETERINARIAN.

A. It is the duty of every physician, veterinarian, or other practitioner to report to the animal control officer the names and addresses of persons treated for bites inflicted by animals, together with such other information as will be helpful in rabies control.

B. It is the duty of every licensed veterinarian to report to the animal control officer his diagnosis of any animal observed by him to be a rabid suspect.

SECTION 4-165 INVESTIGATIONS FOR VIOLATION OF CHAPTER

A. For the purpose of discharging the duties imposed by this chapter and to enforce its provisions, the animal control or health officers are empowered to call upon the residents of any premises upon which a dog or cat or small animal is kept or harbored, and to demand the exhibition by the owner of such dog or cat or small animal.

B. The animal control or health officer, in the manner

authorized by law, may enter the premises where any animal is kept in a reportedly cruel or inhumane manner and demand to examine such animal, and to take possession of such animal when, in his opinion, it requires humane treatment. The officer may demand, at the front door of any residence, exhibition by the owner of current animal licenses at any time.

SECTION 4-166 RECORDS.

The animal control officer shall keep or cause to be kept:

1. An accurate and detailed record of the licensing, impounding and disposition of all animals coming into his custody; and

2. An accurate and detailed record of all bite cases reported to the city, with a complete report of the investigation of each case.

Article 7

DANGEROUS ANIMALS

SECTION 4-172 SEIZING POTENTIALLY DANGEROUS AND DANGEROUS DOGS WHO THREATEN THE HEALTH, SAFETY AND WELFARE OF PERSONS

A. Seizing potentially dangerous dogs or Dangerous Dogs with probable cause.

1. Any animal control officer or city law enforcement officer may seize a potentially dangerous dog without a warrant:

a. if the dog is continuing to run at large at the time of the seizure,

b. if the officer has probable cause to believe the dog is a dangerous dog and the threat to the health, safety and welfare of livestock or persons is of a continuing nature under the circumstances, or

c. pursuant to Section 4-177 of this code.

2. Any animal seized pursuant to this subsection shall be held by the appropriate animal control authority until the appropriate terms and conditions of release necessary to protect the health, safety, and welfare of and persons with whom the dangerous dog may come in contact are established by the animal control officer or Police Chief or designee.

B. The cost for the seizure and confinement of an animal as authorized by subsection A of this section shall be borne by the owner of the animal.

C. The provisions of Sections 4-175, 4-176 and 4-177 of this code shall also apply to a dangerous dog as defined in subsection D of this section.

D. For purposes of this section:

1. "Livestock" means any cattle, bison, hog, sheep, goat, equine, domesticated rabbits, chicken, or other poultry and shall include exotic livestock;

2. "Potentially dangerous dog" means any dog that, while the dog was allowed to run at large off the property of the owner, when unprovoked, on more than one occasion, was found to be chasing or aggressively creating a substantial threat to the health, safety and welfare of livestock or persons;

3. "Dangerous dog" means any dog that, while the dog was allowed to run at large off the property of the owner:

a. when unprovoked, killed, or injured livestock, or

b. has been previously found to be a potentially dangerous dog, the owner having received notice of such by the animal control authority in writing, and continues to be found chasing or aggressively creating a substantial threat to the health, safety and welfare of livestock or persons;

4. "Animal control authority" means the same as defined in Section 4-174 of this code;

5. "Animal control officer" means the same as defined in Section 4-174 of this code; and

6. "Owner" means the same as defined in Section 4-174 of this code.

SECTION 4-173 FAILURE TO RESTRAIN DANGEROUS DOG - RELEASING DOG ON
LAW ENFORCEMENT OFFICER - CRIMINAL PENALTIES - DEFENSES

A. It is unlawful for the owner of any dog that previously has:

1. When unprovoked inflicted bites on any person or severely injured any person either on public or private property; or

2. When unprovoked created an imminent threat of injury or death to any person,

to permit such dog to run at large or aggressively bite or attack any person while such person is lawfully upon public or private property. Upon conviction, the violator shall be guilty of a misdemeanor punishable by a fine \$500.00, plus court costs, fees, and state assessments.

B. It shall be an affirmative defense to a prosecution pursuant to subsection A of this section that the injury was sustained by a person who, at the time, was committing a willful criminal act upon the premises of the owner of the dog or was assaulting the owner of the dog.

SECTION 4-174 DEFINITIONS

As used in Section 4-174 through 4-177 of this code:

1. "Potentially dangerous dog" means any dog that:
 - a. when unprovoked inflicts bites on a human either on public or private property, or
 - b. when unprovoked attacks a dog which results in the death of said dog either on public or private property;
2. "Dangerous dog" means any dog that:
 - a. has inflicted severe injury on a human being without provocation on public or private property,
 - b. has been previously found to be potentially dangerous, the owner having received notice of such by the animal control authority in writing and the dog thereafter aggressively bites, attacks, or endangers the safety of humans, or
 - c. has been previously found to be potentially dangerous, the owner having received notice of such by the animal control authority in writing and the dog thereafter attacks a dog which results in the death of said dog either on public or private property;

3. "Severe injury" means any physical injury that results in broken bones or lacerations requiring multiple sutures or cosmetic surgery;

4. "Proper enclosure of a dangerous dog" means, while on the owner's property, a dangerous dog shall be securely confined indoors or in a securely enclosed and locked pen or structure with at least one hundred fifty (150) square feet of space for each dog kept therein which is over six (6) months of age, and which is suitable to prevent the entry of children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top, and shall also provide protection from the elements for the dog;

5. "Animal control authority" means the City of Tonkawa Animal Control Department;

6. "Animal control officer" means any individual employed, contracted with, or appointed by the City of Tonkawa for the purpose of aiding the enforcement of this code or any other law or ordinance relating to the licensure of animals, control of animals, or seizure and impoundment of animals, and includes any Tonkawa Police Officer or other local law enforcement officer or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal; and

7. "Owner" means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having control or custody of an animal.

SECTION 4-175 REQUIRED AND EXEMPTED CERTIFICATE OF REGISTRATION FOR DANGEROUS DOGS AND FEES; HEARINGS; DETERMINATIONS.

A. It is unlawful for an owner to have a dangerous dog in the state without certificate of registration issued under this section. This section shall not apply to dogs used by law enforcement officials for police work.

B. If a police officer has probable cause to believe a dog is potentially dangerous or dangerous it may be seized as provided by Section 4-172.

C. The municipal judge shall hold a hearing within ten (10) days of the date of impoundment, or such later date as agreed to by the parties to the case, to determine if the animal is potentially or dangerous as defined by this code. The hearing

may be held in conjunction with any criminal proceedings if ordered by the judge. The municipal judge shall be empowered to make one of the following determinations as a result of the hearing.

1. That the animal is in fact not dangerous, in which event the animal control officer shall cause the dog to be surrendered to its owner, upon payment by the owner of the expenses outlined in this article;

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

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

- a. A proper enclosure to confine a dangerous dog and the posting of the premises with a clearly visible warning sign that there is a dangerous dog on the property. In addition, the owner shall conspicuously display a sign with a warning symbol that informs children of the presence of a dangerous dog; and
- b. A policy of liability insurance, such as homeowner's insurance, or surety bond, issued by an insurer qualified under Title 36 of the Oklahoma Statutes in the amount of not less than Fifty Thousand Dollars (\$50,000.00) insuring the owner for any personal injuries inflicted by the dangerous dog and
- c. That the dog be placed in a proper enclosure as defined by Section 4-174 of this code, unless the dog is muzzled and restrained by a substantial chain or leash and remains under the physical restraint of a responsible person over sixteen (16) years of age. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.
- d. An annual fee of Ten Dollars (\$10.00) shall be charged, in addition to any regular dog licensing fees, to register dangerous dogs.

D. It shall be unlawful for any owner to permit any potentially dangerous or dangerous dog to be at large in the City,

by act or omission, and upon conviction of the same, the owner shall be liable for a fine of not to exceed Five Hundred Dollars (\$500.00), plus court costs, fees, and state assessments.

SECTION 4-176 DOGS NOT DECLARED DANGEROUS

Dogs shall not be declared dangerous if the threat, injury, or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or was tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime.

SECTION 4-177 ANIMAL CONTROL'S AUTHORITY TO CONFISCATE ANY DANGEROUS DOG

A. Any dangerous dog shall be immediately confiscated by an animal control authority if:

1. The dog is not validly registered under Section 4-175 of this code;

2. The owner does not secure the liability insurance coverage or surety bond required under Section 4-175 of this title;

3. The dog is not maintained in the proper enclosure as defined by Section 4-174 of this code; and

4. The dog is outside of the dwelling of the owner, or outside the proper enclosure and not under physical restraint of the responsible person as required by Section 4-176 of this code.

B. The owner of a dangerous dog shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00), plus court costs, fees, and state assessments for any violation of this code relating to dangerous dogs resulting in the confiscation of such dog or pursuant to any provision of subsection A of this section.

C. The owner of a dangerous dog shall be guilty of an offense punishable by a fine of not more than Five Hundred Dollars (\$500.00), plus court costs, fees and state assessments for any personal injury caused by any dangerous dog. The fine, at the discretion of the court, may be offset by payments made by the dog owner to any victim of an injury or attack by the dog. However,

insurance payments may not be considered as an offset. In addition, the court may require the owner to perform forty (40) hours of community service. The court may suspend any portion of the community service requirement set forth in this section. It shall be an affirmative defense to a prosecution pursuant to this subsection that the injury was sustained by a person who, at the time, was committing a willful criminal act upon the premises occupied by the owner of the dog or was assaulting the owner of the dog.

Article 8

PENALTY

SECTION 4-181 PENALTY

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be punished as provided in Section 1-108 of this code.

CHAPTER 5: BUILDING REGULATIONS AND CODES

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CHAPTER 5: BUILDING REGULATIONS AND CODES

ARTICLE 1

BUILDING CODE AND REGULATIONS

SECTION 5-101 INTERNATIONAL BUILDING CODE ADOPTED.

That a certain document is on file in the Office of the City Clerk of the City of Tonkawa, Oklahoma, being marked and designated as the International Building Code, 2015 Edition, its appendices and annual amendments thereof, as published by the International Code Council, be and is hereby adopted as the Building Code for the City of Tonkawa, State of Oklahoma, for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said International Building Code on file in the office of the City Clerk of the City of Tonkawa, Oklahoma, are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 5-102 of this Article.

State Law Reference: Building codes, adoption by cities, 11 O.S. § 14-107; 74 O.S. § 324.8.

SECTION 5-102 ADDITIONS AND CHANGES TO INTERNATIONAL BUILDING CODE.

The following section of the International Building Code, 2015 Edition are hereby revised:

1. §100.1, insert the City of Tonkawa, State of Oklahoma.
2. §1612.3, insert the City of Tonkawa, State of Oklahoma.
3. §1612.3, insert May 1, 2017

4. §3410.2, insert May 1, 2017

SECTION 5-103 PENALTY.

A person who violates a provision of this code or fails to comply therewith or with any of the requirements thereof, or who erects, constructs, alters, repairs or removes, or has erected, constructed, altered, repaired, or removed a building or structure in violation of a detailed statement of plan submitted and approved thereunder or of a permit or certificate issued thereunder, shall be guilty of a misdemeanor, and upon conviction shall be fined any sum as provided in Section 1-108 of this code including costs. Each day upon which a violation continues shall be deemed a separate offense.

SECTION 5-104 BUILDING OFFICIAL.

The building official of this City shall have the powers and duties prescribed from the "building official" by the applicable building code; provided that his powers and duties may be exercised by his authorized representatives under his supervision and control. The term "building inspector," whenever used in the ordinances of the City, means the building official. The terms "electrical inspector" and "plumbing inspector," wherever used in the ordinances of the City, also each refer to and mean the building official, unless a separate electrical inspector or plumbing inspector is appointed by the City Manager.

SECTION 5-105 FIRE LIMITS.

The fire limits of the city shall consist of all that part of the city embraced in the following boundary lines: Beginning at the intersection of North Avenue and Fifth Street; thence south along Fifth Street to the intersection of Irby Avenue; thence west along Irby Avenue to the intersection of Main Street; thence north along Main Street to the intersection of Park Avenue; thence west along Park Avenue to the intersection of Ninth Street; thence north on Ninth Street to the intersection of Tonkawa Avenue; thence east along Tonkawa Avenue to the intersection of Main street; thence north along Main Street to intersection of North Avenue; thence east along North Avenue to the intersection of Fifth Street, the place of beginning. However, all residential homes shall be exempt from fire district enhanced code requirements.

SECTION 5-106 BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY
REQUIRED; FEE.

A. Except as may be exempt by law or rule, no person shall build, construct, erect, enlarge, move, demolish, or extend a building or structure's roof line, without first obtaining a building permit. Except as may be exempt by law or rule, no person shall change or permit the change in the use of any land or building or structure in violation of the Zoning Ordinance or to build, construct, erect, enlarge, move, demolish, or extend a building or structure's roof line, without first obtaining a building permit. A building permit shall be obtained under the following conditions:

B. Building Permit. The applicant for a Building Permit may be required to furnish the following information:

1. A plot plan, drawn to scale, showing the exact size, shape, and dimensions of the lot to be built upon, the exact size and location on the lot of all existing buildings and structures, and the exact size and location on the lot of the structure or building proposed to be built, constructed, erected, enlarged, moved, demolished, or to have an extension of a building or structure's roof, together with a statement of the materials to be used, and the size arrangement, number of parking stalls, movement of vehicles and ingress and egress drives for all off-street parking and loading.

2. A declaration of the existing and intended use of each existing and proposed buildings or structure on the lot and the number of families and housekeeping units which each existing building accommodates and each existing and proposed building is designed to accommodate.

3. Additional information relating to the proposed improvement needed to determine compliance with these regulations.

4. A survey prepared by a land surveyor registered in the State of Oklahoma of the boundaries of the lot on which the improvement is proposed to be located.

C. If the application is in accordance with the requirements of the ordinances and laws, the clerk shall issue the permit upon the payment by the applicant of a building permit which may be set by motion or resolution of the City council. A current copy of the fee schedule shall be kept in the office of the City Clerk.

D. Permits shall not be required for the following:

1. Repair of or re-roofing an existing roof, provided the building or structure's roof line is not extended.

2. Demolition of an accessory building or structure.

3. Repair or replacement of an existing fence, provided the location of the fence is not altered or extended.

E. A building permit covers the initial plumbing and electrical installations to be made in connection with the building.

F. If construction or work authorized under a permit is not begun within sixty (60) days after issuance of the permit, the permit is automatically canceled.

SECTION 5-107 NUMBERING OF BUILDINGS.

(Reserved for future use.)

SECTION 5-108 PERMIT REQUIRED FOR MOVING BUILDING, BUILDING WITH TRAILER OR MOBILE HOME.

A. No person shall move any building or structure from one location in the City to another location within the City, or from outside the City into the City, without first obtaining a written permit from the building official. The fee for such permit shall be as set by the City Council in addition to any other costs incurred by the City.

B. No person, firm, or corporation shall move any mobile home from one location in the City to another location within the City, or from outside the City into the City, to be placed upon a lot, without first obtaining a written permit from the building official. The fee for such permit shall be as set by the City Council in addition to any other cost incurred by the City.

SECTION 5-109 INTERNATIONAL PROPERTY MAINTENANCE CODE ADOPTED.

That a certain document is on file in the Office of the City Clerk of the City of Tonkawa, Oklahoma, being marked and designated as the International Property Maintenance Code, 2015

Edition, its appendices and annual amendments thereof, as published by the International Code Council, be and is hereby adopted as the Code for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the City Clerk of the City of Tonkawa, Oklahoma, are hereby referred to, adopted, and made a part hereof, as fully set out in this ordinance, with the following additions, insertions, deletions and changes:

Section 101.1, insert the City of Tonkawa, Oklahoma

Section 103.5, insert a schedule of fees on file in the office of the City Clerk or contained in the Tonkawa Municipal Code 2012

Section 304.14, insert from April 1 to September 30

Section 602.3, insert from November 1 through March 31

Section 602.4, insert from November 1 through March 31

SECTION 5-110 INTERNATIONAL EXISTING BUILDING CODE ADOPTED.

That a certain document is on file in the Office of the City Clerk of the City of Tonkawa, Oklahoma, being marked and designated as the International Existing Building Code, 2015 Edition, but not to include the Appendix Chapters, together with any annual amendments thereof, as published by the International Code Council, be and is hereby adopted as the Code for regulating and governing the repair, alteration, change of occupancy, addition, and relocation of existing buildings, as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said International Existing Building Code on file in the office of the City Clerk of the City of Tonkawa, Oklahoma, are hereby referred to, adopted, and made a part hereof, as fully set out in this ordinance, with the following additions, insertions, deletions and changes:

Section 101.1, insert the City of Tonkawa, Oklahoma

Section 1201.2, insert May 1, 2017.

SECTION 5-111 OUTDOOR PRIVATE SWIMMING POOLS

A. An outdoor private swimming pool, including an in-ground, above ground or on-ground pool, 18 inches or taller, shall comply with the following:

1. The top of the fence shall be at least 48 inches above the finished ground level.

2. Fences must be composed of acceptable fencing material.

3. Enclosure fences shall be constructed so as to prohibit the passage of a sphere larger than four (4) inches in diameter through any opening or under the fence.

4. All fences must be approved by the code enforcement officer.

5. Spas and/or hot tubs shall be enclosed or equipped with an approved safety cover.

SECTION 5-112 RESIDENTIAL BUILDING CONTRACTOR; REGISTRATION AND INSURANCE REQUIRED; STATE FEE TO BE ASSESSED.

A. Residential Building Contractor; Registration and Insurance Required.

1. No person shall work at the occupation or engage in the business of the construction of residential dwellings within the City, or making repairs thereto, for which a residential building permit is required, without registering with the City Clerk and securing a residential building contractors' registration. A residential building permit shall be defined for this section as any building permit for a single-family or a duplex residential structure and shall include construction of a new structure, remodel of an existing structure, and the addition to an existing structure. Not included under the definition of a residential building permit are a single-family or a duplex carport, patio cover, storage building, accessory building, pool, or fence.

2. Applicants for registration shall pay an annual registration fee of \$100.00, with such registration to expire annually on June 30.

3. At all times that such registration is effective, the residential building contractor shall furnish the City Clerk a certificate of insurance from an appropriate insurer providing that contractor with general liability insurance in an amount required by other trade contractors licensed by the Construction Industries Board and workers' compensation insurance, for such contractor and employees, or a workers' compensation exemption verification document.

4. The City Council, upon notice and adequate opportunity for a public hearing, may revoke the registration of any residential building contractor for violation of any of the provisions or regulations of the City related to building construction or for any cause specified in the state law or municipal code.

5. All services performed by utility companies operating under a franchise or other agreement or permit, and the employees of such utility companies are hereby exempt from the registration and insurance requirements for work done under the supervision and direction of the utility companies.

6. This section shall not apply to a person or persons performing the construction or remodeling to his, her, or their own existing single-family or duplex structure on their own property, unless the modifications are being performed by and the permit acquired by a general contractor or subcontractor, in which case the general contractor or subcontractor shall meet the requirements set forth in this section.

B. State Fee to Be Assessed; Administrative Fee. The City shall assess and collect a fee for any building permit and/or renewal of such permit, in addition to other fees charged and collected by the City, in an amount and at such time as directed by the Oklahoma Uniform Building Code Commission. The calculation of such fee shall be made in accordance with the rules and regulations promulgated by the Oklahoma Uniform Building Code Commission. For purpose of such calculation the fee may be charged on any process, oral or written, wherein authorization, approval or registration is required prior to construction even though: 1) the permitting or registration document is not issued at that time; 2) the City refers to the authorization, approval, or registration as something other than a "permit"; or 3) the only activities performed by the City are fee-based inspections of the work performed. For purpose of this section each segment of a multi-

segment permit shall be considered a separate building permit if the segment meets each of the following conditions:

1) the City requires a separate, stand-alone building permit for the segment work when said work is not performed as part of a multi-segment construction project; 2) the City charges a stand-alone building permit fee for the segment work when said work is not performed as part of a multi-segment construction project; and 3) the segment work is subject to the requirements of the State Adopted Building Codes. Such fee shall be placed in a City account created for that purpose and such fees shall be monthly remitted by the municipality to the State Treasury for deposit in the Oklahoma Uniform Building Code Commission Revolving Fund. Along with such monthly deposit, the City shall submit a report stating the total amount of funds collected and the total number of fees imposed during the preceding month. In addition, to the fee that shall be collected and remitted as provided hereinabove, then City shall charge an additional administrative fee of \$0.50 on each fee collected and reported to the state.

SECTION 5-113 INTERNATIONAL RESIDENTIAL CODE ADOPTED.

That a certain document is on file in the Office of the City Clerk of the City of Tonkawa, Oklahoma, being marked and designated as the International Residential Code, 2015 Edition, including all appendix chapters, together with any annual amendments thereof, as published by the International Code Council, be and is hereby adopted as the Residential Code of the City of Tonkawa, State of Oklahoma, for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one and two family dwellings and multiple single family dwellings (City houses) not more than three stories in height with separate means of egress as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Residential Code on file in the office of the City Clerk of the City of Tonkawa, Oklahoma, are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with the following additions, insertions, deletions and changes:

Section R101.1, insert the City of Tonkawa, Oklahoma

ARTICLE 2

PLUMBING CODE

Section 5-201 INTERNATIONAL PLUMBING CODE ADOPTED.

That a certain document is on file in the Office of the City Clerk of the City of Tonkawa, Oklahoma, being marked and designated as the International Plumbing Code, 2015 Edition, including all appendix chapters, together with any annual amendments thereof, as published by the International Code Council, be and is hereby adopted as the Plumbing Code of the City of Tonkawa, State of Oklahoma, for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Plumbing Code on file in the office of the City Clerk of the City of Tonkawa, Oklahoma, are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with the additions, insertions, deletions and changes as set out in Section 5-202.

Section 5-202 ADDITIONS, INSERTIONS AND CHANGES TO THE INTERNATIONAL PLUMBING CODE

The following sections contained in the International Plumbing Code, 2015, are hereby revised:

Section 101.1, insert the City of Tonkawa, Oklahoma

Section 106.6.2, insert as provided by resolution of the City or as provided in the Tonkawa Municipal Code 2017

Section 106.6.3, insert in first blank 75% and second blank 50%

Section 108.4, insert as provided by Section 1-108 of the Tonkawa Municipal Code, 2012

Section 108.5, insert as provided by Section 1-108 of the Tonkawa Municipal Code 2017

Section 305.6.1, insert 18"

Section 904.1, insert 12"

State Law Reference: City powers to supervise plumbing,

59 O.S. §§ 1001 et seq.

SECTION 5-203 PLUMBERS; REGISTRATION.

A. The phrases and words "journeyman plumber," "plumber's apprentice," "plumbing contractor," and "plumbing," when used in the ordinances, regulations and other official acts and communications of this City, shall have the meanings respectively prescribed for them by Sections 1001 et seq. of Title 59 of the Oklahoma Statutes, the state plumbing license law, and the City's plumbing code, unless the context clearly indicates a different meaning.

B. No person shall work at the occupation or engage in the business of installing, altering, replacing, or repairing any plumbing equipment, fixtures, or apparatus within the City without registering with the City Clerk and securing a plumbing contractors' registration. The City Clerk shall issue such registration upon presentation of a valid license or registration issued by the state department of health and upon payment of the required fees.

C. Applicants for certificates of registration, after complying with the laws of the state and with the City code, and after payment of the fee hereinafter specified, shall be registered with the City. The registration shall expire annually, on June 30, but may be renewed from year to year. Plumbing contractors desiring to renew their registration shall furnish the same evidence of compliance with the state licensing laws and the same bond is required as set forth by City code.

D. An applicant for plumbing contractor's registration shall also furnish bond in such sum and such conditions as set by the City Council.

E. All plumbing registrations not renewed within ninety (90) days after the date of expiration thereof shall be canceled, and a new application for registration must be made and the fee for a new registration paid.

F. The fee for registration shall be as set forth in the fee schedule.

G. The City Council, upon notice and adequate opportunity for a public hearing, may revoke the City registration of any plumbing contractor or journeyman plumber for violating any provision of the ordinances or regulations of the City relating to the installation of plumbing or for any other cause specified in the state plumbing license law.

H. All services performed by utility companies operating under a franchise agreement, and the employees of such utility companies are hereby exempt from Subsection B for work done under the supervision and direction of the utility companies.

State Law Reference: State plumbing licenses, requirements, 59 O.S. §§ 1001 et seq.

SECTION 5-204 PLUMBING, PERMITS AND INSPECTIONS.

A. No plumbing work shall be undertaken without a permit from the City as provided in the City's plumbing code.

B. The application for such work shall be as required by the City.

C. The permit inspection fee for plumbing shall be as set forth in Chapter 18. Such payment will be made upon application. No work may be commenced prior to payment of the fee. The permit fee shall also cover the cost of inspection.

D. Inspection of such work shall conform to the guidelines set forth in the City code.

SECTION 5-205 PLUMBING INSPECTOR; APPOINTMENT; POWERS AND DUTIES.

A. The plumbing inspector shall be appointed by the City Manager.

B. The plumbing inspector shall have the powers and duties prescribed for him by the City's plumbing codes.

C. All taps to main sewer or water lines shall be made only under the supervision of a City official and employee.

ARTICLE 3

ELECTRICAL CODE

SECTION 5-301 DEFINITIONS.

Words and phrases in this chapter shall be as defined in the state law, Sections 1680 et seq. of Title 59 of the Oklahoma Statutes and the City's electrical code.

State Law Reference: State electrical requirements, licensing by state, 59 O.S. §§ 1680 to 1696.

SECTION 5-302 NATIONAL ELECTRICAL CODE; NATIONAL ELECTRIC SAFETY CODE.

A. All installations of electrical equipment shall be in conformity with the provisions of this chapter, with the statutes of the state and any orders, rules and regulations issued by authority thereof, and with approved electrical standards for safety to persons and property. Where no specific standards are prescribed by this chapter or by the statutes of the State of Oklahoma or by any orders, rules, or regulations issued by authority thereof, conformity with the regulations set forth in the National Electrical Code 2014 as approved by the National Board of Fire Underwriters shall be prima facie evidence of conformity with approved standards for safety to persons or to property.

B. That a certain document is on file in the Office of the City Clerk of the City of Tonkawa, Oklahoma, being marked and designated as the National Electric Safety Code 2012 Edition, issued by the Institute of Electrical and Electronic Engineers, including all appendix chapters, together with any annual amendments thereof, as published therein is hereby adopted by the City of Tonkawa, State of Oklahoma, for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, and safety of electrical and electronic devices; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said National Electric Safety Code on file in the office of the City Clerk of the City of Tonkawa, Oklahoma, are hereby referred to, adopted, and made a part hereof.

SECTION 5-303 UNDERWRITERS LABORATORIES, INC.

All electrical equipment installed or used shall be in conformity with the provisions of this chapter, the statutes of the state and the provisions of this chapter, the statutes of the state and any orders, rules and regulations issued by the authority thereof, and with approved electrical standards for safety to persons or to property. Unless by this chapter, by a statute of the state or any orders, rules, or regulations issued by authority thereof, a specific type or class of electrical equipment is disapproved for installation and use, conformity with the standards of Underwriters' Laboratories, Inc., shall be prima facie evidence of conformity with approved standards for safety to persons or to property.

SECTION 5-304 CITY COUNCIL MAY MAKE SPECIAL RULINGS.

The City Council of the City, by motion or resolution, shall have the authority to make special rulings, when circumstances warrant, for the safeguarding of life and property and the improvement of electrical installations. In all cases persons engaged in the installing of electrical equipment and holding an electrical license must be notified by letter of these decisions.

SECTION 5-305 PERMIT REQUIRED FOR ELECTRICAL INSTALLATIONS; ISSUANCE.

A. It is unlawful for any person to commence any work on electrical installations for light, heat or power or make extensions to any existing electrical installations without first securing a permit from the City.

B. Applications for electrical permits shall be made to the City; and the applicant shall provide such plans, specifications, and other data as may be reasonably required.

C. The fee for an electrical permit shall be as prescribed in the fee schedule.

Cross Reference: See also Sections 17-101 et seq. for electrical utility fees.

SECTION 5-306 INSPECTION FEE.

The permit fee shall cover the cost of inspection. If the electrical inspector is called in to inspect and upon arrival the job is not ready for inspection, a fee as set by the Council shall be charged for the call, over and above any permit fee.

SECTION 5-307 ELECTRICIAN'S REGISTRATION REQUIRED, BOND.

A. It is unlawful for any person to engage in the business, trade or vocation of electrical contractor, journeyman electrician or apprentice electrician or do any electrical work for which an electrical permit is required without a certificate of registration as such secured from the City.

B. The fee for a registration certificate, and any renewal, to be paid to the City Clerk, shall be as set by the City Council.

C. The City Clerk shall issue such registration upon presentation of a valid license issued by the state and upon

payment of the required fee. All registrations shall expire annually on June 30. After the expiration, an application for a new certificate must be requested and the initial fee paid again.

D. The certificate is not transferable to any other individual or company.

E. Every person receiving a certificate as an electrical contractor shall file with the City Clerk a bond in such sum as set by the City Council, executed with a surety company authorized to do business in the state, in the sum as set by the Council. The bond shall be conditioned that the principal will install all electrical wiring, fixtures, appliances, and equipment in accordance with the law and the ordinances and other regulations of the City relating to electrical installations and in a workmanlike manner; that the principal shall, without further cost to the person for whom the work was done, remedy any defective or faulty work caused by poor workmanship or inferior or non-standard material; and that the City may be fully indemnified and held harmless from any and all costs, expenses or damage resulting from the performance of his work as an electrical contractor or apprentice electrician, as the case may be.

F. All services performed by the City or utility companies operating under franchise agreements, and the employees of such utility company or City, are hereby exempt from Subsection A for work done under the supervision and direction of the utility company or City.

G. After adequate opportunity for a hearing, the City Council may revoke the certificate of an electrical contractor, apprentice electrician, or a journeyman electrician.

SECTION 5-308 COMPLIANCE WITH REGULATIONS.

All electrical construction and all materials, appliances, motors, heating devices and apparatus used in connection with electrical work and the operation of all electrical apparatus within the City limits shall conform to the rules and requirements of the code adopted by this chapter. The electrical inspector shall have the responsibility and authority for making interpretations of the provisions of such code, for deciding upon the approval of equipment, materials and the construction and for granting the special permission contemplated in a number of provisions of such code, and the electrical inspector, where necessary, shall follow the code procedure for securing official interpretations of such code. In cases of necessity, the electrical inspector may require larger size wire, more branch circuits, and better types of equipment

than the minimum specified in the National Electrical Code.

SECTION 5-309 INSPECTION OF WORK; REMOVAL OF DEFECTIVE INSTALLATIONS.

A. Upon the completion of any work for which a permit has been issued under Section 5-305, it shall be the duty of the permit holder to notify the electrical inspector who shall, as early as possible, inspect the wiring, installation, appliances, and apparatus and execute a certificate of satisfactory inspection, which shall contain the date of such inspection and the result of his examination. No such certificate shall be issued unless such wiring, motors, heating devices, appliances and apparatus are in strict accord with the rules, requirements, and spirit of this chapter. No current shall be turned on until such certificate is issued.

B. The amount of fee or charge to be made for such inspections and certificates shall be fixed and determined by the City Council.

C. Whenever electric wiring, appliances or apparatus are found to be defective or hazardous through improper manufacture or improper or insufficient installation or for any other reason, the electrical inspector shall at once cause the removal of such defect, at the expense of the owner of such wiring, appliance, or apparatus.

SECTION 5-310 DISCONTINUING CURRENT FOR FAILURE TO COMPLY WITH CHAPTER.

Upon failure to comply with this chapter, the electrical inspector shall have authority, after due notice, to cut off electric current. In an emergency the electrical inspector shall have such authority without notice.

SECTION 5-311 OFFICE OF ELECTRICAL INSPECTOR.

A. There is created the office of City electrical inspector. Such inspector shall be appointed by the City Manager.

B. It is the duty of the electrical inspector to enforce all provisions of this chapter. He is hereby granted the authority to enter all buildings in the City, in the performance of his duties.

ARTICLE 4

MECHANICAL CODE

SECTION 5-401 INTERNATIONAL MECHANICAL CODE ADOPTED.

That a certain document is on file in the Office of the City Clerk of the City of Tonkawa, Oklahoma, being marked and designated as the International Mechanical Code, 2015 Edition, including all appendix chapters, together with any annual amendments thereof, as published by the International Code Council, be and is hereby adopted as the Mechanical Code of the City of Tonkawa, State of Oklahoma, for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said International Mechanical Code on file in the office of the City Clerk of the City of Tonkawa, Oklahoma, are hereby referred to, adopted, and made a part hereof, as iffually set out in this section, with the following additions, insertions, deletions and changes:

Section 101.1, insert the City of Tonkawa, Oklahoma

Section 106.6.2, insert as provided by resolution of the City or as provided in the Tonkawa Municipal Code 2017

Section 106.5.3, insert in first blank 75% and second blank 50%
Section 108.4, insert as provided by Section 1-108 of the Tonkawa Municipal Code 2017

Section 108.5, insert as provided by Section 1-108 of the Tonkawa Municipal Code 2017

SECTION 5-402 DEFINITIONS.

Words and phrases in this chapter shall be as defined in the State Mechanical Licensing Act, Section 1850.1 et seq. of Title 59 of the Oklahoma Statutes, or as such sections may be hereinafter amended.

SECTION 5-403 REGISTRATION REQUIRED.

A. No person shall work at the occupation or engage in the business of installing, altering, replacing, or repairing any mechanical equipment, fixtures or apparatus within the City

without registering with the City Clerk and securing a mechanical contractor's registration. The City Clerk shall issue such registration upon presentation of a valid license or registration issued by the state department of health and upon payment of the required fee.

B. Applicants for certificates of registration, after complying with the laws of the state and with the City code, and after payment of the fee hereinafter specified, shall be registered by the City. The registration shall expire annually, on June 30, but may be renewed from year to year. Mechanical contractors desiring to renew their registration shall furnish the same evidence of compliance with state licensing laws and the same bond is required as set forth by City code.

C. An applicant for mechanical contractor's registration shall also furnish bond in such sum and such conditions as set by the City Council.

D. All mechanical registrations not renewed within ninety (90) days after the date of expiration thereof shall be canceled, and a new application for registration must be made and the fee for a new registration must be paid.

E. The fee for registration shall be as set forth by the City Council by motion or resolution.

F. The City Council, upon notice and adequate opportunity for a public hearing, may revoke the City registration of any mechanical contractor or journeyman mechanical contractor for violating any provisions of the ordinances or regulations of the City relating to the installation of mechanical or for any other reason specified in the state mechanical license law.

G. All services performed by utility companies operating under a franchise agreement, and the employees of such utility companies or City are hereby exempt from Subsection A for work done under the supervision and direction of the utility companies or City.

SECTION 5-404 MECHANICAL PERMITS AND INSPECTIONS.

A. No mechanical work shall be undertaken without a permit from the City as provided in the City's mechanical code.

B. The application for such work shall be as required by the City.

C. All persons making mechanical installations shall be

charged a permit inspection fee as set forth in the fee schedule. Such payment will be made upon application. No work may be commenced prior to payment of the fee. The permit fee shall also cover the cost of inspection.

D. Inspection of such work shall conform to the guidelines set forth in City code.

SECTION 5-405 OFFICE OF MECHANICAL INSPECTOR.

A. There is created the office of City mechanical inspector. Such inspector shall be appointed by the City Manager.

B. It is the duty of the mechanical inspector to enforce all provisions of this chapter. He is hereby granted the authority to enter all buildings in the City, in the performance of his duties.

ARTICLE 5

LIQUEFIED PETROLEUM GAS

SECTION 5-501 CODE ADOPTED.

It is unlawful for any person, firm, or corporation to manufacture, fabricate, assemble, install, or repair any system, container, apparatus, or appliance to be used for the transportation, storage, dispensing, or utilization of liquefied petroleum gas, or to transport, handle, or store such gas, unless such person has complied with and complies with all provisions of the law and ordinances relating thereto, and has any license or permit which may be required by state law. The pamphlet, Storage and Handling of Liquefied Petroleum Gasses, as contained in Pamphlet No. 58 issued by the National Fire Protection Association, the latest edition thereof, adopted by the Oklahoma Liquefied Petroleum Gas Board, shall have full force and effect within this City. Any violation of these rules and regulations shall be deemed a violation of the ordinances of the City and shall be punished accordingly.

State Law Reference: State rules, LPG, 52 O.S. § 420.1 et seq.

Cross Reference: See also Sec. 13-101 et seq. on fire prevention code.

SECTION 5-502 STANDARDS FOR USE AND INSTALLATION OF LIQUEFIED PETROLEUM GAS EQUIPMENT.

The use and installation of liquefied petroleum gas equipment shall be in conformity with the provision of this chapter, with the statutes of the State of Oklahoma, and with any orders, rules or regulations issued by authority thereof, and with generally recognized standards for safety to persons and property. Where no specific standards are prescribed by this chapter or by state statutes, or by any orders, rules or regulations issued by authority thereof, conformity with the standards of the National Fire Protection Association for the design, installation and construction of containers and pertinent equipment for the storage and handling of liquefied petroleum gases, as amended, shall be prima facie evidence of conformity with generally recognized standards for safety to persons and property.

SECTION 5-503 LPG TANKS, PERMIT REQUIRED TO HAVE VEHICLE REPAIRED.

A. Before the owner or operator of any vehicle on which is mounted a tank used in the transportation of any liquefied petroleum gas shall deliver such vehicle, or cause the same to be delivered, to any garage or other establishment for repair, he shall first submit the liquefied petroleum gas tank for inspection by the fire marshal of the City, who shall require that such tank be virtually depleted of its contents, and the pressure therein reduced to the satisfaction of the fire marshal; and upon compliance with such orders of the fire marshal, the latter shall issue a permit to the owner or operator of such vehicle authorizing the delivery of such vehicle to a garage or other institution for repair.

B. No person engaged in the repair of vehicle shall receive into his or its place of business any vehicle on which a liquefied petroleum gas transport tank is mounted unless the owner or operator of such a vehicle shall then and there exhibit the permit from the fire marshal referred to in Subsection A of this section.

C. During the hours when any repair shop or garage having possession of any vehicle on which a liquefied petroleum gas transport tank is mounted is not open for business, no such vehicle shall be kept within the garage or repair shop building.

SECTION 5-504 PARKING OF LPG TRUCKS PROHIBITED; EXCEPTIONS.

No person shall park, or cause to be parked, any liquefied petroleum gas transport truck or vehicle on any public street

or alley, or on any public private property or driveway, within the corporate limits of the City whether or not any such transport truck or vehicle is carrying any liquefied petroleum gas on board, except when any such transport truck or vehicle is actually engaged in dispensing liquefied petroleum products into any tank or tanks then being serviced and under conditions meeting the minimum safety standards provided for by ordinance of the City and by the laws of the state.

Cross Reference: See also Sec. 15-721 on hazardous trucks, parking.

ARTICLE 6

GAS PIPING CODE

Section 5-601 INTERNATIONAL FUEL GAS CODE ADOPTED.

That a certain document is on file in the Office of the City Clerk of the City of Tonkawa, Oklahoma, being marked and designated as the International Fuel Gas Code, 2015 Edition, including all appendix chapters, together with any annual amendments thereof, as published by the International Code Council, be and is hereby adopted as the Fuel Gas Code of the City of Tonkawa, State of Oklahoma, for regulating and governing fuel gas systems and gas-fired appliances as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said International Fuel Gas Code on file in the office of the City Clerk of the City of Tonkawa, Oklahoma, are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with the following additions, insertions, deletions and changes:

Section 101.1, insert the City of Tonkawa, Oklahoma

Section 106.5.2, insert as provided by resolution of the City or as provided in the Tonkawa Municipal Code, 2012.

Section 106.5.3, insert in first blank 75% and second blank 50%

Section 108.4, insert as provided by Section 1-108 of the Tonkawa Municipal Code, 2012

Section 108.5, insert as provided by Section 1-108 of the Tonkawa Municipal Code, 2012

ARTICLE 7

HOUSING CODE

SECTION 5-701 INTERNATIONAL ADOPTED.

That a certain document is on file in the Office of the City Clerk of the City of Tonkawa, Oklahoma, being marked and designated as the International Residential Code, 2015 Edition, including all appendix chapters, together with any annual amendments thereof, as published by the International Code Council, be and is hereby adopted as the Residential Code of the City of Tonkawa, State of Oklahoma, for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one and two family dwellings and multiple single family dwellings (City houses) not more than three stories in height with separate means of egress as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Residential Code on file in the office of the City Clerk of the City of Tonkawa, Oklahoma, are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with the following additions, insertions, deletions and changes: Section R101.1, insert the City of Tonkawa, Oklahoma

Cross Reference: Permits, fees, see Article 1 of this Code.

ARTICLE 8

FAIR HOUSING

Section 5-801 PURPOSES; DEFINITIONS.

A. The general purposes of this chapter are:

1. To secure for all people equal access to housing in all neighborhoods; and
2. To preserve the public safety, health, and welfare.

B. Definitions. Definitions for the words used in the Article shall be as found in Title 25, Section 1451 of the Oklahoma Statutes, as such statute is currently constituted or as it may be hereinafter amended.

Section 5-802 ACTS PROHIBITED.

It is unlawful for any person, commercial lending institution, real estate broker, real estate salesman or agent to:

1. Refuse to sell, lease, rent, assign, or otherwise transfer the title or other interest in any housing, or real property upon which residential housing is to be constructed to any person, or to discriminate in the terms or conditions of the sale, rental or leasing of any residential housing unit, because of race, color, sex, religion, gender, national origin, age, familial status, or disability;

2. Refuse to negotiate with any person for the sale, rental, or leasing of any residential property, or to represent that such property is not available for inspection, sale, rental or lease when in fact it is so available, because of such person's race, color, sex, religion, gender, national origin, age, familial status, or disability;

3. Solicit or induce, or attempt to solicit or induce, any person owning any interest in any residential housing to sell, rent or lease, or not to sell, rent or lease such housing to any person on the ground of loss of value due to the present or prospective entry into the neighborhood of a person or persons of another race, color, sex, religion, gender, national origin, age, familial status or disability, either by direct solicitation or inducement or by the purchase of other property in the neighborhood for the purpose of such inducement, or to distribute, or cause to be distributed, or making statements designed to induce a residential property owner to sell or lease his property due to such change in the neighborhood;

4. Deny or make different terms or conditions for home loans by a commercial lender, such as a bank, savings and loan association, mortgage institution or insurance company; or

5. Commit any other unlawful discriminatory act as set out in Title 25, Section 1452 of the Oklahoma Statutes, as such statute is currently constituted or as it may be hereinafter amended.

6. File a complaint alleging a violation of this article, with knowledge that such complaint is false in any material respect, or to file such complaint for the sole purpose of harassment.

Section 5-803 EXEMPTIONS.

Section 5-802 shall not:

1. Apply to any religious nonprofit organization, association, or society operated, supervised, or controlled by or in conjunction with a religious organization, association, or society from limiting the sale or rental of dwellings units owned or operated 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. Prohibit a religious organization, association, or society, or a nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from:

a. limiting the sale, rental, or occupancy of dwellings that it owns or operates for other than a commercial purpose to persons of the same religion, or

b. giving preference to persons of the same religion, unless membership in the religion is restricted because of race, color, or national origin; or

3. Prohibit a private club not open to the public that, as an incident to its primary purpose, provides lodging that it owns or operates for other than a commercial purpose from limiting the rental or occupancy of that lodging to its members or from giving preference to its members.

B. Nothing provided for in Section 5-802 relating to familial status applies to housing for older persons. As used in this section, "housing for older persons" means housing:

1. That the Oklahoma Attorney General's Office of Civil Rights Enforcement 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 sixty-two (62) years of age or older; or

3. Intended and operated for occupancy by at least one person fifty-five (55) years of age or older per unit as determined by rules of the Attorney General's Office of Civil Rights Enforcement.

C. Section 5-802 shall not apply to:

a. the sale or rental of a single-family house sold or rented

by an owner if:

(1) the owner does not:

(a) own more than three single-family houses at any one time,
or

(b) own any interest in, or is there owned or reserved on his or her 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

(2) the house was sold or rented without:

(a) the use of the sales or rental facilities or services of a real estate broker, agent, or salesman licensed pursuant to the Oklahoma Real Estate License Code, 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, or

(b) the publication, posting, or mailing of a notice, statement, or advertisement prohibited by the terms of this Article.

b. 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.

Section 5-804 FAIR HOUSING BOARD CREATED.

There is hereby created a fair housing board of the city, hereinafter referred to as "board", composed of five (5) members, to be appointed by the mayor and city council of the city, for terms of three (3) years, excepting that of the members first appointed under this chapter, two (2) shall be appointed for a term of one year, and two (2) shall be appointed for a term of two (2) years, and one shall be appointed for a term of three (3) years.

Section 5-805 PROCEDURE.

A. Any person aggrieved by discriminatory practice prohibited by this chapter, may file with the fair housing board, a complaint in writing, under oath. The complaint shall be signed by the person claiming to be aggrieved and shall state the name and address of the person alleged to have violated the

provisions of this chapter and shall further set forth the particulars of the violation and may include such other information as may be required by the board. Complaints filed under this Section must be filed within thirty (30) days after the alleged violation, and failure to file within that time, shall be considered a waiver of the application of this chapter. The board may issue a complaint on its own initiative, at any time it is within the knowledge of the board that a person has violated any of the provisions of this chapter.

B. The board shall investigate each complaint filed with the board and shall attempt an adjustment of the complaint by means of conference and conciliation. Sixty (60) days shall be allowed for the purpose of investigation, conference, and conciliation. Upon determination that a complaint is not well founded, the board shall dismiss the complaint and notify the complainant and respondent in writing of the dismissal. If it appears that the complaint might have merit, the complainants shall be advised of their rights under existing state and federal laws.

C. If conference or conciliation does not result in compliance with this chapter, the board shall cause to be issued and served in the name of the city, a written notice, together with a copy of the complaint, requiring the person named in the complaint, hereinafter referred to as respondent, to answer charges of the complaint at a hearing before the board at a time and place to be specified in the notice.

D. At the hearing, provided for in Subsection C above, the complaint shall be heard by the board. At the hearing, the complainant or person aggrieved may appear in person or by counsel, and the respondent may file a written answer to the complaint and may appear in person or by legal counsel. The board, when conducting any hearing, pursuant to this Section, may permit amendments to any complaint or answer, and the testimony taken at the hearing shall be under oath, and shall be transcribed at the request of either party, or at the direction of the board, the party requesting the transcription to be responsible for the costs thereof. If the board finds at the hearing, that the respondent has engaged in any discriminatory practice or practices, prohibited by this chapter, it shall state its findings of fact, and shall so certify the matter to the city attorney for appropriate action. No prosecution shall be brought under this chapter except upon such certification. If the board, upon hearing, finds that respondent has not engaged in any discriminatory practice, it shall state its findings of fact, and shall issue and file an order, dismissing the complaint. The board shall establish rules and regulations to govern and expedite and effectuate the foregoing procedure and shall maintain the files

provided for herein.

Section 5-806 NOTICES.

Any and all notices required under the provisions of this chapter to be served upon any person, may be served personally on such person, or by mailing a copy thereof by certified or registered mail, with return receipt requested, to the most current business or residence address of such person.

ARTICLE 9

PENALTY

SECTION 5-901 PENALTY.

Any person, firm or corporation who shall engage in any business, trade or vocation for which a license, permit, certificate or registration is required by this chapter, without having a valid license, permit, certificate, or certificate of registration as required, or who shall fail to do anything required by this chapter or by any code adopted by this chapter, or who shall otherwise violate any provision of this chapter or of any code adopted by this chapter, or who shall violate any lawful regulation or order made by any officers provided for in this chapter, shall be guilty of an offense, and upon conviction thereof, shall be punished as provided in Section 1-108 of this code. Each day such violation is committed or continues to exist shall constitute a separate offense and is punishable as such.

SECTION 5-902 RELIEF IN COURTS.

No penalty imposed by and pursuant to this chapter shall interfere with the right of the City to apply to the proper courts of the state for a mandamus, injunction or other appropriate action against such person, firm or corporation that violates any provision of this chapter.

SECTION 5-903 SUSPENSION OR REVOCATION OF REGISTRATIONS ISSUED BY City.

A. The Mayor and Council may suspend or revoke any plumbing, electrical, mechanical, or other registration issued pursuant to this Chapter, if it finds that the holder has:

1. Made a material misstatement in the application for any registration or renewal thereof;

2. Loaned or illegally used his registration;
3. Violated any provision of this code; or
4. Committed any act specified in this code as grounds for suspension or revocation of any registration.

B. Complaints against any person registered pursuant to this chapter shall be filed with the City Clerk and thereafter investigated by the appropriate City department head, or his designee. All complaints shall be in writing, signed and duly verified; provided however, this procedure shall not be exclusive and shall not preclude the filing of a complaint in the municipal court.

C. The person against whom the complaint is signed shall be entitled to a public hearing before the Mayor and Council. Within ten (10) days after the filing of a written complaint, the appropriate City department head shall serve written notice of the complaint upon the registered person. The notice shall be served personally or by certified mail (return receipt requested). If the notice is served personally it must be served at least ten (10) days prior to the scheduled hearing. If the notice is served by mail it must be postmarked at least ten (10) days prior to any scheduled hearing. The notice shall include:

1. A statement of the time, place, and nature of the hearing;
2. A statement of the legal authority and jurisdiction under which the hearing is to be held;
3. A reference to the particular sections of this code and rules involved;
4. A copy of the complaint;
5. A statement that the accused has a right to a public hearing in his defense at which time he may respond to the allegation in the complaint by his testimony, the testimony of witnesses or other admissible evidence;
6. A statement that the individual has a right to be represented by legal counsel and a right to confront his accusers; and
7. A statement that based upon the evidence presented at the hearing, the Mayor and Council shall decide to either dismiss the complaint or recommend the suspension or revocation of

the registration.

D. All writings or documents admitted into evidenceshall become a part of the record of the proceedings. A party or members of the board may conduct direct and cross examinations required for a full and true disclosure of the facts. After all evidence has been submitted, the Mayor and Council shall vote to either dismiss the complaint or suspend or revoke the registration. A suspension shall include a recommendation for a time period during which the registration is to be suspended; provided however, that a registrationcannot be suspended for a period of time exceeding six (6) months.

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CHAPTER 6. COURT

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CHAPTER 6. COURT

ARTICLE 1

MUNICIPAL COURT

Section 6-101 ORGANIZATION OF MUNICIPAL COURT.

This chapter shall govern the organization and operation of the municipal criminal court not of record of the City of Tonkawa Oklahoma, as put into operation by resolution, duly passed and filed in accordance with law, as authorized by Sections 27-101 and 27-102 of Title 11 of the Oklahoma Statutes. To the extent of conflict between any provisions of this chapter and the provisions of any ordinances of this City, the provisions of this chapter shall control.

State Law Reference: Municipal courts not of record, organization, rules, and procedures, 11 O.S. Section 27-101 to 27-132.

Section 6-102 DEFINITIONS.

As used in this chapter, unless the context required a different meaning, the following words shall have the meanings ascribed to them in this Section:

1. "Chief of police" means the peace officer in charge of the police force of the municipality;

2. "Clerk" means the clerk of this municipality, including any deputy or member of the office staff of the clerk while performing duties of the clerk's office;

3. "Court" means the municipal court of the City of Tonkawa; "Governing body" means the City Council for the City of Tonkawa;

4. "Judge" means the judge of the municipal court, including any acting judge or alternate judge thereof as provided for by the statutes of this state and this chapter;

5. "Municipality" or "this municipality" means the City of Tonkawa, Oklahoma; and

6. "This judicial district" means the district court judicial district of the State of Oklahoma wherein the government of this municipality is situated.

Section 6-103 JURISDICTION OF COURT.

The court shall exercise original jurisdiction to hear and determine all prosecutions wherein a violation of any ordinance of this municipality is charged, including any such prosecutions transferred to the court in accordance with applicable law.

Section 6-104 JUDGE; QUALIFICATIONS.

There shall be one judge of the court. The mayor, with the consent of the governing body, may appoint as judge:

1. An attorney licensed to practice law in Oklahoma, who resides in Kay County or in an adjacent county; or
2. An attorney licensed to practice law in Oklahoma who maintains a permanent office in the City of Tonkawa; or
3. Any suitable person who resides in the Kay County or in an adjacent county.

The judge may serve as judge of other municipal courts, if such service may be accomplished consistently with his/her duties as judge of this court, with the consent of the Mayor and Council. A judge should have a good moral character. A judge who is a licensed attorney may engage in the practice of law in other courts, but the judge 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.

Section 6-105 TERM OF JUDGE.

The official term of the judge shall be two (2) years expiring on the 10th day of May of each even-numbered year and until a successor is appointed and qualified, unless removed by the vote of a majority of all members of the governing body for such cause as is provided for by law for the removal of public officers. Any appointment to fill a vacancy shall be for the unexpired term.

Section 6-106 ALTERNATE JUDGE.

There shall be appointed for each judge of the court an alternate judge possessed of the same qualifications required of the judge in this chapter. The alternate judge's appointment shall be for the same term and made in the same manner as the judge. The alternate judge shall sit as acting judge of the court

in any case if the judge is:

1. Absent from the court;
2. Unable to act as judge; or
3. Disqualified from acting as judge in the case.

Section 6-107 APPOINTMENT AND COMPENSATION TO JUDGES.

A. Judges and alternative judges shall be appointed by the Mayor with the consent of the governing body.

B. All judges shall receive compensation as set by the governing body by motion or resolution.

Section 6-108 DISQUALIFICATION OF JUDGE.

In prosecutions before the court no change of venue shall be allowed; but the judge before whom the case is pending may certify disqualification or 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 judge appointed as provided in this chapter.

Section 6-109 PROCEDURE-JUDICIAL NOTICE OF STATUTES AND ORDINANCES-WRITS AND PROCESS-SERVICE OF ARREST WARRANTS.

Except as otherwise provided for by law, the code of procedure in the municipal court shall be the same as is provided for by law for the trial of misdemeanors. The court shall take judicial notice of state statutes and the ordinances of the City in which it is located. Writs and processes of the court may be issued by the judge or clerk hereof to any proper officer. All writs and processes of the municipal court in which a violation of a municipal ordinance is charged shall be directed to the chief of police of the City, a county sheriff, or to some other appropriate peace officer. A law enforcement officer of the City or county sheriff may serve an arrest warrant issued by the municipal court any place within this state. If the warrant is served by a county sheriff, the municipality shall pay the Sheriff's Service Fee Account a fee of Twenty Dollars (\$20.00).

Section 6-110 MUNICIPAL COURT CLERK.

The municipal court clerk and/or deputy shall be appointed by the City Council and shall be independent of the municipal police and judicial department. The clerk of the court shall:

1. Assist the judge in recording the proceedings of the court, preparation of writs, processes, or other papers;

2. Administer oaths required in judicial or other proceedings before the court;

3. Be responsible for the entry of all pleadings, processes, and proceedings in the dockets of the court;

4. Perform such other clerical duties in relation to the proceedings of the court as the judge shall direct; and

5. Receive and give receipt for and disburse or deliver to the municipal treasurer or to other City personnel all fines, forfeitures, fees, deposits, and sums of money properly payable to the municipal court. Such funds and sums of money while in the custody of the clerk shall be deposited and disbursed upon vouchers as directed by the municipal governing body.

Section 6-111 MUNICIPAL ATTORNEY AS PROSECUTOR.

The municipal attorney of the City may be the prosecutor of the municipal court. The prosecutor shall have full power to prosecute for the violations of any ordinance of the municipality in the municipal court and shall have the power to prosecute and resist appeals and proceedings in error and review from the municipal court.

Section 6-112 BOND OF CLERK.

The court clerk of the court shall give bond in the amount as set by the City Council, in the form provided by Section 27-111 of Title 11 of the Oklahoma Statutes. When executed, the bond shall be submitted to the governing body for approval. When approved, it shall be filed with the clerk of this municipality and retained in the municipal archives.

Section 6-113 RULES OF COURT.

The judge may prescribe rules, consistent with the laws of the state and with the ordinances of this municipality for the proper conduct of the business of the court.

Section 6-114 ENFORCEMENT OF RULES.

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 while holding court,

or committed against process issued by any authorized person, in the same manner and to the same extent as the district courts of this state.

Section 6-115 PROSECUTIONS BY VERIFIED COMPLAINT.

A. All prosecutions commenced in the municipal court shall be by complaint which shall be subscribed by the person making the complaint and shall be verified before a judge, the court clerk, a deputy court clerk, or a police officer. No warrant for arrest shall be issued until the complaint has been approved by the judge of the municipal court. All prosecutions for the violation of municipal ordinances shall be styled, "The City of Tonkawa vs. _____ (naming the person charged.)"

B. The information shall be properly verified if:

1. The issuing officer subscribes the officer's signature on the citation, ticket, or complaint to the following statement:

"I, the undersigned issuing office, hereby certify and swear that I have read the foregoing information and know the facts and contents thereof and that the facts supporting the criminal charge stated therein are true."

Such a subscription by an issuing officer, in all respects, shall constitute a sworn statement, as if sworn to upon an oath administered by an official authorized by law to administer oaths; and

2. The citation or ticket states the specific facts supporting the criminal charge and the ordinance or statute alleged to be violated; or

3. A complainant verifies by oath, subscribed on the citation, ticket or complaint, that he has read the information, knows the facts and contents thereof and that the facts supporting the criminal charge stated therein are true. For purposes of such an oath and subscription, any law enforcement officer of the municipality issuing the citation, ticket or complaint shall be authorized to administer the oath to the complainant.

SECTION 6-116 TRAFFIC VIOLATIONS BUREAU CREATED; PAYMENT OF FINES; FINES IN LIEU OF APPEARANCE

A. A traffic violations bureau is established as a division of the office of the clerk of the court, to be administered by the clerk or by subordinates designated for

that purpose. Persons who are cited for violation of one of the traffic ordinances of this city, other than a second offense within a twelve-month period, a driver's license offense or an offense punishable by more than One Hundred Dollars (\$100.00), may elect to pay a fine in the violation's bureau according to a schedule of fines prescribed from time to time by the judge with approval of the city council. In the event the defendant elects to pay the fine as hereinbefore provided, but fails to enter a plea to the charge, the payment of such fine shall constitute a no contest plea or bond forfeiture, at the discretion of the court clerk, and such finding shall be entered into the court records. The payment shall constitute a final determination of the cause against the defendant.

B. The court may adopt rules to carry into effect this section. If a defendant who has elected to pay a fine under this section fails to do so, prosecution shall proceed under the provisions of this chapter.

Note: Subsection A was amended on July 20, 2004, by Ordinance No. 2004-03.

Section 6-117 TRAFFIC BAIL BOND PROCEDURES.

A. In addition to other provisions of law for posting bail, any person, whether a resident of this state or a nonresident, who is arrested by a law enforcement officer solely for a misdemeanor violation of a state traffic law or municipal traffic ordinance shall be released by the arresting officer upon personal recognizance if:

1. The arrested person has been issued a valid license to operate a motor vehicle by this state, another state jurisdiction within the United States which is a participant of the Nonresident Violator Compact, or any party jurisdiction of the Nonresident Violator Compact;

2. The arresting officer is satisfied as to the identity of the arrested person;

3. The arrested person signs a written promise to appear as provided for on the citation; and

4. The violation does not constitute:

a. A felony;

b. Negligent homicide;

- c. Driving or being in actual physical control of a motor vehicle while impaired or under the influence of alcohol or other intoxicating substances;
- d. Eluding or attempting to elude a law enforcement officer;
- e. Operating a motor vehicle without having been issued a valid driver's license, or while the license is under suspension, revocation, denial, or cancellation;
- f. An arrest based upon an outstanding warrant;
- g. A traffic violation coupled with any offense stated in subparagraphs a through f of this paragraph;
- h. An overweight violation, or the violation of a special permit exceeding the authorized permit weight; or
- i. A violation relating to the transportation of hazardous materials.

B. If the arrested person is eligible for release on person recognizance as provided for in subsection A of this Section, then the arresting officer shall:

- 1. Designate the traffic charge;
- 2. Record information from the arrested person's driver's license on the citation form, including the name, address, date of birth, personal description, type of driver's license, driver's license number, issuing state, and expiration date;
- 3. Record the motor vehicle make, model and tag information;
- 4. Record the arraignment date and time on the citation; and
- 5. Permit the arrested person to sign a written promise to appear as provided for in the citation.

The arresting officer shall then release the person upon personal recognizance based upon the assignee's promise to appear. The citation shall contain a written notice to the arrested person that release upon personal recognizance based upon a signed

written promise to appear for arraignment is conditional and that failure to timely appear for arraignment shall result in the suspension of the arrested person driver's license in this state, or in the nonresident's home state pursuant to the Nonresident Violator Compact.

C. The court, or the court clerk as directed by the court, may continue or reschedule the date and time of arraignment upon request of the arrested person or his attorney. If the arraignment is continued or rescheduled, the arrested person shall remain on personal recognizance and written promise to appear until such arraignment, in the same manner and with the same consequences as if the continued or rescheduled arraignment was entered on the citation by the arresting officer and signed by the defendant. An arraignment may be continued or rescheduled more than one time; provided however, the court shall require an arraignment to be had within a reasonable time. It shall remain the duty of the defendant to appear for arraignment unless the citation is satisfied as provided for in Subsection D of this Section.

Procedures for arraignment, continuances and scheduling, timely appearances, pleas of guilty or nolo contendere, posting bail, payment of fines and costs, issuance of arrest warrants, and requests for suspension of driver's license, shall be required by the City or as provided in state law, Sections 1115.1 through 1115.5 of Title 22 of the Oklahoma Statutes.

D. A defendant released upon personal recognizance may elect to enter a plea of guilty or nolo contendere to the violation charged at any time before he is required to appear for arraignment by indicating such plea on the copy of the citation furnished to him or on a legible copy thereof, together with the date of the plea and his signature. The defendant shall be responsible for assuring full payment of the fine and costs to the court clerk. Payment of the fines and costs may be made by personal, cashier's traveler's, certified or guaranteed bank check, postal or commercial money order, or other form of payment approved by the court in the amount presented as bail for the offense. However, the defendant shall not use currency for payment by mail. If the defendant has entered a plea of guilty or nolo contendere as provided for in this subsection, such plea shall be accepted by the court and amount of the fine and costs shall be as prescribed by ordinance for the violation charged or as prescribed by the court or, in the absence of such ordinance, in the amount prescribed by the court.

E. If, pursuant to the provisions of subsection D of this Section, the defendant does not timely elect to enter a

plea of guilty or nolo contendere and fails to timely appear for arraignment, the court may issue a warrant for the arrest of the defendant and the municipal or district court clerk, within one hundred twenty (120) calendar days from the date the citation was issued by the arresting officer, shall notify the State Department of Public Safety that:

1. The defendant was issued a traffic citation and released upon personal recognizance after signing a written promise to appear for arraignment as provided for in the citation;

2. The defendant has failed to appear for arraignment without good cause shown;

3. The defendant has not posted bail, paid a fine, or made any other arrangement with the court to satisfy the citation; and

4. The citation has not been satisfied as provided by law.

The court clerk shall request the State Department of Public Safety to either suspend the defendant's driver's license to operate a motor vehicle in this state or notify the defendant's home state and request suspension of the defendant's driver's license in accordance with the provisions of the Nonresident Violator Compact. Such notice and request shall be on a form approved or furnished by the State Department of Public Safety. The court clerk shall not process the notification and request provided for in this subsection if, with respect to such charges:

1. The defendant was arraigned, posted bail, paid a fine, was jailed, or otherwise settled the case;

2. The defendant was not released upon personal recognizance upon a signed written promise to appear as provided for in this Section or if released, was not permitted to remain on such personal recognizance for arraignment;

3. The violation relates to parking or standing, an overweight violation, an overweight permit, or the transportation of hazardous materials; or

4. A period of one hundred twenty (120) calendar days or more has elapsed from the date the citation was issued by the arresting officer.

F. The court clerk shall maintain a record of each request for driver's license suspension submitted to the State

Department of Public Safety pursuant to the provisions of this Section. When the court or court clerk receives appropriate bail or payment of the fine and costs, settles the citation, makes other arrangements with the defendant, or otherwise closes the case, the court clerk shall furnish proof thereof to such defendant, if defendant personally appears, or shall make such proof by first class mail, postage prepaid, to the defendant at the address noted on the citation or as such other address as is furnished by the defendant. Additionally, the court or court clerk shall notify the home jurisdiction of the defendant as listed on the citation, if such jurisdiction is a member of the Nonresident Violator Compact, and shall in all other cases, notify the State Department of Public Safety of the resolution of the case. The form of proof and the procedures for notification shall be approved by the State Department of Public Safety. Provided however, the court or court clerk's failure to furnish such proof or notice in the manner provided for in this subsection shall in no event create any civil liability upon the court, the court clerk, the state or any political subdivision thereof, or any state department or agency or any employee thereof but duplicate proof shall be furnished to the person entitled thereto upon request.

Section 6-118 EXCEPTIONS TO BAIL BOND PROCEDURE.

A. If a person arrested for a traffic violation is released upon personal recognizance as provided for in Section 6-117, but subsequently posts bail and thereafter fails to timely appear as provided for by law, the court may issue a warrant for the person's arrest and the case shall be processed pursuant to Section 27-118 of Title 11 of the Oklahoma Statutes.

B. If the defendant is not eligible for release upon personal recognizance as provided for in Section 6-117 of this code, or if eligible but refuses to sign a written promise to appear, the officer shall deliver the person to the judge for arraignment and the judge shall proceed as otherwise provided for by law. If no judge is available, the defendant shall be placed in the custody of the municipal jailer, to be held until a judge is available or bail is posted.

C. Notwithstanding any other provision of law, a juvenile may be held in custody pursuant to the provisions of this Section but shall be incarcerated separately from any adult offender. Provided, however, the arresting officer shall not be required to:

1. Place a juvenile into custody as provided for in this Section; or

2. Place any other traffic offender into custody:
 - a. Who is injured, disabled, or otherwise incapacitated;
 - b. If custodial arrest may require impoundment of a vehicle containing livestock, perishable cargo, or items requiring special maintenance or care; or
 - c. If extraordinary circumstances exist, which, in the judgment of the arresting officer, custodial arrest should not be made.

In such cases, the arresting officer may designate the date and time for arraignment on the citation and release the person. If the person fails to appear without good cause shown, the court may issue a warrant for the person's arrest.

Section 6-119 DISHONORED CHECKS OR INSTRUMENTS, WARRANTS.

A personal check or other instrument tendered to the court clerk for bail or for the payment of fine and costs, if dishonored and returned to the clerk for any reason other than the lack of proper endorsement, shall constitute nonpayment of bail or fine, as the case may be, and the court, in addition to any civil or criminal remedy otherwise provided for by law, may issue a bench warrant for the arrest of the person named on the citation to require his appearance on the charges specified.

Section 6-120 ARREST, CITATION AND BAIL FOR ORDINANCE VIOLATIONS.

A. If a resident of a municipality served by a municipal court is arrested by a law enforcement officer, for the violation of any traffic ordinance for which Section 6-117 does not apply or is arrested for the violation of a non-traffic ordinance, the officer shall immediately release the person if the person acknowledges receipt of a citation by signing it. Provided, however, the arresting officer need not release the person if it reasonably appears to the officer:

1. That the person may cause injury to himself or others or damage to property if released;
2. That the person will not appear in response to the citation; or

3. The person is arrested for an offense against a person or property.

If the person fails to appear in response to the citation, a warrant shall be issued for his arrest and his appearance shall be compelled. If the arrested resident is not released by being permitted to sign a citation as herein provided, he shall be admitted to bail either before or after arraignment, or shall be released on personal recognizance.

B. If a nonresident of a municipality served by a municipal court is arrested by a law enforcement officer for a violation of any ordinance for which this Section does not apply, the defendant shall be eligible to be admitted to bail either before or after arraignment.

Section 6-121 SUMMONS FOR ARREST.

A. Upon the filing of a complaint charging violation of any 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, he shall issue a summons, naming the person charged, specifying his address or place or residence, if known, stating the offense with which he is charged and giving him notice to answer the charge in the court on a certain day as specified after the summons is served upon him, 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 he fails to appear and to answer the summons within the prescribed period, a warrant shall be issued for his arrest, as provided by this chapter.

Section 6-122 FORM OF ARREST WARRANT.

A. Except as otherwise provided in the ordinances of this municipality, upon the filing of a complaint approved by the endorsement of the attorney of this municipality or by the judge, there shall be issued a warrant of arrest, in substantially the following form:

The City of Tonkawa to the Police Chief of Tonkawa,
Oklahoma

Complaint upon oath having this day been made by (naming complainant) that the offense (naming the offense in particular but general terms) has been committed and accusing (name of defendant) thereof, you are commanded

therefore forthwith to arrest the above-named defendant and bring the above named (name of defendant) before me, at the municipal courtroom, and executed by the judge of the municipal court and as provided by state law.

B. It is the duty of the police chief, personally, or through a duly constituted member of the police force of this municipality, or through any other person lawfully authorized so to act, to execute a warrant as promptly as possible.

Section 6-123 PROCEDURES FOR BAIL OR BOND.

A. Upon arrest, or upon appearance without arrest in response to citation or summons, or at any time before trial, before or after arraignment, the defendant shall be eligible to be released upon giving bail for his appearance in an amount and upon conditions fixed by this chapter or 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 or emergency or when the judge is not available, the rules shall authorize the chief of police, or his designated representative, to accept a temporary cash bond of not less than Ten Dollars (\$10.00) nor more than the maximum monetary penalty provided by ordinance for the offense charged.

B. A bail bond schedule may be adopted by the judge and be amended from time to time.

Section 6-124 ARRAIGNMENT AND PLEADINGS BY DEFENDANT.

Upon making his appearance before the court, the defendant shall be arraigned. The judge, or the attorney of the municipality, shall read the complaint to the defendant, inform him of his legal rights, including the right of trial by jury, if available, and of the consequences of conviction, and ask him whether he pleads guilty or not guilty. If the defendant pleads guilty, the court may proceed to judgment and sentence or may continue the matter for subsequent disposition. If the plea is not guilty, and the case is not for jury trial, the court may proceed to try the case, or may set it for hearing at a later date.

Section 6-125 TRIALS AND JUDGMENTS.

A. Before trial commences, either party, upon good cause shown, may obtain a reasonable postponement thereof.

B. The defendant must be present in person at the trial or be represented by counsel if permitted by the judge.

C. In all trials, as to matters not covered in this chapter, or by the statutes relating to municipal criminal courts, or by rules duly promulgated by the Supreme Court of Oklahoma, the procedure applicable in trials of misdemeanors in the district courts shall apply to the extent that they can be made effective.

D. If the defendant pleads guilty or is convicted after the trial, the court must render judgment thereon, fixing the penalty within the limits prescribed by the applicable ordinance and imposing sentence accordingly.

E. At the close of trial, judgment must be rendered immediately by the judge who shall cause it to be entered in his docket.

F. If judgment is of acquittal, and the defendant is not to be detained for any other legal cause, he must be discharged at once.

G. A judgment that the defendant pay a fine may also direct that he be imprisoned until the fine is satisfied at the rate of one day imprisonment for each Five Dollars (\$5.00) of fine or as set out in Subsection H hereof for defendants who are without means to make such payment.

H. If the defendant is without means to pay the fine or costs, the municipal judge may direct the total amount due to be entered upon the court minutes and to be certified to the district court of the county wherein the status of government is situated where it shall be entered upon the district court judgment docket and shall have the full force and effect of a district court judgment. Thereupon the same remedies shall be available for the enforcement of the judgment as are available to any other judgment creditor.

Section 6-126 WITNESS FEES.

Witnesses in any proceeding in the court other than the police officers or peace officers shall be entitled to a sum per day of attendance. However, no witness shall receive fees in more than one case for the same period of time or the same travel. A defendant seeking to subpoena witnesses must deposit with the clerk a sum sufficient to cover fees for one day of attendance for each witness to be summoned, but such deposit shall not be required from an indigent defendant who files an affidavit setting out:

1. The names of no more than three (3) witnesses;
2. That the defendant, by reason of poverty, is unable to provide the fees allowed by law;
3. That the testimony of the witnesses is material; and
4. That their attendance at the trial is necessary for his proper defense.

The fees of such witnesses shall be paid by the municipality.

Section 6-127 SENTENCING.

A. The judge may suspend, modify, defer or reduce a sentence in accordance with Sections 27-123 and 27-124 of Title 11 of the Oklahoma Statutes. For all offenses which impose a fine of more than Two Hundred Dollars (\$200.00), excluding court costs, a jury trial shall be had unless waived by the defendant and the City; effective on and after November 1, 2006, the maximum fine requiring a jury trial if demanded shall be a fine greater than Five Hundred Dollars (\$500.00), excluding court costs.

B. A judge who is licensed to practice law in this state in imposing a judgment and sentence, at his discretion, is empowered to modify, reduce, or suspend or defer the imposition of such sentence or any party thereof and to authorize probation for a period not to exceed six (6) months from the date of sentence, under such terms or conditions as the judge may specify. Procedures relating to suspension of the judgment or costs or both shall be as provided in Section 27-123 of Title 11 of the Oklahoma Statutes. Upon completion of the probation term, the defendant shall be discharged without a court judgment of guilt, and the verdict, judgment of guilty or plea of guilty shall be expunged from the record and the charge dismissed with prejudice to any further action. Upon a finding of the court that the conditions of probation have been violated, the municipal judge may enter a judgment of guilty. The judge may continue or delay imposing a judgment and sentence for a period of time not to exceed six (6) months from the date of sentence. At the expiration of such period of time the judge may allow the municipal attorney to amend the charge to a lesser offense. If the municipal judge is not a licensed attorney but has complied with the education

requirements of subsection 11 O.S. §27-104F and the education requirements of 47 O.S. §18-101, the maximum fine that the judge may impose shall be Five Hundred Dollars (\$500.00). No City ordinance may impose a penalty, including fine or deferral fee in lieu of a fine and costs, which is greater than that established by statute for the same offense. The maximum fine or deferral fee in lieu of a fine for traffic-related offenses relating to speeding or parking shall not exceed Two Hundred Dollars (\$200.00). The maximum fine or deferral fee in lieu of a fine for alcohol-related or drug-related offenses shall not exceed Eight Hundred Dollars (\$800.00). For all other offenses, the maximum fine or deferral fee in lieu of a fine shall not exceed Seven Hundred Fifty Dollars (\$750.00). The court shall remit Fifty Dollars (\$50.00) of each alcohol fine or deferral fee to a restricted cash account of the City that shall be used to defray costs for enforcement of laws relating to juvenile access to alcohol, other laws relating to alcohol and other intoxicating substances, and traffic-related offenses involving alcohol or other intoxicating substances.

Section 6-128 IMPRISONMENT, WORK BY PRISONERS; COST OF INCARCERATION TO BE COLLECTED

A. All sentences of imprisonment shall be executed by the chief of police of the municipality, and any person convicted of a violation of any ordinance of the municipality and sentenced to imprisonment shall be confined in the jail, farm, or workhouse, of the municipality, in the discretion of the court, for the time specified in the sentence.

B. If, after conviction, judgment of imprisonment is entered, a copy thereof, certified by the clerk, shall be delivered to the chief of police, the sheriff of the county or other appropriate police officer. Such copy shall be sufficient warrant for execution of the sentence.

C. All prisoners confined to jail on conviction or on plea of guilty may be compelled, if their health permits, to work on the public streets, avenues, alleys, parks buildings, or other public premises or property. For each day of such work, the prisoner shall be credited for serving one day of imprisonment under his sentence.

D. The chief of police, subject to the direction of the governing body, 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 provision therefore.

E. Costs of Incarceration to be collected.

1. For purpose of this section, "Costs of incarceration" shall mean the costs of booking, receiving, and processing out, housing, food, clothing, medical care, dental care, and psychiatric services.

2. The costs for incarceration shall be determined by the chief of police for city jails and by applicable contract provision (between the City and County) for county jails. A notice of such costs shall be provided to the defendant.

3. The court shall order the defendant to reimburse all actual costs of incarceration, upon conviction or upon entry of a deferred judgment and sentence unless the defendant is a mentally ill person as defined by Section 1-103 of Title 43A of the Oklahoma Statutes. The defendant shall have an opportunity to object to the amount of costs solely on the grounds that the number of days served is incorrect. If no objection is made, the costs may be collected in the amount stated in the notice to the defendant. The court clerk shall be notified of any amount collected.

4. Costs of incarceration shall be a debt of the defendant owed to the municipality responsible for the operation of the jail and may be collected as provided by law for collection of any other civil debt or criminal penalty. Jail fees shall not exceed Three Thousand Dollars (\$3,000.00).

F. Effective November 1, 2004, any person fined for violation of a municipal ordinance 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 direction by the Mayor or other proper officer, at a rate per day of Twenty-five Dollars (\$25.00) per day for useful labor, until the fine or costs are satisfied.

Section 6-129 COSTS.

Costs in the amount of Thirty Dollars (\$30.00) plus the fees and mileage of jurors and witnesses shall be charged and collected by the clerk of the municipal court in all cases other than those in which the defendant is acquitted or found

not guilty or those which are dismissed upon motion of the defendant or the City attorney. Court costs in the amount of Thirty Dollars (\$30.00) shall be charged and collected by the clerk of the municipal court in all cases in which the defendant pleads guilty before the traffic violations bureau. Providing however, court costs shall not be collected on cases involving parking, standing and seatbelt violations (but notto include violations of child restraint systems. Providing however, that \$3.00 of the costs paid in every case before the municipal court not of record shall be transferred into a separate line item entitled "Police Training Fund Line Item" and thereafter collected, used, and expended only for police training purposes.

State Law Reference: Costs, 11 O.S. Section 27-126; suspension of judgment or costs, 11 O.S. Section 27-123.

Note: The last sentence of this section was added by Ordinance No. 2005-2 approved on the 15th day of February 2005.

Section 6-130 PENALTY ASSESSMENTS

A. For purposes of this section, the word "convicted" shall mean any final adjudication of guilty, whether pursuant to a plea of guilty or nolo contendere or otherwise, and deferred or suspended sentence or judgment.

B. Any person convicted of an offense, including traffic offenses but excluding parking and standing violations, punishable by a fine of Ten Dollars (\$10.00) or more or by incarceration or any person forfeiting bond when charged with such an offense, shall be ordered by the court to pay:

1. Nine Dollars (\$9.00), less 5.85% of such amount which may be retained and deposited into the City's General Fund. and with the balance paid into certain CLEET Funds as provided by 20 O.S. 1991 Section 1313.2

2. Five Dollars (\$5.00) less \$0.30 of such amount which may be retained and deposited into the City's General Fund, and with the balance paid to the A.F.I.S. Fund created by 74 O.S. 150.25. Effective November 1, 2004, Five Dollars (\$5.00) less \$0.50 of such amount which may be retained and deposited into the City's General Fund, and with the balance paid to the A.F.I.S. Fund created by 74 O.S. 150.25.

3. Five Dollars (\$5.00) less \$0.25 of such amount which may be retained and deposited into the City's General Fund,

and with the balance paid to as a Forensic Science Improvement Assessment.

C. Any person convicted of possession of marijuana shall be ordered by the court to pay Five Dollars (\$5.00) (less such amount permitted to be retained by the state which shall be retained and deposited into the City's General Fund)0, with the balance paid to the Bureau of Narcotics Drug Education Revolving Fund.

D. These penalty assessments shall be in addition to and not in substitution for any and all fines and penalties and costs otherwise provided for such offense. Such penalty assessments shall be deposited as required by state law.

State Law Reference: Similar provision, 20 O.S. Section 1313.1 through 1313.3.

Section 6-131 ISSUANCE OF SUMMONS AND WARRANT.

A. Upon the filing of a complaint charging violation of an ordinance, the judge, unless he determines to issue awarrant 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 he fails to appear to answer the summons within the prescribed period, a warrant shall be issued for his arrest.

C. Upon proper application, the judge is hereby authorized to issue a search warrant if he is satisfied of the existence of grounds of the application or if there is probable cause to believe their existence. Such warrant shall be signed by the judge with his name of office to the police chief, commanding him forthwith to search the person or place named, for the property specified, and to bring it before the magistrate, and also to arrest the person in whose possession the same may be found, to be dealt with according to law.

State Law Reference: Complaints, 11 O.S. Section 27-115.

Section 6-132 SECURITY FOR COSTS BEFORE COMMENCEMENT OF PROSECUTION.

When application is made by any person to commence any prosecution in the municipal court, the municipal judge may, at his discretion, before any such proceeding is commenced, require the person making such application to give good and sufficient security for costs in the event the prosecution should fail.

Section 6-133 MALICIOUS PROSECUTION; COSTS.

If upon the trial of any case in the municipal court, it shall appear to the satisfaction of the court that the prosecution was commenced without probable cause, and from malicious motive, the court shall state the name of the complainant in the finding and shall impose the costs of prosecution upon him; and the judgment shall be rendered against such complainant that he pay such costs and stand committed until the costs are paid.

Section 6-134 FAILURE TO OBEY PROMISE OR NOTICE TO APPEAR; FAILURE TO OBEY ORDER OF THE COURT.

A. Written Promise to Appear. It shall be unlawful for any person to violate his written promise to appear in the municipal court at the date and time stated in the citation given by an officer upon the issuance of any promise to appear regardless of the disposition of the charge for which such promise or notice to appear was originally issued.

B. Notice to Appear. It shall be unlawful for any person to fail to appear in the municipal court at the date and time stated in any notice to appear regardless of the disposition of the charge for which such notice to appear was served.

C. Appearance by Counsel. The appearance of an Attorney on behalf of the person who has given a written promise to appear or has been served notice to appear shall be treated as the appearance required under this section.

D. Appearance of Parent of Minor Child. It shall be unlawful for the parent, legal guardian, or other adult person having the care and custody of a minor child who is charged with a violation of a municipal ordinance who has executed a written promise to appear or has received a notice to appear in the Municipal Court with said minor child to fail to so appear with the minor child at the date and time stated in the citation or notice.

E. Failure to Obey Order of the Court It shall be unlawful for any person to violate, disobey, or otherwise fail to comply with any order of the Municipal Court.

Section 6-135 DISPOSITION AND RECORDS.

A. The chief of police, or other responsible officer, shall cause the original copy of every ticket issued to an alleged violator of any ordinance to be deposited with the municipal court in the manner provided by rule.

B. Upon the deposit of such ticket with the municipal court said ticket may be disposed of only by trial in said court, or other official action by a judge of said court, including forfeiture of bail, or by payment of a fine, to the court clerk; provided however, the provisions of this subsection shall not apply to cases which City attorney declines to prosecute or are withdrawn by a citizen complainant.

C. It shall be unlawful and official misconduct for any person to dispose of, alter or deface a ticket or any copies thereof, or the record of the issuance or disposition of any ticket or warrant in a manner other than authorized.

D. The chief of police shall maintain or cause to be maintained a record of all warrants issued by the municipal court and which are delivered to the police department for service, and of the final disposition of all warrants.

Section 6-136 COMMUNITY SERVICE IN LIEU OF IMPRISONMENT; FAILURE TO PERFORM.

All sentences of imprisonment shall be executed by the chief of police of the municipality, and any person convicted of a violation of any ordinance of the municipality and sentenced to imprisonment shall be confined in the municipal jail, in the discretion of the court, for the time specified in the sentence, provided, however, the court may, in lieu of imprisonment, order the defendant to engage in a term of community service without compensation. If the defendant fails to perform the required community service or if the conditions of community service are violated, the judge may impose a sentence of imprisonment, not to exceed the maximum sentence allowable for the violation for which the defendant was convicted.

Section 6-137 COMMUNITY SERVICE IN LIEU OF A FINE; FAILURE TO PERFORM.

Whenever any person is convicted in municipal court for

violation of a municipal ordinance, the court may order the defendant to a term of community service or remedial action in lieu of fine or in conjunction with imprisonment. If the defendant fails to perform the required community service or if the conditions of community service are violated, the judge may impose a sentence of imprisonment, not to exceed the maximum sentence allowable for the violation for which the defendant was convicted.

CHAPTER 7: FINANCE AND TAXATION

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CHAPTER 7: FINANCE AND TAXATION

ARTICLE 1

FINANCE AND BUDGET ADMINISTRATION

DIVISION 1

General Provisions

Section 7-101 DEPOSITORIES DESIGNATED; FUNDS TO BE DEPOSITED.

All banks which are incorporated under federal or state law, and other institutions approved by the Mayor and council, may be designated as depositories for the funds of the city. The city treasurer shall deposit daily all public funds received by him in such banks.

State Law Reference: Deposits by treasurers, designation of depositories; 11 O.S. Section 12-110.

Section 7-102 FUNDS SECURED BY UNIT COLLATERAL SYSTEM.

The deposits of the city shall be secured by the Unit Collateral System provided by the Oklahoma Statutes.

State Law Reference: Unit Collateral System, 62 O.S. Sections 516.1 et seq.

Section 7-103 CERTAIN OFFICER AND EMPLOYEES PROHIBITED FROM CONDUCTING CERTAIN BUSINESS WITH MUNICIPALITY-VIOLATIONS-EMPLOYEES OF FINANCIAL INSTITUTION

A. Except as otherwise provided by this Section, no City officer or employee, or any business in which the officer, employee, or spouse of the officer or employee has a proprietary interest, shall engage in:

1. Selling, buying, or leasing property, real or personal, to or from the City;
2. Contracting with the City; or
3. Buying or bartering for or otherwise engaging in any manner in the acquisition of any bonds, warrants, or other evidence of indebtedness of the City.

B. The provisions of this section shall not apply to any officer or employee of any municipality of this state with a population of not more than five thousand (5000) according to the latest Federal Decennial Census, who has a proprietary interest in a business which is the only business of that type within five (5) miles of the corporate limits of the municipality. However, any activities permitted by this subsection shall not exceed Twenty-five Hundred Dollars (\$2500.00) for any single activity and shall not exceed Fifteen Thousand Dollars (\$15,000.00) for all activities in any calendar year. Provided, however, such activity may exceed Fifteen Thousand Dollars (\$15,000.00) per year if the municipality purchases items therefrom that are regularly sold to the general public in the normal course of business and the price charged to the municipality by the business does not exceed the price charged to the general public.

C. Provisions of this section shall not apply where competitive bids were obtained consistent with municipal ordinance or state law and two or more bids were submitted for materials, supplies, or services to be procured by the municipality, regardless of the population restrictions of Subsection B of this section, provided notice of bids was made public and open to all potential bidders.

D. All bids, both successful and unsuccessful, and all contracts requiring bonds shall be placed on file and maintained in the main office if the awarding municipality for a period of five (5) years from the date of opening of bids for a period of three (3) years from the date of the completion of the contract, whichever is longer, shall be open to public inspections and shall be matters of public record.

E. For purposes of this Section, "employee" means any person who is employed by a municipality more than ten (10) hours in a week for more than thirteen (13) consecutive weeks and who enters into, recommends, or participates in the decision to enter into any transaction described in subsection A of this Section. Any person who receives wages, reimbursement forexpenses, or emoluments of any kind from a municipality, any spouse of the person, or any business in which the person or spouse has a proprietary interest shall not buy or otherwise become interested in the transfer of any surplus property of a municipality or a public trust of which the municipality is beneficiary unless the surplus property is offered for sale to the public after notice of the sale is published.

F. For purposes of this Section, "proprietary interest" means ownership of more than twenty-five percent (25%) of the business or of the stock therein or any percentage which constitutes a controlling interest but shall not include any interest held by a blind trust.

G. Any person convicted of violating the provisions of this Section shall be guilty of an offense. Any transaction entered into in violation of the provisions of this Section is void. Any member of a governing body who approves any transaction in violation of the provisions of this Section shall be held personally liable for the amount of the transaction.

H. Notwithstanding the provisions of this Section, any officer, director, or employee of a financial institution may serve on a board of a public body. Provided, the member shall abstain from voting on any matter relating to a transaction between or involving the financial institution in which they are associated and the public body in which they serve.

Section 7-104 PURCHASES, HOW MADE.

All purchases of supplies, materials, equipment and contractual services for the offices, departments, and agencies

of the city government, shall be made by city purchasing officer in accordance with purchase authorizations issued by the officer.

Section 7-105 PETTY CASH.

A. Purpose. Petty Cash purchases may be used for immediate and necessary purchases.

B. Authority and Responsibilities.

1. Creation - Petty Cash Fund in the maximum amount of Two Thousand Dollars (\$2,000.00) is hereby created.

2. The City Clerk or her designee shall maintain the petty cash fund. The City Clerk's responsibilities or his designee are defined as follows:

- a. To provide adequate security and storage of cash and receipts;
- b. To allow only authorized expenditures;
- c. To take only itemized receipts for each expenditure; and
- d. To request replenishment by payment from the appropriate funds as necessary but no less than monthly.

3. Delegation of Responsibilities - The City Clerk may assign portions of the petty cash fund to user departments under such terms and conditions as may be necessitated.

C. Instructions for Use. Petty Cash shall be used consistent with the regulations listed below:

1. Each expenditure shall not exceed \$100.00 without prior approval of the City Clerk or her designee.

2. No personal checks shall be cashed.

3. The department must first complete an invoice and deliver it to the City Clerk who will account for the expenditure. Generally, all transactions must be completed by the end of the business day except for travel advances. The City Clerk will file for all claims except for travel claims to reimburse the petty cash fund. Failure to file for travel claims in a timely manner will result in future denials of petty cash usage.

4. Periodic cash counts and audits shall be made by the

The undersigned (architect, contractor, supplier or engineer), of lawful age, being first duly sworn, on oath says that this invoice or claim is true and correct. Affiant further states that the (work, services or materials) as shown by this invoice or claim have been (completed or supplied) in accordance with the plans, specifications, orders or requests furnished the affiant. Affiant further states that (s)he has made no payment directly or indirectly to any elected official, officer or employee of the State of Oklahoma, any county or local subdivision of the state, of money or any other thing of value to obtain payment of the invoice or procure the contract or purchase order pursuant to which an invoice is required.

(Contractor, supplier or engineer)

Subscribed and sworn to before me this ____ day of _____, 20__.
Notary Public (or Clerk or Judge)

A notarized statement of non-collusion shall not be required on purchase orders to procure materials and equipment, provided this provision shall not exempt the requirement for a notarized statement of non-collusion on invoices for services or materials and equipment.

B. When the City executes a contract with any architect, contractor, supplier or engineer for work, services or materials which are needed on a continual basis from such architect, contractor, supplier or engineer under the terms of such contract, the City may require that the architect, contractor, supplier or engineer complete a signed and notarized affidavit in substantial form as provided by subsection A of this Section which shall apply to all work, services or materials completed or supplied under the terms of the contract and shall be in lieu of all individual affidavits for each invoice submitted in relation to such contract as required in subsection A of this Section.

Section 7-108 PAYROLL DISBURSEMENTS

A. A documented record of the authorized rate of pay or salary of every employee of the City of Tonkawa, Oklahoma, shall be maintained in each such employee's personnel file.

B. For each pay period, a record of time worked shall be prepared in the form of time sheets or logs for each employee to be paid. Such record of time worked shall be verified as to its accuracy in writing by the employee, each employee's department head, and the City Manager.

C. Upon verification of the work record, a payroll register including the amount of gross pay, authorized deductions, and net pay shall be prepared by the payroll clerk.

D. The net payroll checks shall be prepared from the payroll register, along with checks for payment of related payroll taxes and other payroll benefits required by law or contract.

E. The payroll checks and the payroll register shall be presented to at least one authorized check signer who shall compare the payroll checks to the payroll register and verify their accuracy. Upon verification, the City Clerk shall approve distribution. The City Clerk shall then record the checks in the appropriate cash disbursements journals. The authorized check signers for payroll checks shall be the Mayor and City Clerk.

F. The payroll register shall be provided to the governing body for informational purposes at the next regular

meeting; however, governing body approval is not required prior to payment of payroll related costs if incurred and paid in accordance with the provisions above.

Section 7-108A PURCHASES OF GOODS AND SERVICES (OTHER THAN PAYROLL AND PAYROLL RELATED)

A. The following employees have been designated as purchasing officers empowered to purchase or contract against budget appropriation accounts:

1. City Clerk
2. Police Chief
3. Fire Chief
4. Public Works Director
5. Librarian
6. City Manager

B. The employee receiving satisfactory delivery of merchandise or contract services shall acknowledge such fact by signing the invoice or delivery ticket. The invoice, along with delivery ticket if applicable, must then be verified by the City Clerk or Account Payable Clerk as to quantities, services, and prices. If correct, the invoice must then be signed by the Purchasing Officer and the City Clerk for all invoices under \$500.00 or signed by the City Manager for all invoices over \$500.00 up to \$7500.00 and coded with the fund(s) and budget line item(s) to be charged.

C. The City Clerk shall review all invoices for proper signatures and appropriateness of fund(s) and budget line item(s) to be charged. Upon acceptance of the invoices, the City Clerk shall prepare checks in payment of the invoices and shall cancel each invoice as its check is prepared. Invoices shall be canceled by noting on the invoice the date paid, the check number used to pay the invoice, and the amount paid with the check.

D. The invoices and checks shall be presented to at least one authorized check signer who shall compare the checks to the invoices and verify their accuracy. Upon verification, both authorized check signers shall sign the checks and the City Clerk shall prepare the checks for distribution. The City Clerk shall then record the checks in the appropriate cash disbursements journals and shall prepare a check register. The check register shall list in check number order the check date, check number, vendor, and check amount. The authorized check signers for accounts payables shall be the Mayor, Treasurer, City Clerk and Assistant City Clerk.

E. The check register shall be provided to the governing body for informational purposes at their next regular meeting; however, governing body approval is not required prior topayment of invoices if the charges were incurred and paid in accordance with the provisions above.

F. For all purchases of goods and services over \$7500.00 (other than payroll and related expenses), or contracts shall be prepared and approved by the governing body prior to the time the commitment is made. For such expenditures, the City Clerk shall determine that there exists available monies in the accounts to be charged, and such determination shall also be recorded in the minutes. Should appropriation not be available for the proposed purchase or commitment, the purchase orcommitment shall not proceed until necessary budget amendments are authorized.

Section 7-108B INTERFUND TRANSFERS

A. All transfers between funds shall only be made in accordance with governing body appropriations as reflected in the original or amended City budget.

B. Once lawfully appropriated, interfund transfers maybe made by the City Clerk without further governing body approval in the manner used for payment of purchases of goods and services.

Section 7-108C DEBT SERVICE & FINANCIAL REPORTING

1. Debt Service

A. All long-term indebtedness in the form of bonds, notes, or lease purchase obligations shall be incurred in the manner provided by law.

B. Once lawfully incurred, the accounts payable clerk shall make payments of principal and interest on the debt in accordance with the terms specified by the lender withoutfurther approval of the governing body.

C. The manner of payment shall be consistent with the manner used for payment of goods and services.

D. Current balances on outstanding debt shall be maintained by the City Clerk in the appropriate journals.

2. Financial Reporting

A. The Treasurer shall prepare written monthly financial

reports which disclose all receipts and expenditures by fund in the same format as the approved budget and showing the variance from the budget.

B. The financial reports shall be placed on the agenda for acknowledgment by the governing body at each regular meeting.

DIVISION 2

COMPETITIVE BIDDING

Section 7-109 PURPOSE AND EFFECT.

The primary purpose of Division 2 of this Article is to codify in the Tonkawa Municipal Code 2017, the essential statutory requirements of the Competitive Bidding Act of 1974 (Title 61, Section 101 et seq. of the Oklahoma Statutes) and the essential requirements of the Title 60, Section 1076 H, known as competitive bidding requirements of the "Public Trust Law." A secondary but equally important purpose of this Division is to establish local competitive bidding procedures, which procedures are guidelines, but not requirements, to be considered for use during those times that neither the Competitive Bidding Act of 1974 nor any other state law requires competitive bidding. In that state law does not require municipalities to competitively bid professional services or the purchase of equipment, materials, and supplies, in order to "fill the gap" and thereby reduce the potential for improprieties, these local competitive bidding procedures are adopted. Since such local competitive bidding procedures are merely guidelines. In addition, since these local competitive bidding procedures are discretionary and not mandatory, no resident, competing vendor or seller, or any other person, firm or corporation, may secure a temporary restraining order, injunction (temporary or permanent), or sue for damages, costs, or attorney fees, based on the Mayor and/or City Council's action with respect to local competitive bidding, or any other failure to follow the procedure contained herein, unless such person proves that a violation of federal or state law has occurred.

Section 7-110 DEFINITIONS

For the purposes of this Division, the following terms, phrases, words, and their derivations shall have the meaning given herein:

A. "City" means this city and means the city government in all its forms, including not only the city departments but also any agency, the city council, or other persons or entities acting

for or on behalf of the city but shall not include the Tonkawa Municipal Authority, Tonkawa Housing Authority and the Tonkawa Industrial Authority (hereinafter referred to as public trust authorities"). Provided however, with respect to only Section 7-111, the term "City" shall be interchangeable with "public trust authority" and the term "Mayor and City Council" shall be interchangeable with "Chairman and Trustees" of the public trust authority.

B. "Contractual services" mean all non-professional services including but not limited to uniform and cleaning services; insurance; leases for all grounds, buildings, offices, or other space required by the using agencies; and the rental, repair or maintenance of equipment, machinery and other city-owned personal property. The term shall not include professional or other contractual services which are in their nature unique and not subject to competition;

C. "Emergency" means the conditions resulting from a sudden unexpected happening or unforeseen occurrence or a condition and situation wherein the public health or safety is in endangered;

D. "Personal property" for purpose of this Division shall include but not be limited to:

- (A) Portable, or otherwise moveable, buildings and structures;
- (B) Prefabricated metal buildings and structures, along with necessary utility services for such buildings or structures;
- 3. Roofs placed over existing roof structures; provided, lease purchase of retrofit metal roofs shall be awarded by competitive bids and the City shall comply with the Act where the total payment of principal and interest provided by the lease-purchase contract are anticipated to exceed Twenty-five Thousand Dollars; and
- 4. Other structures that can be disassembled after installation and removed without permanent damage to existing property.

E. "Public construction contract" or "contract" for purposes of Section 7-111 and the Public Competitive Bidding Act of 1974, as amended (hereinafter the "Act"), shall mean any contract, exceeding Fifty Thousand Dollars (\$50,000.00) in amount, awarded by the City or any of its public trust authorities for the purpose

of making any public improvements or constructing any public building or making repairs to or performing maintenance on to same, except where the improvements or buildings leased to a person or other legal entity exclusively for private and not for public use and no public tax revenues shall be expended on or for the contract unless the public tax revenues used for the project are authorized by a majority vote of the applicable public agency voting at an election held for that purpose and the public tax revenues do not exceed twenty-five percent (25%) of the total project cost. The amount of public tax dollars committed to the project will not exceed a fixed amount established by resolution of the governing body prior to or concurrent with approval of the project;

F. "Public improvement" means any beneficial or valuable change or addition, betterment, enhancement, or amelioration of or upon any real property, or interest therein, belonging to a public agency, intended to enhance its value, beauty or utility or adapt it to new or future purposes. The term does not include the direct purchases of materials, provided the materials are not purchased in increments for an amount less than Fifty Thousand Dollars (\$50,000.00) and used for the purposes of completing a single project, equipment or supplies by the City or any of its public trust authorities or personal property as defined herein.

G. "Supplies" means ~~and~~ and includes property except real property, materials, and equipment that the City acquires for its use or consumption; and

H. "Using agency" means any department, board, Mayor and City Council, agency, division, Section, bureau, or other unit in the city government using supplies or procuring contractual services as provided for herein and for purpose of Section 7- 111, includes public trust authorities.

Section 7-111 OKLAHOMA PUBLIC COMPETITIVE BIDDING ACT

A. Unless otherwise provided by law, all public construction contracts exceeding Fifty Thousand Dollars (\$50,000.00) shall be let and awarded to the lowest responsible bidder, by free and open competitive bidding after solicitation for sealed bids, in accordance with the terms of the Public Competitive Bidding Act of 1974, 61 Okla. Stat. 101, et seq. or as hereafter amended by the State Legislature. No work shall be commenced until a written contract is executed and all required bonds and insurance have been provided by the contractor to the city.

1. Except as provided in subsection C hereinbelow, other construction contracts for the purpose of making any public improvements or constructing any public building or making repairs to the same for Fifty Thousand dollars (\$50,000.00) or less shall be let and awarded to the lowest responsible bidder by receipt of written bids or awarded on the basis of competitive quotes to the lowest responsible qualified contractor as provided in this subsection. In providing for such written bids, the City Clerk may solicit bids from qualified bidders after posting a notice at city hall for at least three (3) days preceding the last day set for the receipt of bids or by causing the notice inviting bids to be published in the local newspaper of the city, at least once, three (3) days preceding the last day set for the receipt of proposals. The notice required herein, shall include a general description of the services required and shall state where bid blanks and specifications may be secured, and the time and place for opening bids. Work may be commenced in accordance with these purchasing policies of the City.

2. Public construction contracts for less than Five Thousand Dollars (\$5000.00) may be negotiated with a qualified contractor and work commenced in accordance with the purchasing policies of the City.

B. For public construction contracts exceeding Fifty Thousand Dollars (\$50,000.00), Department heads or third-party contractors shall prepare bid specifications along with requisitions and submit same to the City Council for their approval.

C. The City Clerk will develop a bidder's list. Bid solicitations will be made equally and uniformly known to all prospective bidders and the public:

1. For public construction contracts exceeding Fifty Thousand Dollars (\$50,000.00), notice will be mailed twenty (20) days prior to the bid opening date to prospective bidders who have made known, in writing, to the using agency their interest in bidding within twelve (12) months immediately preceding the date of opening the bids;

2. For public construction contracts exceeding Fifty Thousand Dollars (\$50,000.00), notice will be published in two (2) consecutive issues of a newspaper of general circulation twenty (20) days prior to the bid opening date; and

3. For public construction contracts exceeding Fifty Thousand Dollars (\$50,000.00), notice will be sent to trade or construction publications when the estimated cost exceeds Fifty Thousand Dollars (\$50,000.00).

D. One complete set of bid documents will be kept on file in the City Clerk's office twenty (20) days prior to the bid opening date. Copies may be obtained by prospective bidders after paying a reasonable deposit as set by the City Manager.

E. A bidder on a public construction contract exceeding Fifty Thousand Dollars (\$50,000.00) will accompany the bid with:

1. A certified or cashier's check or bid bond or irrevocable letter of credit in an amount equal to five percent (5%) of the bid, which shall be deposited with the Town as a guaranty; or

2. An irrevocable letter of credit containing terms the Department of Central Services prescribes, issued by a financial institution insured by the Federal Deposit Insurance Corporation for the benefit of the state, on behalf of the awarding public agency, in an amount equal to five percent (5%) of the bid. The City shall deposit the irrevocable letter or credit with the Department of Central Service.

The cost of republication of the notice to bidders, actual expenses incurred by reason of the bidder's default and the difference between the low bid of the defaulting bidder and the amount of the bid of the bidder to whom the contract is subsequently awarded, but not to exceed the amount of the certified check, bid bond or irrevocable letter of credit may, at the discretion of the City, be forfeited to the City in the event the apparently successful bidder fails to execute the contract or fails to provide the required bonds or irrevocable letters of credit and insurance to the City.

F. A non-collusion affidavit and a business relationship affidavit shall also accompany bidder proposals.

G. Any bid received by the City or an officer and employee thereof, more than ninety-six (96) hours, excluding Saturdays, Sundays and holidays, before the time set for the opening of the bids, or any bid so received after the time set for opening of the bids, shall not be considered by the City and shall be returned unopened to the bidder submitting the same.

H. All bids shall be sealed and opened only at the time and place mentioned in the bid Section and read aloud in the presence of an administrative officer of the City. Such bid

openings shall be open to the public and to all bidders.

I. Except as otherwise provided by law, within such period of time, not to exceed sixty (60) days, as shall be specified in the bid notice by the City, a contract embodying the terms set forth in the bidding documents shall be executed by the City and the successful bidder. No bidder shall obtain any property rights in a contract awarded under the provisions of the Public Competitive Bidding Act of 1974 until the contract has been fully executed by both the bidder and the City.

J. Bonds, irrevocable letters of credit and insurance as provided by Section 113 of Title 61 of the Oklahoma Statutes, shall be provided by the successful bidder to the City.

K. If an award is made to other than the lowest bidder, the City shall accompany its action with a publicized statement setting forth the reason for its action. Such statement shall be placed on file, open to public inspection and be a matter of public record.

L. All invoices submitted for work performed shall be accompanied by a sworn certification by the architect or engineer that the work has been completed in accordance with specifications.

M. The City Council by a majority vote may reject any and all bids and rebid the project if the public interest would be better served.

N. If no timely bid is received on any public construction contract not exceeding Fifty Thousand Dollars (\$50,000.00), the City Council may direct the City Manager to negotiate a contract with the prospective bidder. The amount of the contract which may be awarded by the governing body pursuant to this Section shall not exceed Fifty Thousand Dollars (\$50,000.00) and the work to be performed shall be as specified in the initial bidding documents. The contract shall be executed within six (6) months after the date initially set for opening of bids. The contract and contract procedure shall conform to all the other applicable provisions of the Public Competitive Bidding Act of 1974.

O. The City shall return the certified or cashier's check, bid bond, or irrevocable letter of credit to the successful bidder on execution and delivery of the contract and required bonds or irrevocable letters of credit and insurance. Checks of unsuccessful bidders shall be returned at them in accordance with the terms of the bid solicitation.

P. Nothing herein shall be construed so as to prevent the

City or the courts from exonerating the bidder and other parties to the bid security document from liability upon a timely showing that the bidder committed what the courts have determined under the common law to be an excisable bidding error and for that reason it would not be equitable to enforce the bid security.

Q. Change Orders.

1. Change orders or addenda to public construction contracts of One Million Dollars (\$1,000,000.00) or less shall not exceed a fifteen percent (15%) cumulative increase in the original contract amount.

2. Change orders or addend to public construction contracts of over One Million Dollars (\$1,000,000.00) shall not exceed the greater of One Hundred Fifty Thousand Dollars (\$150,000.00) or a ten percent (10%) cumulative increase in the original contract amount.

3. Change orders or cumulative change orders which exceed the limits of Subsection Q1 and Q2 of this Section shall require a re-advertising for bids on the incomplete portions of the contract.

4. If a construction contract contains unit pricing, and the change order pertains to the unit price, the change order will not be subject to Subsection Q1 and Q2 of this Section.

5. When the unit price change does not exceed TenThousand Dollars (\$10,000.00), the unit price change order computation may be based on an acceptable unit price basis in lieu of the following cost itemization, which shall be performed as follows in all other incidents.

Such change orders shall contain a unit price and a total for each of the following items:

- a. All materials with cost per item;
- b. Itemization of all labor with number of hours per operation and cost per hour;
- c. Itemization of all equipment with the type of equipment, number of each type, cost per hour for each type, and number of hours of actual operation for each type;
- d. Itemization of insurance cost, bond cost, social security, taxes, workers; compensation, employee fringe benefits and overhead cost;

e. Profit for the contractor.

Section 7-112 TONKAWA MUNICIPAL AUTHORITY, COMPETITIVE BIDDING.

In addition to the requirements provided in Section 7-111 hereinabove, Contracts for construction, labor, equipment, materials or repairs in excess of Fifty Thousand Dollars (\$50,000.00) shall be awarded by the public trust authorities to the lowest and best competitive bidder, pursuant to public invitation to bid, which shall be published at least once a week for two (2) successive weeks in a newspaper of general circulation in Kay County; such advertisement shall also appear in the county where the work, or the major part if it is to be done, or the equipment or the materials are to be delivered, or the services to be rendered. Provided, however, should the trustee or trustees of the public trust authorities find that an immediate emergency exist, which finding shall be entered in the journal of the trust proceedings, by reason of which an immediate outlay of trust funds in an amount exceeding Fifty Thousand Dollars (\$50,000.00) is necessary in order to avoid loss of life, substantial damage to property or damage to the public peace or safety, then such contracts may be made and entered into without public notice or competitive bid. Notwithstanding the provisions of this subsection, equipment or materials may be purchased by a public trust directly from any contract duly awarded by this state or any state agency under the Oklahoma Central Purchasing Act, or from any contract duly awarded by a governmental entity which is the beneficiary of the public trust.

Section 7-113 FORMAL CONTRACT PROCEDURE

A. Except as provided by this Division, all expenditures for supplies, materials, equipment or contractual services, when the estimate cost thereof will exceed Fifty Thousand Dollars (\$50,000.00) shall be purchased by formal written contract or purchase order from the lowest secured bidder after due notice inviting proposals, except that in cases where the prices bid are higher than prices available under contract let by the State of Oklahoma or a division, branch or agency of the United States of America, the city shall exercise the option of awarding its own contract or of buying it under the terms of the state or federal contract.

B. The City Clerk shall cause to be published notice inviting bids in the daily newspaper of the city, at least once, three (3) days preceding the last day set for the receipt of proposals. The newspaper notice required herein, shall include a general description of the services required or the articles to be purchased, shall state where bid blanks and specifications may

be secured, and the time and place for opening bids.

C. When deemed necessary by the City Council, bid deposits shall be prescribed in the public notices inviting bids. Unsuccessful bidders shall be entitled to the return of the surety where it has been required. The successful bidder shall forfeit any surety required upon failure on his part to enter into a contract within twenty (20) days after the award.

D. Bid opening procedures are as follows:

1. The bid shall be submitted sealed to the office of the City Clerk, and shall be identified as "bids" on the envelope;

2. Bids for supplies, materials, equipment, or contractual services shall be opened by the City Clerk at the time and place stated in the public notices. Such bid opening shall be open to the public and to all bidders; and

3. A tabulation of all bids received shall be made by the City Clerk or appropriate department head, and the tabulation shall be available for public inspection in the office of the City Clerk.

E. The City Council shall have the authority to reject all bid or parts of all bids, included in the proposed contract, when the public interest would be served thereby. The city shall not accept the bids of a contractor who is in default on the payment of taxes, license, or other monies due the city.

F. Procedure for award of contracts is as follows:

1. The City Council shall have the authority to award contracts within the purview of this Section;

2. Contracts shall be awarded to the lowest secure bidder. In determining "lowest secure bidder", in addition to price, the following factors shall be considered:

a. The ability, capacity, and skill of the bidder to perform the contract or to provide the service required;

b. Whether the bidder can perform the contract or provide the service promptly or within the time specified, without delay or interference;

c. The character, integrity, reputation, judgment, experience, and efficiency of the bidder;

d. The quality of performance of previous contracts for

services;

- e. The previous and existing compliance by the bidder with laws and ordinances relating to contract or service;
- g. The quality, availability and adaptability of the supplies or the contractual services to the particular use required;
- h. The ability of the bidder to provide future maintenance and service for the use of the subject of the contracts; and
- i. The number and scope of conditions attached to the bid;

3. When the award is not given to the lowest bidder, a full and complete statement of reasons for placing the order elsewhere shall be prepared by the City Clerk and shall be a public record;

4. If two (2) or more bids received are for the same total amount of unit price, quality and service being equal, the contract should be awarded to the local bidder;

5. The City Council shall have the authority to require a performance bond, before entering into the contract, in such amount as the City Council shall find reasonably necessary to protect the best interest of the city;

6. No contract or purchase shall be subdivided to avoid the requirements of this article;

7. If no timely bid is received after bid notices have been published on any supplies, materials, equipment, or contractual services whose estimated cost Fifty Thousand Dollars (\$50,000.00), the City Council may direct the City Manager to negotiate a contract with a prospective supplier or contractor; sufficient unencumbered appropriation balance in excess of all unpaid obligations, to defray the amount of such order.

Section 7-114 OPEN MARKET PURCHASES - UNDER \$50,000.00

A. Open Market Purchases. All purchases of supplies or contractual services of less than Fifty Thousand Dollars (\$50,000.00) may be made in the open market without a newspaper advertisement and without observing the procedure for a formal bid award. The user department will prepare a request and the estimated cost of the product or service to the Accounts Payable

Clerk. Purchase Order Clerk will encumber the funds and issue a purchase order. No order for delivery on a contract or open market purchase shall be issued until the Accounts Payable Clerk determines that there are available funds to the credit of the using department sufficient to pay the cost of the order. Bid award will be to the lowest secure bidder. Bid prices may be honored for 90 days from bid solicitation for additional identical items. Specifically:

1. Open market purchases equal to or greater than \$7,500 but less than Fifty Thousand Dollars (\$50,000.00) shall be based upon three written quotations which will be valid for not more than 90 days. Copies of the three written quotations shall be attached to the purchase order.

2. Open market purchases equal to and greater than \$2,500 but less than \$7,500 shall be based upon three written or verbal quotations which will be valid for not more than 90 days. Copies of the three written or verbal quotations (which verbal quotations shall be reduced to writing) shall be attached to the purchase order.

3. Open market purchases below \$2500 shall be based upon an open market direct solicitation.

B. Award. Awards, for purchases requiring written or verbal quotations, in the above instances shall be to the lowest secure bidder in accordance with this Article. The City Clerk will maintain a written record of all open market bids and such records will be open to the public.

C. Payment. Upon receipt of the invoice, the Accounts Payable Clerk will be notified to process payment to the vendor. Such notice will consist of receipt of copies of the invoice. Such clerk shall ensure that the invoices are signed and dated by the department head and verify the accuracy of the invoice. Vendor payment may be made by warrant, check or wire transfer and shall be signed as provided by city policy.

D. The City Manager shall give due consideration as to whether a contract shall be provided for any and all purchases. The City Attorney shall prepare or review the contracts.

Section 7-115 AVAILABLE FUNDS

Except in cases of emergency or as otherwise provided herein, no officer or employee shall issue any order for delivery on a contract until the Accounts Payable Clerk shall have reviewed whether there is to the credit of the using agency available funds in excess of all unpaid obligations, to defray the amount

of such order.

Section 7-116 EMERGENCY PURCHASES

The provisions of this Division with reference to notice and bids shall not apply to an emergency if:

1. The City Council declares by a two-thirds (2/3) majority vote of all of its members that an emergency exists; or

2. The City Manager, without a governing body, declares that an emergency exists; provided however, the City Manager's authority to declare an emergency whereby the provisions in reference to notice and bids shall not apply is limited to contracts less than Seventy-five Thousand Dollars (\$75,000.00) in amount. The City Manager shall notify the City Council within ten (10) days of the declaration of an emergency if the City Council did not approve the emergency. The notification shall contain a statement of the reasons for the action and shall be recorded in the official minutes of the City Council. For purpose of this section, the term "Emergency" shall be limited to conditions resulting from a sudden unexpected happening or unforeseen occurrence or condition whereby the public health or safety is endangered. The City Manager shall report an emergency within ten (10) days of the emergency declaration and include the official minutes of the City Council, to the State Construction Administrator of the Construction and Properties Division of the Office of Management and Enterprise Services.

Section 7-117 PROFESSIONAL SERVICES

A. All professional services where the estimated cost will exceed Fifty Thousand Dollars (\$50,000.00), the City Council may direct that the same be purchased by formal written contract after due notice inviting proposals, from the proposer whose services are determined to be in the best interest of the city, except those services or situations specifically exempted by the City Council.

B. Professional services shall include, but are not limited to, the following disciplines:

1. Appraisal services;
2. Architectural services;
3. Consulting services;
4. Engineering services;

5. Financial services;
6. Accounting and auditing services;
7. Health insurance services;
8. Photographic, art or marketing services; and
9. Testing and inspection services.

C. Specifications for professional services to be procured shall include:

1. Instructions to the prospective proposer specifying when, to whom and where proposals should be sent;

2. A complete technical description of the problem or work task; further the specification shall specify whether written questions can be sent to the city and whether a bidder's conference will be held to answer any questions;

3. An objective or statement of what is expected to be accomplished;

4. Scope of work or task and the extent to which the city staff will be available to assist the contractor;

- a. For submission of progress reports; and

- b. For completion of tasks;

5. Term or estimated time schedule including:

- a. Dates for commencement or performance;

- b. For the submission of progress reports;

- c. For completion of tasks;

6. Selection criteria;

7. Standard contract terms and conditions; and

8. Understanding for compensation and rate for additional work authorized.

D. The City Council shall have the right to negotiate any and all professional service contracts with the successful proposer. Such negotiation may include limiting or enlarging the scope of work, changing any terms and conditions where necessary

or negotiating the compensation to be paid. The City Council may base their selection decision on the following:

1. Experience of the proposer on similar projects;
2. The qualifications of the proposer;
3. The ability of the proposer to meet the work schedule;
4. The completeness of the project approached;
5. The geographic location of the proposer;
6. Samples of work representing quality;
7. Additional services and skills available;
8. Workspace requirements or city staff support; and
9. The overall proposer's cost.

SECTION 7-118 SALES; City Council TO DECLARE SURPLUS OR OBSOLETE; DISPOSAL AS DIRECTED BY THE CITY COUNCIL.

No surplus or obsolete supplies, materials or equipment may be sold until the City Council shall have declared same obsolete or surplus. The City Council may dispose of such obsolete or surplus property as they deem to be in the best interest of the town. All sales of surplus supplies, materials or equipment in excess of Twenty-five Thousand Dollars (\$25,000.00) shall be based on sealed bids and awarded to the highest bidder. All sales of surplus supplies, materials, or equipment less Twenty-five Thousand Dollars (\$25,000.00) maybe sold to any person, firm or entity without bids but must be for fair consideration.

Section 7-119 WAIVER OF COMPETITIVE BIDDING

The City Council may waive the requirement for competitive contractual bidding for the purchase of supplies, materials, equipment, or contractual services (other than contracts required to be bid pursuant to Section 7-111 and Section 7-112) when (i) some material feature or characteristic of the item or service sought to be purchased is unique, (ii) the item or service is available from only one source or for any reason should same be deemed necessary in the public interest, and the City Manager or his/her designee certify in writing such specific facts or reasons for the waiver. A full and complete statement of the reasons for approving such waiver of competitive bidding shall be entered in the minutes of the City Council. Nothing in this subsection shall be construed to prohibit emergency purchases made

in accordance with Section 7-116 of this Division.

ARTICLE 2

SALES TAX

SECTION 7-201 CITATION AND CODIFICATION.

This chapter shall be known and may be cited as "City of Tonkawa Sales Tax Ordinance."

State Law Reference: Authority to levy (sales) taxes for municipal purposes, 68 O.S. § 2701; 68 O.S. §§ 1350 et seq.

SECTION 7-202 DEFINITIONS.

A. The definitions of words, terms and phrases contained in the Oklahoma Sales Tax Code, Section 1352 of Title 68 of the Oklahoma Statutes, and in Sections 576 and 593 of Title 37 of the Oklahoma Statutes, are hereby adopted by reference and made a part of this chapter.

B. A sale shall include the sale, preparation or service of ice or nonalcoholic beverages that are sold, prepared, or served for the purpose of being mixed with alcoholic beverages for consumption on the premises where such sale, preparation or otherwise occurs.

C. The definition of "gross receipts" in the State Sales Tax Code is hereby augmented to contain the additional following words: "The total retail sale price received for the sale, preparation or service of mixed beverages, ice and non-alcoholic beverages to be mixed with alcoholic beverages for consumption on the premises where such sale, preparation or service occurs shall constitute the gross receipts from such transaction."

SECTION 7-203 TAX COLLECTOR DEFINED.

The term "tax collector" as used in this Article means the department of the City or the official agency of the state duly designated according to law or contract and authorized by law to administer the collection of the tax levied in this Article.

SECTION 7-204 CLASSIFICATION OF TAXPAYERS.

For the purpose of this Article the classification of taxpayers hereunder shall be as prescribed by state law for purposes of the Oklahoma Sales Tax Code.

SECTION 7-205 SUBSISTING STATE PERMITS.

All valid and subsisting permits to do business issued by the Oklahoma Tax Commission pursuant to the Oklahoma Sales Tax Code are, for the purpose of this Article, hereby ratified, confirmed and adopted in lieu of any requirement for an additional City permits for the same purpose.

SECTION 7-206 PURPOSE OF REVENUES.

It is the purpose of the two cent (\$0.02) sales tax to provide revenues for the support of the functions of the municipal government of the City.

Note: See Ordinance No. 97-04 adopted on April 1, 1997, allocating the one cent tax for the stated purpose. \$0.01 of the \$0.03 sales tax formally provided herein was replaced by the sales taxes enacted pursuant to Section 7-206B and C and therefore this sales tax, as codified, was reduced to \$0.02.

SECTION 7-206A ADDITIONAL ONE PER CENT (1%) SALES OR EXCISE TAX FOR CAPITAL EXPENDITURE PURPOSES

A. This section shall be known and may be cited as the City of Tonkawa Sales Tax Ordinance of 2001/Renewed 2020.

B. There is hereby imposed an excise (sales) tax of one per cent (1%) (in addition to any and all other excise taxes now in force), to be levied or assessed upon the gross proceeds or receipts derived from all sales under the sales tax laws for the State of Oklahoma.

C. Beginning on October 1, 2001, and continuing until and ending on September 30, 2041, there is hereby declared to be levied and collected, a City excise tax (sales tax) of one percent (1.00%), such excise tax (sales tax) being in addition to the City, County and State of Oklahoma excise tax (sales tax) heretofore levied or assessed, upon the gross proceeds or receipts derived from all sales to any person taxable under the sales tax laws of the State of Oklahoma. It is hereby declared to be the purpose of the one percent (1.00%) excise tax (sales tax) be to be used for capital expenditures for the use and benefit of the City of Tonkawa, Oklahoma ("City") or any public trust with the City as beneficiary and/or for debt service and related fees and costs in connection with the issuance of obligations to finance said expenditures. Such capital expenditures shall include, but not be limited to, the construction or rehabilitation of a municipal swimming pool and its related facilities and appurtenances, and in addition, the one percent (1.00%) excise tax (sales tax) may be used for any

required surveying, testing, engineering, or other professional fees, including the payment of operation and maintenance expenses, for such municipal swimming pool and its related facilities and appurtenances.

C. Neither this section nor the 1% sales (excise) tax levied pursuant hereto may be repealed by the City Council of the City or by referendum of the registered voters of the City in the event that the proceeds of the referenced tax are being used or have been pledged by the City or any public trust having the City as a beneficiary for the purpose of paying debt service obligations issued by the City or any public trust having the City as beneficiary.

Note: This Ordinance 2019-06 was approved by the City Council on February 11, 2020.

SECTION 7-206B TWO THIRDS (2/3) OF THE ONE AND ONE HALF PER CENT (1.5%) SALES OR EXCISE TAX TO BE USED FOR THE PURPOSE OF FINANCING, CONSTRUCTING, REPAIRING AND REPLACING THE WATER, SEWER, STREET, ALLEY AND DRAINAGE SYSTEMS OF THE CITY; PURPOSE; LIMITED PURPOSE SALES TAX FUND ESTABLISHED

A. There is hereby imposed an excise (sales) tax of one and one half per cent (1.5%) (in addition to any and all other excise taxes now in force), to be levied or assessed upon the gross proceeds or receipts derived from all sales under the sales (excise) tax laws for the State of Oklahoma to be used in accordance with the provisions of Section 7-206B and 7-206C.

B. It is hereby declared to be the purpose of this section that two thirds (2/3) of the one and one half per cent (1.5%) sales tax be used to provide revenues to engineer, finance, construct, repair and replace the water, sewer, street, alley and drainage systems of the City of Tonkawa, Oklahoma.

C. The provisions of this section and the collection of this sales (excise) tax referenced herein shall become effective on and after March 1, 2007. The provisions of this section and the collection of the sales (excise) tax referenced herein shall terminate and said sales (excise) tax shall not be collected after February 28, 2017.

D. The receipts from the collection of two thirds (2/3) of the one and one half per cent (1.5%) municipal sales tax imposed hereunder shall be deposited into a separate restricted cash account contained within a special, limited purpose fund to be known as the "Capital Improvements Sales Tax Fund" (hereinafter the "Fund"), to be held in the name of the City, and

to be accumulated, earmarked, used and expended by the City for the purpose set out in this Section. The Fund shall be established within the general budget of the City of Tonkawa and shall be used for the purpose of receiving the revenues derived from collection of two thirds (2/3) of the one and one half per cent (1.5%) municipal sales tax imposed hereunder, receiving income from the investment of said monies contained in the Fund, and thereafter accumulated, earmarked, used, and expended, both principal and interest, by the City for the purpose hereinbefore set out. In addition, the monies contained in the Fund may be transferred to the Tonkawa Municipal Authority ("Authority"), subject to annual appropriation, to fulfill this purpose of this section in the event such Authority is being used to finance the improvements required hereunder. The proceeds of the tax, and investment income therefrom, may be used to pay the costs of such specified capital improvements as they are made, or to pay debt service on any tax anticipation notes, or other notes, bonds, obligations or evidences of indebtedness issued by the City or the Authority to finance such capital improvements.

E. This one and one half per cent (1.5%) sales tax provided for herein succeeds and replaces the existing one per cent (1%) sales tax adopted pursuant to Ordinance No. 97-04 adopted on April 1, 1997.

F. Neither this section nor the one and one half per cent (1.5%) sales (excise) tax levied pursuant hereto may be repealed by the City Council of the City or by initiative or referendum of the registered voters of the City in the event that the proceeds of the referenced tax are being used or have been pledged by the City or the Authority for the purpose of paying debt service obligations issued by the City or the Authority.

Note: This sales tax expired under its own terms on February 28, 2017 and was replaced by the sales tax provided for in Section 7-206D. Sections 7-206C is retained for historical purposes only.

SECTION 7-206C ONE THIRD (1/3) OF THE ONE AND ONE HALF PER CENT (1.5%) SALES OR EXCISE TAX TO BE USED FOR PURPOSE OF ENGINEERING, FINANCING, CONSTRUCTING AND RENOVATING THE MUNICIPAL SWIMMING POOL COMPLEX, AND PROVIDE SKATEBOARD FACILITIES AND PARK TOYS AT RAY SEE PARK; PURPOSE; LIMITED PURPOSE SALES TAX FUND ESTABLISHED

A. It is hereby declared to the purpose of this section that one third (1/3) of the one and one half per cent (1.5%) sales tax be used to provide revenues to engineer, finance, construct and renovate the municipal swimming pool complex, and provide Skateboard facilities and Park Toys, all at Ray See Park.

B. The provisions of this section and the collection of this sales (excise) tax referenced herein shall become effective on and after March 1, 2007. Except as otherwise provided in this subsection, the collection of the sales (excise) tax referenced herein shall terminate and said sales (excise) tax shall not be collected after February 28, 2017. The receipts from the collection of the one third (1/3) of the one and one half per cent (1.5%) municipal sales tax imposed hereunder shall be deposited into a separate restricted cash account contained within a special, limited purpose fund to be known as the "Capital Improvements Sales Tax Fund" (hereinafter the "Fund"), to be held in the name of the City, and to be accumulated, earmarked, used and expended only for the purpose set out in this Section. The Fund shall be established within the general budget of the City of Tonkawa and shall be used solely for the purpose of receiving the revenues derived from collection of one third (1/3) of the one and one half per cent (1.5%) municipal sales tax imposed hereunder, receiving income from the investment of said monies contained in the Fund, and thereafter accumulated, earmarked, used and expended, both principal and interest, for the purpose hereinbefore set out. Provided further, the monies contained within this separate restricted cash account contained within the Fund shall be transferred to the Tonkawa Municipal Authority ("Authority"), subject to annual appropriation. The proceeds of the tax, and investment income therefrom, shall be used to pay debt service on any tax anticipation notes, or other notes, bonds, obligations or evidences of indebtedness issued by the Authority to finance such capital improvements. In the event the indebtedness necessary to finance such capital improvements is paid off earlier than February 28, 2017, then one third (1/3) of the one and one half per cent (1.5%) sales (excise) tax shall be terminated within thirty (30) days of the date that such final payment on the indebtedness is made.

C. Neither this section nor the one and one half per cent (1.5%) sales (excise) tax levied pursuant hereto may be repealed by the City Council of the City or by initiative or referendum of the registered voters of the City in the event that the proceeds of the referenced tax are being used or have been pledged by the Authority for the purpose of paying debt service obligations issued by the Authority.

Note: The sales taxes enacted pursuant to Section 7-206B & C were adopted pursuant to Ordinance No. 2006-21 approved by the City Council on October 17, 2006, and by the voting electorate on December 12, 2006. This sales tax expired under its own terms on February 28, 2017 and was replaced by the sales tax provided for in Section 7-206D. Sections 7-206C is retained for historical purposes only.

SECTION 7-206D ADDITIONAL ONE AND ONE HALF PER CENT (1.5%) SALES
OR EXCISE TAX FOR INFRASTRUCTURE AND/OR CAPITAL IMPROVEMENT
PROJECTS.

1. Beginning on March 1, 2017, and continuing until and ending on February 28, 2027, there is hereby declared and shall be levied and collected, a City excise (sales) tax of one and one half per cent (1.5%), such sales (excise) tax being in addition to the city, county and state sales taxes heretofore levied or assessed, upon the gross proceeds or receipts derived from all sales to any person taxable under the sales tax laws for the State of Oklahoma.

2. It is hereby declared to be the purpose of this section that the additional one and one half per cent (1.5%) sales (excise) tax be used to provide revenues to construct, repair and/or replace the water, sanitary sewer, street, sidewalks, trails, alley and drainage systems of the City of Tonkawa, Oklahoma, to include acquiring rights-of-way and easements, providing for designs, studies, reports and other engineering or surveying services, construction inspection and management, materials testing and utility assess fees, all related to the above purposes, and for the payment of principal and interest on bonds, notes or other evidences of indebtedness, including the cost of issuance, issued by the Tonkawa Municipal Authority to finance one or more of the above listed infrastructure and/or capital improvement projects.

3. Provided, the receipts from such sales (excise) tax shall be deposited into the Infrastructure and/or Capital Improvement Sales Tax Fund ("Fund"), which Fund shall be in the General Fund and which Fund shall be used solely for the purpose of receiving the revenue derived from the collection of the additional one and one half per cent (1.5%) sales (excise) tax imposed hereunder, receiving any income from the investment of monies contained in the Fund, and making authorized expenditures for the purposes as provided in subsection 2 hereinabove.

4. Neither this section nor the one per cent (1%) sales (excise) tax levied pursuant hereto may be repealed by the City Council of the City or by initiative or referendum of the registered voters of the City in the event that the proceeds of the referenced tax are being used or have been pledged by the City or the Tonkawa Municipal Authority for the purpose of paying debt service obligations issued by the City or the Tonkawa Municipal Authority.

Note: This section was added by Ordinance No. 2016-02 approved by the City Council on March 22, 2016 and by the voters on June 28, 2016.

SECTION 7-207 TAX IMPOSED; AMOUNT.

A. There is hereby levied an excise tax in the amount of (4.50%) upon the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code, including but not exclusive of the following:

1. Tangible personal property, except newspapers and periodicals;

2. Natural or artificial gas, electricity, ice, steam, or any other utility or public service, and associated delivery or transmission services, except water, sewage and refuse and those specifically exempt pursuant to the provisions of 68 O.S. §1357;

3. Transportation for hire to persons by common carriers, including railroads both steam and electric, motor transportation companies, Pullman car companies, airlines, and other means of transportation for hire, excluding:

a. transportation services provided by a tourism service broker which are incidental to the rendition of tourism brokerage services by such broker to a customer regardless of whether or not such transportation services are actually owned and operated by the tourism service broker. For purposes of this subsection, "tourism service broker" means any person, firm, association or corporation or any employee of such person, firm, association, or corporation which, for a fee, commission or other valuable consideration, arranges or offers to arrange trips, tours or other vacation or recreational travel plans for a customer, and

b. transportation services provided by a funeral establishment to family members and other persons for purposes of conducting a funeral in this state;

4. Telecommunications services that originate and terminate in this state and that originate or terminate in this state and are charged to the consumer's telephone number or account in this state regardless of where the billing for such service is made, all mobile telecommunications services that

are sourced to this state pursuant to the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. 116-126, and all local telecommunications service and rental charges, including all installation and construction charges and all service and rental charges having any connection with transmission of any message or image. Provided:

- a. the term "telecommunications services" shall mean the transmission of any interactive, two-way electromagnetic communications, including voice, image, data and information, through the use of any medium such as wires, cables, microwaves, cellular radio, radio waves, light waves, or any combination of those or similar media, but shall not include the following: (1) sales of value-added nonvocal services in which computer processing applications are used to act on the form, content, code, or protocol of the information to be transmitted, including charges for the storage of data or information for subsequent retrieval but not including services commonly known as voice mail, (2) any interstate telecommunications service which is: (a) rendered by a company for private use within its organization, or (b) used, allocated, or distributed by a company to its affiliated group, or (3) sales of any carrier access services, right of access services, telecommunications services to be resold, or telecommunications services used in the subsequent provision of, use as a component part of, or integrated into end-to-end telecommunications service, and
- b. the term "telecommunications services" shall include, but not be limited to sales of any interstate telecommunications services which: (1) entitle the subscriber to inward or outward calling respectively between a station associated with an access line in the local telephone system area or a station directly connected to any interexchange carrier's facilities and telephone or radiotelephone stations in diverse geographical locations specified by the subscriber, or (2) entitle the subscriber to private communications services which allow exclusive or priority use of a communications channel or group of channels between exchanges, and c. the term "interstate" includes any international service that either originates or terminates outside of the fifty (50) United States and the District of Columbia;

5. Printing or printed matter of all types, kinds, or character and, except for services of printing, copying or photocopying performed by a privately owned scientific and educational library sustained by monthly or annual dues paid by members sharing the use of such services with students interested in the study of geology, petroleum engineering or related subjects, any service of printing or overprinting, including the copying of information by mimeograph, multigraph, or by otherwise duplicating written or printed matter in any manner, or the production of microfiche containing information from magnetic tapes or other media furnished by customers;

6. Service of furnishing rooms by hotel, apartment hotel, public rooming house, motel, public lodging house, or tourist camp;

7. Service of furnishing storage or parking privileges by auto hotels or parking lots;

8. Computer hardware, software, coding sheets, cards, magnetic tapes, or other media on which pre-written programs have been coded, punched, or otherwise recorded, including the gross receipts from the licensing of software programs;

9. Foods, confections, and all drinks sold or dispensed by hotels, restaurants, or other dispensers, and sold for immediate consumption upon the premises or delivered or carried away from the premises for consumption elsewhere;

10. Advertising of all kinds, types, and characters, including any and all devices used for advertising purposes except those specifically exempt pursuant to the provisions of 68 O.S. § 1357;

11. Dues or fees to clubs including free or complimentary dues or fees which have a value equivalent to the charge that would have otherwise been made, including any fees paid for the use of facilities or services rendered at a health spa or club or any similar facility or business;

12. Tickets for admission to or voluntary contributions made to places of amusement, sports, entertainment, exhibition, display, or other recreational events or activities, including free or complimentary admissions which have a value equivalent to the charge that would have otherwise been made;

13. Charges made for the privilege of entering or engaging in any kind of activity, such as tennis, racquetball, or handball, when spectators are charged no admission fee;

14. Charges made for the privilege of using items for amusement, sports, entertainment, or recreational activity, such as trampolines or golf carts;

15. The rental of equipment for amusement, sports, entertainment, or other recreational activities, such as bowling shoes, skates, golf carts, or other sports or athletic equipment;

16. The gross receipts from sales from any vending machine without any deduction for rental to locate the vending machine on the premises of a person who is not the owner or any other deductions therefrom;

17. The gross receipts or gross proceeds from the rental or lease of tangible personal property, including rental or lease of personal property when the rental or lease agreement requires the vendor to launder, clean, repair, or otherwise service the rented or leased property on a regular basis, without any deduction for the cost of the service rendered. If the rental or lease charge is based on the retail value of the property at the time of making the rental or lease agreement and the expected life of the property, and the rental or lease charge is separately stated from the service cost in the statement, bill, or invoice delivered to the consumer, the cost of services rendered shall be deducted from the gross receipts or gross proceeds;

18. Flowers, plants, shrubs, trees, and other floral items, whether or not produced by the vendor, sold by persons engaged in florist or nursery business in this state, including all orders taken by an Oklahoma business for delivery in another state. All orders taken outside this state for delivery within this state shall not be subject to the taxes levied in this Section;

19. Tangible personal property sold to persons, peddlers, solicitors, or other salesmen, for resale when there is likelihood that this state will lose tax revenue due to the difficulty of enforcing the provisions of the Oklahoma Sales Tax Code because of:

- a. the operation of the business,
- b. the nature of the business,

- c. the turnover of independent contractors,
 - d. the lack of place of business in which to display a permit or keep records,
 - e. lack of adequate records,
 - f. the fact that the persons are minors or transients,
 - g. the fact that the persons are engaged in service businesses, or
 - h. any other reasonable reason;
- (3) Any taxable services and tangible personal property including materials, supplies, and equipment sold to contractors for the purpose of developing and improving real estate even though said real estate is intended for resale as real property, hereby declared to be sales to consumers or users, however, taxable materials, supplies and equipment sold to contractors as provided by this subsection which are purchased as a result of and subsequent to the date of a contract entered into either prior to the effective date of any law increasing the rate of sales tax imposed by this article, or entered into prior to the effective date of an ordinance or other measure increasing the sales tax levy of a political subdivision shall be subject to the rate of sales tax applicable, as of the date such contract was entered into, to sales of such materials, supplies and equipment if such purchases are required in order to complete the contract. Such rate shall be applicable to purchases made pursuant to the contract or any change order under the contract until the contract or any change order has been completed, accepted and the contractor has been discharged from any further obligation under the contract or change order or until two (2) years from the date on which the contract was entered into whichever occurs first. The increased sales tax rate shall be applicable to all such purchases at the time of sale and the contractor shall file a claim for refund before the expiration of three years after the date of contract completion or five (5) years after the contract was entered into, whichever occurs earlier. However, the Oklahoma Tax Commission shall prescribe rules and regulations and shall provide procedures for the refund to a contractor of sales taxes collected on purchases eligible for the lower sales tax rate authorized by this subsection; and

20. Any taxable services and tangible personal property sold to persons who are primarily engaged in selling their services, such as repairmen, hereby declared to be sales to consumers or users.

Section 7-208 EXEMPTIONS; SALES SUBJECT TO OTHER TAX

There is hereby specifically exempted from the tax levied by this Article the gross receipts or gross proceeds exempted from the Oklahoma Sales Tax Code inclusive, but not exclusive of, and derived from the:

1. Sale of gasoline, motor fuel, methanol, "M-85" which is a mixture of methanol and gasoline containing at least eighty-five percent (85%) methanol, compressed natural gas, liquefied natural gas, or liquefied petroleum gas on which the Motor Fuel Tax, Gasoline Excise Tax, Special Fuels Tax, or the fee in lieu of Special Fuels Tax levied in Article 5, 6, or 7 of Title 68 of the Oklahoma Statutes has been, or will be paid;

2. Sale of motor vehicles or any optional equipment or accessories attached to motor vehicles on which the Oklahoma Motor Vehicle Excise Tax levied in Article 21 of Title 68 of the Oklahoma Statutes has been, or will be paid;

3. Sale of crude petroleum or natural or casing head gas and other products subject to gross production tax pursuant to the provisions of Articles 10 and 11 of Title 68 of the Oklahoma Statutes. This exemption shall not apply when such products are sold to a consumer or user for consumption or use, except when used for injection into the earth for the purpose of promoting or facilitating the production of oil or gas. This paragraph shall not operate to increase or repeal the gross production tax levied by the laws of this state;

4. Sale of aircraft on which the tax levied pursuant to the provisions of Sections 6001 through 6004 of Title 68 of the Oklahoma Statutes has been, or will be paid or which are specifically exempt from such tax pursuant to the provisions of Section 6003 of Title 68 of the Oklahoma Statutes;

5. Sales from coin-operated devices on which the fee imposed by Sections 1501 through 1513 of Title 68 of the Oklahoma Statutes has been paid;

6. Leases of twelve (12) months or more of motor vehicles in which the owners of the vehicles have paid the vehicle excise tax levied by Section 2103 of Title 68 of the Oklahoma Statutes;

7. Sales of charity game equipment on which a tax is levied pursuant to the Oklahoma Charity Games Act, Section 401 et seq. of Title 3A of the Oklahoma Statutes;

8. Sales of cigarettes or tobacco products to:

- a. a federally recognized Indian tribe or nation which has entered into a compact with the State of Oklahoma pursuant to the provisions of subsection C of Section 346 of Title 68 of the Oklahoma Statutes or to a licensee of such a tribe or nation, upon which the payment in lieu of taxes required by the compact has been paid, or
- b. a federally recognized Indian tribe or nation or to a licensee of such a tribe or nation upon which the tax levied pursuant to the provisions of Section 349 or Section 426 of Title 68 of the Oklahoma Statutes has been paid; and

9. Leases of aircraft upon which the owners have paid the aircraft excise tax levied by Section 6001 et seq. of Title 68 or which are specifically exempt from such tax pursuant to the provisions of Section 6003 of Title 68 of the Oklahoma Statutes.

SECTION 7-209 EXEMPTIONS.

There is hereby specifically exempted from the tax levied by this Article, the gross receipts or gross proceeds exempted from the Sales Tax Law of Oklahoma, inclusive, but not exclusive of, or derived from, the:

1. Sale of gasoline, motor fuel, methanol, "M-85" which is a mixture of methanol and gasoline containing at least eighty-five percent (85%) methanol, compressed natural gas, liquefied natural gas, or liquefied petroleum gas on which the Motor Fuel Tax, Gasoline Excise Tax, Special Fuels Tax or the fee in lieu of Special Fuels Tax levied in Section 500.1 et seq., Section 601 et seq. or Section 701 of Title 68 has been, or will be paid;
2. Sale of motor vehicles or any optional equipment or accessories attached to motor vehicles on which the Oklahoma Motor Vehicle Excise Tax levied in Section 2101 of Title 68 has been, or will be paid;
3. Sale of crude petroleum or natural or casinghead gas and other products subject to gross production tax pursuant to the provisions of Section 1001 et seq. and Section 1101 of Title 68 of the Oklahoma Statutes. This exemption shall not apply when such products are sold to a consumer or user for consumption or use,

except when used for injection into the earth for the purpose of promoting or facilitating the production of oil or gas. This paragraph shall not operate to increase or repeal the gross production tax levied by the laws of this state;

4. Sale of aircraft on which the tax levied pursuant to the provisions of Sections 6001 through 6007 of Title 68 of the Oklahoma Statutes has been, or will be paid or which are specifically exempt from such tax pursuant to the provisions of Section 6003 of Title 68 of the Oklahoma Statutes;
5. Sales from coin-operated devices on which the fee imposed by Sections 1501 through 1512 of Title 68 of the Oklahoma Statutes;
6. Leases of twelve (12) months or more of motor vehicles in which the owners of the vehicles have paid the vehicle excise tax levied by Section 2103 of title 68 of the Oklahoma Statutes;
7. Sales of charity game equipment on which a tax is levied pursuant to the Oklahoma Charity Games Act, Section 401 et seq. of Title 3 A of the Oklahoma Statutes, or which is sold to an organization that is:
 - a. a veterans' organization exempt from taxation pursuant to the provisions of paragraph (4), (7), (8), (10) or (19) of subsection (c) of Section 501 of the United States Internal Revenue Code of 1986, as amended 26 U.S.C., Section 501(c) et seq., or
 - b. a group home for mentally disabled individuals exempt from taxation pursuant to the provisions of paragraph (3) of subsection (c) of Section 501 of the United States Internal Revenue Code of 1986, as amended, 26 U.S.C., Section 501(c) et seq., or
8. Sales of cigarettes or tobacco products to:
 - a. a federally recognized Indian tribe or nation which has entered into a compact with the State of Oklahoma pursuant to the provisions of subsection C of Section 346, Title 68 of the

Oklahoma Statutes or to a licensee of such a tribe or nation, upon which the payment in lieu of taxes required by the compact has been paid, or

- b. a federally recognized Indian tribe or nation or to a licensee of such a tribe or nation upon which the tax levied pursuant to the provisions of Section 349 or Section 426 [Title 68 of the Oklahoma Statutes has been paid;
9. Leases of aircraft upon which the owners have paid the aircraft excise tax levied by Section 6001, Title 68 of the Oklahoma Statutes or which are specifically exempt from such tax pursuant to the provisions of Section 6003, Title 68 of the Oklahoma Statutes;
10. The sale of low-speed or medium speed electrical vehicles on which the Oklahoma Motor Vehicle Excise Tax levied in Section 2101, Title 68 of the Oklahoma Statutes has been or will be paid; and
11. Effective January 1, 2005, sales of cigarettes on which the tax levied in Section 301 et seq. of Title 68 of the Oklahoma Statutes or tobacco products on which the tax levied in Section 401, Title 68 of the Oklahoma Statutes et seq., has been paid.

There is also specifically exempted from the tax levied by this Article, the gross receipts or gross proceeds exempted from the Sales Tax Law of Oklahoma, inclusive, but not exclusive of, or derived from, the:

1. Sale of tangible personal property or services to the United States government or to the State of Oklahoma, any political subdivision of this state or any agency of a political subdivision of this state; provided, all sales to contractors in connection with the performance of any contract with the United States government, State of Oklahoma or any of its political subdivisions shall not be exempted from the tax levied by Section 1350 et seq, Title 68 of the Oklahoma Statutes, except as hereinafter provided;
2. Sales of property to agents appointed by or under contract with agencies or instrumentalities of the United States government if ownership and possession

of such property transfers immediately to the United States government;

3. Sales of property to agents appointed by or under contract with a political subdivision of this state if the sale of such property is associated with the development of a qualified federal facility, as provided in the Oklahoma Federal Facilities Development Act, and if ownership and possession of such property transfers immediately to the political subdivision or the state;
4. Sales made directly by county, district or state fair authorities of this state, upon the premises of the fair authority, for the sole benefit of the fair authority or sales of admission tickets to such fairs or fair events at any location in the state authorized by county, district or state fair authorities; provided, the exemption provided by this paragraph for admission tickets to fair events shall apply only to any portion of the admission price that is retained by or distributed to the fair authority. As used in this paragraph, "fair event" shall be limited to an event held on the premises of the fair authority in conjunction with and during the time period of a county, district or state fair;
5. Sale of food in cafeterias or lunchrooms of elementary schools, high schools, colleges or universities which are operated primarily for teachers and pupils and are not operated primarily for the public or for profit;
6. Dues paid to fraternal, religious, civic, charitable or educational societies or organizations by regular members thereof, provided, such societies or organizations operate under what is commonly termed the lodge plan or system, and provided such societies or organizations do not operate for a profit which inures to the benefit of any individual member or members thereof to the exclusion of other members and dues paid monthly or annually to privately owned scientific and educational libraries by members sharing the use of services rendered by such libraries with students interested in the study of geology, petroleum engineering or related subjects;

7. Sale of tangible personal property or services to or by churches, except sales made in the course of business for profit or savings, competing with other persons engaged in the same or a similar business or sale of tangible personal property or services by an organization exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, made on behalf of or at the request of a church or churches if the sale of such property is conducted not more than once each calendar year for a period not to exceed three (3) days by the organization and proceeds from the sale of such property are used by the church or churches or by the organization for charitable purposes;
8. The amount of proceeds received from the sale of admission tickets which is separately stated on the ticket of admission for the repayment of money borrowed by any accredited state-supported college or university or any public trust of which a county in this state is the beneficiary, for the purpose of constructing or enlarging any facility to be used for the staging of an athletic event, a theatrical production, or any other form of entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket. Such facilities include, but are not limited to, athletic fields, athletic stadiums, field houses, amphitheaters, and theaters. To be eligible for this sales tax exemption, the amount separately stated on the admission ticket shall be a surcharge which is imposed, collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the college or university to affect the capital improvements hereinbefore described;
9. Sales of tangible personal property or services to the council organizations or similar state supervisory organizations of the Boy Scouts of America, Girl Scouts of U.S.A. and the Campfire Boys and Girls;
10. Sale of tangible personal property or services to any county, municipality, rural water district, public school district, the institutions of The Oklahoma State System of Higher Education, the Grand River Dam Authority, the Northeast Oklahoma Public Facilities Authority, the Oklahoma Municipal Power Authority,

City of Tulsa-Rogers County Port Authority, Muskogee City-County Port Authority, the Oklahoma Department of Veterans Affairs, the Broken Bow Economic Development Authority, Ardmore Development Authority, Durant Industrial Authority, Oklahoma Ordnance Works Authority or to any person with whom any of the above-named subdivisions or agencies of this state has duly entered into a public contract pursuant to law, necessary for carrying out such public contract to any subcontractor to such a public contract. Any person making purchases on behalf of such subdivision or agency of this state shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such subdivision or agency of this state and set out the name of such public subdivision or agency. Any person who wrongfully or erroneously certifies that purchases are for any of the above-named subdivisions or agencies of this state or who otherwise violates this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days or both;

11. Sales of tangible personal property or services to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c) (3), including materials, supplies, and equipment used in the construction and improvement of buildings and other structures owned by the institutions and operated for educational purposes. Any person, firm, agency, or entity making purchases on behalf of any institution, agency or subdivision in this state, shall certify in writing, on the copy of the invoice or sales ticket the nature of the purchases, and violation of this paragraph shall be a misdemeanor as set forth in paragraph 10 of this section;
12. Tuition and educational fees paid to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State

Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c) (3);

13. a. Sales of tangible personal property made by:
 - (1) a public school,
 - (2) a private school offering instruction for grade levels kindergarten through twelfth grade,
 - (3) a public school district,
 - (4) a public or private school board,
 - (5) a public or private school student group or organization,
 - (6) a parent-teacher association or organization other than as specified in subparagraph b of this paragraph, or
 - (7) public or private school personnel for purposes of raising funds for the benefit of a public or private school, public school district, public or private school board or public or private school student group or organization, or
- b. Sales of tangible personal property made by or to nonprofit parent-teacher associations or organizations exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c) (3); and before July 1, 2012, nonprofit local public or private school foundations which solicit money or property in the name of any public or private school or public school district. The exemption provided by this paragraph for sales made by a public or private school shall be limited to those public or private schools accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs. Sale of

tangible personal property in this paragraph shall include sale of admission tickets and concessions at athletic events;

14. Sales of tangible personal property by:
 - a. local 4-H clubs,
 - b. county, regional or state 4-H councils,
 - c. county, regional or state 4-H committees,
 - d. 4-H leader associations,
 - e. county, regional or state 4-H foundations, and
 - f. authorized 4-H camps and training centers.

The exemption provided by this paragraph shall be limited to sales for the purpose of raising funds for the benefit of such organizations. Sale of tangible personal property exempted by this paragraph shall include sale of admission tickets;

15. The first Seventy-five Thousand Dollars (\$75,000.00) each year from sale of tickets and concessions at athletic events by each organization exempt from taxation pursuant to the provisions of the Internal Revenue 26 U.S.C., Section 501 (c) (4);
16. Items or services which are subsequently given away by the Oklahoma Tourism and Recreation Department as promotional items pursuant to Section 1834 of Title 74 of the Oklahoma Statutes and the sale of advertising in travel brochures and other promotional materials produced at the direction of the Department;
17. Sales of tangible personal property or services to fire departments organized pursuant to Section 59 Title 18 of the Oklahoma Statutes which items are to be used for the purposes of the fire department. Any person making purchases on behalf of any such fire department shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such fire department and set out the name of such fire department. Any person who wrongfully or

erroneously certifies that the purchases are for any such fire department or who otherwise violates the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or both;

18. Complimentary or free tickets for admission to places of amusement, sports, entertainment, exhibition, display or other recreational events or activities which are issued through a box office or other entity which is operated by a state institution of higher education with institutional employees or by a municipality with municipal employees;
19. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property by fire departments organized pursuant to Titles 11, 18, or 19 of the Oklahoma Statutes for the purposes of raising funds for the benefit of the fire department. Fire departments selling tangible personal property for the purposes of raising funds shall be limited to no more than six (6) days each year to raise such funds in order to receive the exemption granted by this paragraph;
20. Sales of tangible personal property or services to any Boys & Girls Clubs of America affiliate in this state which is not affiliated with the Salvation Army and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c) (3);
21. Sales of tangible personal property or services to any organization, which takes court-adjudicated juveniles for purposes of rehabilitation, and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c) (3), provided that at least fifty percent (50%) of the juveniles served by such organization are court adjudicated and the organization receives state funds in an amount less than ten percent (10%) of the annual budget of the organization;
22. Sales of tangible personal property or services to:

- a. any federally qualified community health center as defined in Section 254 c of Title 42 of the United States Code,
 - b. any migrant health center as defined in Section 254 b of Title 42 of the United States Code,
 - c. any clinic receiving disbursements of state monies from the Indigent Health Care Revolving Fund pursuant to the provisions of Section 66[of Title 56 of the Oklahoma Statutes,
 - d. any community- b a s e d health center which meets all of the following criteria:
 - (1) provides primary care services at no cost to the recipient, and
 - (2) is exempt from taxation pursuant to the provisions of Section 501 (c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501 (c)(3), and
 - e. any community mental health center as defined in Section 3-302[43-3-302] of Title 43 A of the Oklahoma Statutes;
23. Dues or fees, including free or complimentary dues or fees which have a value equivalent to the charge that could have otherwise been made, to YMCAs, YWCAs or municipally owned recreation centers for the use of facilities and programs;
24. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property or services to or by a cultural organization established to sponsor and promote educational, charitable, and cultural events for disadvantaged children, and which organization is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c)(3);
25. Sales of tangible personal property or services to museums or other entities which have been accredited by the American Association of Museums. Any person making purchases on behalf of any such museum or other entity shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the

vendor that the purchases are made for and on behalf of such museum or other entity and set out the name of such museum or other entity. Any person who wrongfully or erroneously certifies that the purchases are for any such museum or other entity or who otherwise violates the provisions of this paragraph shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or by both such fine and incarceration;

26. Sales of tickets for admission by any museum accredited by the American Association of Museums. In order to be eligible for the exemption provided by this paragraph, an amount equivalent to the amount of the tax which would otherwise be required to be collected pursuant to the provisions of Section 1350, et seq. of Title 68 of the Oklahoma Statutes shall be separately stated on the admission ticket and shall be collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the museum to effect the construction, enlarging or renovation of any facility to be used for entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket;
27. Sales of tangible personal property or services occurring on or after June 1, 1995, to children's homes which are supported or sponsored by one or more churches, members of which serve as trustees of the home;
28. Sales of tangible personal property or services to the organization known as the Disabled American Veterans, Department of Oklahoma, Inc., and subordinate chapters thereof;
29. Sales of tangible personal property or services to youth camps which are supported or sponsored by one or more churches, members of which serve as trustees of the organization;
30. Transfer of tangible personal property made pursuant to Section 3226 of Title 63 of the Oklahoma Statutes by the University Hospitals Trust;

31. Sales of tangible personal property or services to a municipality, county, or school district pursuant to a lease or lease-purchase agreement executed between the vendor and a municipality, county or schooldistrict. A copy of the lease or lease-purchaseagreement shall be retained by the vendor;
32. Sales of tangible personal property or services to any spaceport user, as defined in the Oklahoma Space Industry Development Act;
33. The sale, use, storage, consumption, or distribution in this state, whether by the importer, exporter, or another person, of any satellite or any associated launch vehicle, including components of, and parts and motors for, any such satellite or launch vehicle, imported or caused to be imported into this state for the purpose of export by means of launching into space. This exemption provided by this paragraphshall not be affected by:
 - a. the destruction in whole or in part of the satellite or launch vehicle,
 - b. the failure of a launch to occur or be successful, or
 - c. the absence of any transfer or title to, or possession of, the satellite or launch vehicle after launch;
34. The sale, lease, use, storage, consumption, or distribution in this state of any space facility, space propulsion system or space vehicle, satellite, or station of any kind possessing space flight capacity, including components thereof;
35. The sale, lease, use, storage, consumption, or distribution in this state of tangible personal property, placed on or used aboard any space facility, space propulsion system or space vehicle, satellite, or station possessing space flightcapacity, which is launched into space, irrespective of whether such tangible property is returned to this state for subsequent use, storage, or consumption in any manner

36. The sale, lease, use, storage, consumption, or distribution in this state of tangible personal property meeting the definition of "section 38 property" as defined in Sections 48 (a) (1) (A) and (B) (i) of the Internal Revenue Code of 1986, that is an integral part of and used primarily in support of space flight; however, section 38 property used in support of space flight shall not include general office equipment, any boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States government, or any other property not specifically suited to supporting space activity. The term "in support of space flight", for purposes of this paragraph, means the altering, monitoring, controlling, regulating, adjusting, servicing, or repairing of any space facility, space propulsion systems or space vehicle, satellite, or station possessing space flight capacity, including the components thereof;
37. The purchase or lease of machinery and equipment for use at a fixed location in this state, which is used exclusively in the manufacturing, processing, compounding, or producing of any space facility, space propulsion system or space vehicle, satellite, or station of any kind possessing space flight capacity. Provided, the exemption provided for in this paragraph shall not be allowed unless the purchaser or lessee signs an affidavit stating that the item or items to be exempted are for the exclusive use designated herein. Any person furnishing a false affidavit to the vendor for the purpose of evading payment of any tax imposed by Section 1354 of this Title 68 of the Oklahoma Statutes shall be subject to the penalties provided by law. As used in this paragraph, "machinery and equipment" means "section 38 property" as defined in Sections 48 (a) (1) (A) and (B) (i) of the Internal Revenue Code of 1986, which is used as an integral part of the manufacturing, processing, compounding, or producing of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph;
38. Amount of a surcharge or any other amount which is separately stated on an admission ticket which is

imposed, collected, and used for the sole purpose of constructing, remodeling or enlarging facilities of a public trust having a municipality or county as its sole beneficiary;

39. Sales of tangible personal property or services which are directly used in or for the benefit of a state park in this state, which are made to an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c) (3) and which is organized primarily for the purpose of supporting one or more state parks located in this state;
40. The sale, lease or use of parking privileges by an institution of The Oklahoma State System of Higher Education;
41. Sales of tangible personal property or services for use on campus or school construction projects for the benefit of institutions of The Oklahoma State System of Higher Education, private institutions of higher education accredited by the Oklahoma State Regents for Higher Education or any public school or school district when such projects are financed by or through the use of nonprofit entities which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c) (3);
42. Sales of tangible personal property or services by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c) (3), in the course of conducting a national championship sports event, but only if all or a portion of the payment in exchange therefore would qualify as the receipt of a qualified sponsorship payment described in Internal Revenue Code, 26 U.S.C., Section 513(i). Sales exempted pursuant to this paragraph shall be exempt from all Oklahoma sales, use, excise and gross receipts taxes;
43. Sales of tangible personal property or services to or by an organization which:
 - a. is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c) (3),

- b. is affiliated with a comprehensive university within The Oklahoma State System of Higher Education, and
 - c. has been organized primarily for the purpose of providing education and teacher training and conducting events relating to robotics;
44. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property to or by youth athletic teams which are part of an athletic organization exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c)(4), for the purposes of raising funds for the benefit of the team;
 45. Sales of tickets for admission to a collegiate athletic event that is held in a facility owned or operated by a municipality or a public trust of which the municipality is the sole beneficiary and that actually determines or is part of a tournament or tournament process for determining a conference tournament championship, a conference championship, or a national championship;
 46. Sales of tangible personal property or services to or by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c)(3) and is operating the Oklahoma City National Memorial and Museum, an affiliate of the National Park System;
 47. Sales of tangible personal property or services to organizations which are exempt from federal taxation pursuant to the provisions of Section 501 (c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501 (c)(3) (c)(3), the memberships of which are limited to honorably discharged veterans, and which furnish financial support to area veterans' organizations to be used for the purpose of constructing a memorial or museum;
 48. Sales of tangible personal property or services on or after January 1, 2003, to an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c)(3) that is expending monies received from a private foundation grant in conjunction with

expenditures of local sales tax revenue to construct a local public library;

49. Sales of tangible personal property or services to a state that borders this state or any political subdivision of that state, but only to the extent that the other state or political subdivision exempts or does not impose a tax on similar sales of items to this state or a political subdivision of this state;
50. Effective July 1, 2005, sales of tangible personal property or services to the Career Technology Student Organizations under the direction and supervision of the Oklahoma Department of Career and Technology Education;
51. Sales of tangible personal property to a public trust having either a single city, town or county or multiple cities, towns or counties or combination thereof as beneficiary or beneficiaries or a nonprofit organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c) (3) for the purpose of constructing improvements to or expanding a hospital or nursing home owned and operated by any such public trust or nonprofit entity prior to the effective date of this act in counties with a population of less than one hundred thousand (100,000) persons, according to the most recent Federal Decennial Census. As used in this paragraph, "constructing improvements to or expanding" shall not mean any expense for routine maintenance or general repairs and shall require a project cost of at least One Hundred Thousand Dollars (\$100,000.00). For purposes of this paragraph, sales made to a contractor or subcontractor that enters into a contractual relationship with a public trust or nonprofit entity as described by this paragraph shall be considered sales made to the public trust or nonprofit entity. The exemption authorized by this paragraph shall be administered in the form of a refund from the sales tax revenues apportioned pursuant to Section 1353 of this title and the vendor shall be required to collect the sales tax otherwise applicable to the transaction. The purchaser may apply for a refund of the sales tax paid in the manner prescribed by this paragraph. Within thirty (30) days after the end of each fiscal year, any

purchaser that is entitled to make application for a refund based upon the exempt treatment authorized by this paragraph may file an application for refund of the sales taxes paid during such preceding fiscal year. The Tax Commission shall prescribe a form for purposes of making the application for refund. The Tax Commission shall determine whether or not the total amount of sales tax exemptions claimed by all purchasers is equal to or less than Six Hundred Fifty Thousand Dollars (\$650,000.00). If such claims are less than or equal to that amount, the Tax Commission shall make refunds to the purchasers in the full amount of the documented and verified sales tax amounts. If such claims by all purchasers are in excess of Six Hundred Fifty Thousand Dollars (\$650,000.00), the Tax Commission shall determine the amount of each purchaser's claim, the total amount of all claims by all purchasers, and the percentage each purchaser's claim amount bears to the total. The resulting percentage determined for each purchaser shall be multiplied by Six Hundred Fifty Thousand Dollars (\$650,000.00) to determine the amount of refundable sales tax to be paid to each purchaser. The pro rata refund amount shall be the only method to recover sales taxes paid during the preceding fiscal year and no balance of any sales taxes paid on a pro rata basis shall be the subject of any subsequent refund claim pursuant to this paragraph;

52. Effective July 1, 2006, sales of tangible personal property or services to any organization which assists, trains, educates, and provides housing for physically and mentally handicapped persons and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c)(3) and that receives at least eighty-five percent (85%) of its annual budget from state or federal funds. In order to receive the benefit of the exemption authorized by this paragraph, the taxpayer shall be required to make payment of the applicable sales tax at the time of sale to the vendor in the manner otherwise required by law. Notwithstanding any other provision of the Oklahoma Uniform Tax Procedure Code to the contrary, the taxpayer shall be authorized to file a claim for refund of sales taxes paid that qualify for the exemption authorized by this paragraph for a period of one (1) year after the date of the sale transaction. The taxpayer shall be

required to provide documentation as may be prescribed by the Oklahoma Tax Commission in support of the refund claim. The total amount of sales tax qualifying for exempt treatment pursuant to this paragraph shall not exceed One Hundred Seventy-five Thousand Dollars (\$175,000.00) each fiscal year. Claims for refund shall be processed in the order in which such claims are received by the Oklahoma Tax Commission. If a claim otherwise timely filed exceeds the total amount of refunds payable for a fiscal year, such claim shall be barred;

53. The first Two Thousand Dollars (\$2,000.00) each year of sales of tangible personal property or services to, by, or for the benefit of a qualified neighborhood watch organization that is endorsed or supported by or working directly with a law enforcement agency with jurisdiction in the area in which the neighborhood watch organization is located. As used in this paragraph, "qualified neighborhood watch organization" means an organization that is a not-for-profit corporation under the laws of the State of Oklahoma that was created to help prevent criminal activity in an area through community involvement and interaction with local law enforcement and which is one of the first two thousand organizations which makes application to the Oklahoma Tax Commission for the exemption after the effective date of this act;
54. Sales of tangible personal property to a nonprofit organization, exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c) (3), organized primarily for the purpose of providing services to homeless persons during the day and located in a metropolitan area with a population in excess of five hundred thousand (500,000) persons according to the latest Federal Decennial Census. The exemption authorized by this paragraph shall be applicable to sales of tangible personal property to a qualified entity occurring on or after January 1, 2005;
55. Sales of tangible personal property or services by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c) (3) made during auction events the principal purpose of which is to provide funding

for the preservation of wetlands and habitat for wild ducks;

56. Sales of tangible personal property or services by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c)(3) made during auction events the principal purpose of which is to provide funding for the preservation and conservation of wild turkeys;
57. Sales of tangible personal property or services to an organization which:
 - a. is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c)(3), and
 - b. is part of a network of community-based, autonomous member organizations that meets the following criteria:
 - (1) serves people with workplace disadvantages and disabilities by providing job training and employment services, as well as job placement opportunities and post-employment support,
 - (2) has locations in the United States and at least twenty other countries,
 - (3) collects donated clothing and household goods to sell in retail stores and provides contract labor services to business and government, and
 - (4) provides documentation to the Oklahoma Tax Commission that over seventy-five percent (75%) of its revenues are channeled into employment, job training and placement programs and other critical community services;
58. Sales of tickets made on or after September 21, 2005, and complimentary or free tickets for admission issued on or after September 21, 2005, which have a value equivalent to the charge that would have otherwise been made, for admission to a professional athletic event in which a team in the National

Basketball Association is a participant, which is held in a facility owned or operated by a municipality, a county or a public trust of which a municipality or a county is the sole beneficiary, and sales of tickets made on or after the effective date of this act, and complimentary or free tickets for admission issued on or after the effective date of this act, which have a value equivalent to the charge that would have otherwise been made, for admission to a professional athletic event in which a team in the National Hockey League is a participant, which is held in a facility owned or operated by a municipality, a county or a public trust of which a municipality or a county is the sole beneficiary;

59. Sales of tickets for admission and complimentary or free tickets for admission which have a value equivalent to the charge that would have otherwise been made to a professional sporting event involving ice hockey, baseball, basketball, football or arena football, or soccer. As used in this paragraph, "professional sporting event" means an organized athletic competition between teams that are members of an organized league or association with centralized management, other than a national league or national association, that imposes requirements for participation in the league upon the teams, the individual athletes or both, and which uses a salary structure to compensate the athletes;
60. Sales of tickets for admission to an annual event sponsored by an educational and charitable organization of women which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c) (3) and has as its mission promoting volunteerism, developing the potential of women and improving the community through the effective action and leadership of trained volunteers;
61. Sales of tangible personal property or services to an organization, which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c) (3), and which is itself a member of an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c) (3), if the membership organization is primarily engaged in advancing the purposes of its member organizations through fundraising, public awareness or other efforts for the benefit of its member organizations, and if the member

organization is primarily engaged either in providing educational services and programs concerning health-related diseases and conditions to individuals suffering from such health-related diseases and conditions or their caregivers and family members or support to such individuals, or in health-related research as to such diseases and conditions, or both. In order to qualify for the exemption authorized by this paragraph, the member nonprofit organization shall be required to provide proof to the Oklahoma Tax Commission of its membership status in the membership organization;

62. Sales of tangible personal property or services to or by an organization which is part of a national volunteer women's service organization dedicated to promoting patriotism, preserving American history, and securing better education for children and which has at least 168,000 members in 3,000 chapters across the United States;
63. Sales of tangible personal property or services to or by a YWCA or YMCA organization which is part of a national nonprofit community service organization working to meet the health and social service needs of its members across the United States;
64. Sales of tangible personal property or services to or by a veteran's organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c) (19) and which is known as the Veterans of Foreign Wars of the United States, Oklahoma Chapters;
65. Sales of boxes of food by a church or by an organization, which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c) (3). To qualify under the provisions of this paragraph, the organization must be organized for the primary purpose of feeding needy individuals or to encourage volunteer service by requiring such service in order to purchase food. These boxes shall only contain edible staple food items;

66. Sales of tangible personal property or services to any person with whom a church has duly entered into a construction contract, necessary for carrying out such contract or to any subcontractor to such a construction contract;
67. Sales of tangible personal property or services used exclusively for charitable or educational purposes, to or by an organization which:
 - a. is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26U.S.C., Section 501 (c) (3),
 - b. has filed a Not-for-Profit Certificate of Incorporation in this state, and
 - c. is organized for the purpose of:
 - (1) providing training and education to developmentally disabled individuals,
 - (2) educating the community about the rights, abilities and strengths of developmentally disabled individuals, and
 - (3) promoting unity among developmentally disabled individuals in their community and geographic area;
68. Sales of tangible personal property or services to any organization which is a shelter for abused, neglected, or abandoned children and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c) (3); provided, until July 1, 2008, such exemption shall apply only to eligible shelters for children from birth to age twelve (12) and after July 1, 2008, such exemption shall apply to eligible shelters for children from birth to age eighteen (18);
69. Sales of tangible personal property or services to a childcare center which is licensed pursuant to the Oklahoma Child Care Facilities Licensing Act and which:

- a. possesses a 3-star rating from the Department of Human Services Reaching for the Stars Program or a national accreditation, and
- b. allows on site universal pre-kindergarten education to be provided to four-year-old children through a contractual agreement with any public school or school district.

For the purposes of this paragraph, sales made to any person, firm, agency or entity that has entered previously into a contractual relationship with childcare center for construction and improvement of buildings and other structures owned by the childcare center and operated for educational purposes shall be considered sales made to a childcare center. Any such person, firm, agency or entity making purchases on behalf of a childcare center shall certify in writing, on the copy of the invoice or sales ticket the nature of the purchase. Any such person, or person acting on behalf of a firm, agency or entity making purchases on behalf of a childcare center in violation of this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days or both;

70.
 - a. Sales of tangible personal property to a service organization of mothers who have children who are serving or who have served in the military, which service organization is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c) (19) and which is known as the Blue Star Mothers of America, Inc. The exemption provided by this paragraph shall only apply to the purchase of tangible personal property actually sent to United States military personnel overseas who are serving in a combat zone and not to any other tangible personal property purchased by the organization. Provided, this exemption shall not apply to any sales tax levied by a city, town, county, or any other jurisdiction in this state.
 - b. The exemption authorized by this paragraph shall be administered in the form of a refund from the

sales tax revenues apportioned pursuant to Section 1353 of Title 68, and the vendor shall be required to collect the sales tax otherwise applicable to the transaction. The purchaser may apply for a refund of the state sales tax paid in the manner prescribed by this paragraph. Within sixty (60) days after the end of each calendar quarter, any purchaser that is entitled to make application for a refund based upon the exempt treatment authorized by this paragraph may file an application for refund of the state sales taxes paid during such preceding calendar quarter. The Tax Commission shall prescribe a form for purposes of making the application for refund.

- c. A purchaser who applies for a refund pursuant to this paragraph shall certify that the items were actually sent to military personnel overseas in a combat zone. Any purchaser that applies for a refund for the purchase of items that are not authorized for exemption under this paragraph shall be subject to a penalty in the amount of Five Hundred Dollars (\$500.00).

There are hereby specifically exempted from the tax levied by the Oklahoma Sales Tax Code:

1. Transportation of school pupils to and from elementary schools or high schools in motor or other vehicles;
2. Transportation of persons where the fare of each person does not exceed One Dollar (\$1.00), or local transportation of persons within the corporate limits of a municipality except by taxicabs;
3. Sales for resale to persons engaged in the business of reselling the articles purchased, whether within or without the state, provided that such sales to residents of this state are made to persons to whom sales tax permits have been issued as provided in the Oklahoma Sales Tax Code. This exemption shall not apply to the sales of articles made to persons holding permits when such persons purchase items for their use and which they are not regularly engaged in the business of reselling; neither shall this exemption apply to sales of tangible personal property to peddlers, solicitors and other salespersons who do not have an established place of business and a sales tax permit. The exemption provided by this paragraph shall apply to sales of motor fuel or diesel fuel to a Group Five vendor, but the use

of such motor fuel or diesel fuel by the Group Five vendor shall not be exempt from the tax levied by the Oklahoma Sales Tax Code. The purchase of motor fuel or diesel fuel is exempt from sales tax when the motor fuel is for shipment outside this state and consumed by a common carrier by rail in the conduct of its business. The sales tax shall apply to the purchase of motor fuel or diesel fuel in Oklahoma by a common carrier by rail when such motor fuel is purchased for fueling, within this state, of any locomotive or other motorized flanged wheel equipment;

4. Sales of advertising space in newspapers and periodicals;
5. Sales of programs relating to sporting and entertainment events, and sales of advertising on billboards (including signage, posters, panels, marquees, or on other similar surfaces, whether indoors or outdoors) or in programs relating to sporting and entertainment events, and sales of any advertising, to be displayed at or in connection with a sporting event, via the Internet, electronic display devices, or through public address or broadcast systems. The exemption authorized by this paragraph shall be effective for all sales made on or after January 1, 2001;
6. Sales of any advertising, other than the advertising described by paragraph 5 of this section, via the Internet, electronic display devices, or through the electronic media, including radio, public address or broadcast systems, television (whether through closed circuit broadcasting systems or otherwise), and cable and satellite television, and the servicing of any advertising devices;
7. Eggs, feed, supplies, machinery, and equipment purchased by persons regularly engaged in the business of raising worms, fish, any insect or any other form of terrestrial or aquatic animal life and used for the purpose of raising same for marketing.

This exemption shall only be granted and extended to the purchaser when the items are to be used and in fact are used in the raising of animal life as set out above. Each purchaser shall certify, in writing, on the invoice or sales ticket retained by the vendor that the purchaser is regularly engaged in the business of raising such animal life and that the items purchased will be used only in such business. The vendor shall certify to the Oklahoma Tax Commission that the price of the items has been reduced to grant the full benefit of the exemption. Violation hereof by the purchaser or vendor shall be a misdemeanor;

8. Sale of natural or artificial gas and electricity, and associated delivery or transmission services, when sold exclusively for residential use. Provided, this exemption shall not apply to any sales tax levied by a city or town, or a county, or any other jurisdiction in this state;
9. In addition to the exemptions authorized by Section 1357.6 of Title 68 of the Oklahoma Statutes, sales of drugs sold pursuant to a prescription written for the treatment of human beings by a person licensed to prescribe the drugs, and sales of insulin and medical oxygen. Provided, this exemption shall not apply to over-the-counter drugs;
10. Transfers of title or possession of empty, partially filled, or filled returnable oil and chemical drums to any person who is not regularly engaged in the business of selling, reselling or otherwise transferring empty, partially filled, or filled returnable oil drums;
11. Sales of one-way utensils, paper napkins, paper cups, disposable hot containers and other one-way carry out materials to a vendor of meals or beverages;
12. Sales of food or food products for home consumption which are purchased in whole or in part with coupons issued pursuant to the federal food stamp program as authorized by Sections 2011 through 2029 of Title 7 of the United States Code, as to that portion purchased with such coupons. The exemption provided for such sales shall be inapplicable to such sales upon the effective date of any federal law that removes the requirement of the exemption as a condition for participation by the state in the federal food stamp program;

13. Sales of food or food products, or any equipment or supplies used in the preparation of the food or food products to or by an organization which:
 - a. is exempt from taxation pursuant to the provisions of Section 501 (c) (3) of the Internal Revenue Code, 26 U.S.C., Section 501 (c) (3), and which provides and delivers prepared meals for home consumption to elderly or homebound persons as part of a program commonly known as "Meals on Wheels" or "Mobile Meals", or
 - b. is exempt from taxation pursuant to the provisions of Section 501 (c) (3) of the Internal Revenue Code, 26 U.S.C., Section 501 (c) (3), and which receives federal funding pursuant to the Older Americans Act of 1965, as amended, for the purpose of providing nutrition programs for the care and benefit of elderly persons;
14. a. Sales of tangible personal property or services to or by organizations which are exempt from taxation pursuant to the provisions of Section 501 (c) (3) of the Internal Revenue Code, 26 U.S.C., Section 501 (c) (3), and:
 - (1) are primarily involved in the collection and distribution of food and other household products to other organizations that facilitate the distribution of such products to the needy and such distribute organizations are exempt from taxation pursuant to the provisions of Section 501 (c) (3) of the Internal Revenue Code, 26 U.S.C., Section 501 (c) (3), or
 - (2) facilitate the distribution of such products to the needy.
- b. Sales made in the course of business for profit or savings, competing with other persons engaged in the same or similar business shall not be exempt under this paragraph;

15. Sales of tangible personal property or services to children's homes which are located on church-owned property and are operated by organizations exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c) (3);
16. Sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment for use in a qualified aircraft maintenance or manufacturing facility. For purposes of this paragraph, "qualified aircraft maintenance or manufacturing facility" means a new or expanding facility primarily engaged in aircraft repair, building, or rebuilding whether or not on a factory basis, whose total cost of construction exceeds the sum of Five Million Dollars (\$5,000,000.00) and which employs at least two hundred fifty (250) new full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission, upon completion of the facility. In order to qualify for the exemption provided for by this paragraph, the cost of the items purchased by the qualified aircraft maintenance or manufacturing facility shall equal or exceed the sum of Two Million Dollars (\$2,000,000.00);
17. Sales of tangible personal property consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility as defined in paragraph 16 of this section. For purposes of this paragraph, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with a qualified aircraft maintenance or manufacturing facility for construction or expansion of such a facility shall be considered sales made to a qualified aircraft maintenance or manufacturing facility;
18. Sales of the following telecommunications services:
 - a. Interstate and International "800 service". "800 service" means a "telecommunications service" that allows a caller to dial a toll-free number without incurring a charge for the call. The service is typically marketed under the name "800", "855", "866", "877", and "888" toll-free calling, and any subsequent numbers designated by the Federal Communications Commission, or
 - b. Interstate and International "900 service". "900 service" means an inbound toll "telecommunications

service" purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service. "900 service" does not include the charge for: collection services provided by the seller of the "telecommunications services" to the subscriber, or service or product sold by the subscriber to the subscriber's customer. The service is typically marketed under the name "900" service, and any subsequent numbers designated by the Federal Communications Commission,

- c. Interstate and International "private communications service". "Private communications service" means a "telecommunications service" that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels,
- d. "Value-added nonvoice data service". "Value-added nonvoice data service" means a service that otherwise meets the definition of "telecommunications services" in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance, or routing,
- e. Interstate and International telecommunications service which is:
 - (1) rendered by a company for private use within its organization, or

- (2) used, allocated, or distributed by a company to its affiliated group,
 - f. Regulatory assessments and charges, including charges to fund the Oklahoma Universal Service Fund, the Oklahoma Lifeline Fund and the Oklahoma High-Cost Fund, and
 - g. Telecommunications nonrecurring charges, including but not limited to the installation, connection, change or initiation of telecommunications services which are not associated with a retail consumer sale;
19. Sales of railroad track spikes manufactured and sold for use in this state in the construction or repair of railroad tracks, switches, sidings, and turnouts;
20. Sales of aircraft and aircraft parts provided such sales occur at a qualified aircraft maintenance facility. As used in this paragraph, "qualified aircraft maintenance facility" means a facility operated by an air common carrier at which there were employed at least two thousand (2,000) full-time-equivalent employees in the preceding year as certified by the Oklahoma Employment Security Commission and which is primarily related to the fabrication, repair, alteration, modification, refurbishing, maintenance, building or rebuilding of commercial aircraft or aircraft parts used in air common carriage. For purposes of this paragraph, "air common carrier" shall also include members of an affiliated group as defined by Section 1504 of the Internal Revenue Code, 26 U.S.C., Section 501.1504;
21. Sales of machinery and equipment purchased and used by persons and establishments primarily engaged in computer services and data processing:
- a. as defined under Industrial Group Numbers 7372 and 7373 of the Standard Industrial Classification (SIC) Manual, latest version, which derive at least fifty percent (50%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer, and

- b. as defined under Industrial Group Number 7374 of the SIC Manual, latest version, which derive at least eighty percent (80%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer.

Eligibility for the exemption set out in this paragraph shall be established, subject to review by the Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and such information as required by the Tax Commission. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers or consumers, all sales to the federal government shall be considered to be to an out-of-state buyer or consume.

- 22. Sales of prosthetic devices to an individual for use by such individual. For purposes of this paragraph, "prosthetic device" shall have the same meaning as provided in Section 1357.6 of Title 68 of the Oklahoma Statutes, but shall not include corrective eyeglasses, contact lenses or hearing aids;
- 23. Sales of tangible personal property or services to a motion picture or television production company to be used or consumed in connection with an eligible production. For purposes of this paragraph, "eligible production" means a documentary, special, music video, or a television commercial or television program that will serve as a pilot for or be a segment of an ongoing dramatic or situation comedy series filmed or taped for network or national or regional syndication or a feature-length motion picture intended for theatrical release or for network or national or regional syndication or broadcast. The provisions of this paragraph shall apply to sales occurring on or after July 1, 1996. In order to qualify for the exemption, the motion picture or television production company shall file any documentation and information required to be submitted pursuant to rules promulgated by the Tax Commission;
- 24. Sales of diesel fuel sold for consumption by commercial vessels, barges and other commercial watercraft;

25. Sales of tangible personal property or services to tax-exempt independent nonprofit biomedical research foundations that provide educational programs for Oklahoma science students and teachers and to tax-exempt independent nonprofit community blood banks headquartered in this state;
26. Effective May 6, 1992, sales of wireless telecommunications equipment to a vendor who subsequently transfers the equipment at no charge or for a discounted charge to a consumer as part of a promotional package or as an inducement to commence or continue a contract for wireless telecommunications services;
27. Effective January 1, 1991, leases of rail transportation cars to haul coal to coal-fired plants located in this state which generate electric power;
28. Beginning July 1, 2005, sales of aircraft engine repairs, modification, and replacement parts, sales of aircraft frame repairs and modification, aircraft interior modification, and paint, and sales of services employed in the repair, modification, and replacement of parts of aircraft engines, aircraft frame and interior repair and modification and paint;
29. Sales of materials and supplies to the owner or operator of a ship, motor vessel or barge that is used in interstate or international commerce if the materials and supplies:
 - a. are loaded on the ship, motor vessel or barge and used in the maintenance and operation of the ship, motor vessel or barge, or
 - b. enter into and become component parts of the ship, motor vessel or barge;
30. Sales of tangible personal property made at estate sales at which such property is offered for sale on the premises of the former residence of the decedent by a person who is not required to be licensed pursuant to the Transient Merchant Licensing Act, or who is not otherwise required to obtain a sales tax permit for the sale of such property pursuant to the provisions of Section 1364 of Title 68 of the Oklahoma Statutes; provided:

- a. such sale or event may not be held for a period exceeding three (3) consecutive days,
 - b. the sale must be conducted within six (6) months of the date of death of the decedent, and
 - c. the exemption allowed by this paragraph shall not be allowed for property that was not part of the decedent's estate;
31. Beginning January 1, 2004, sales of electricity and associated delivery and transmission services, when sold exclusively for use by an oil and gas operator for reservoir dewatering projects and associated operations commencing on or after July 1, 2003, in which the initial water-to-oil ratio is greater than or equal to five-to-one water-to-oil, and such oil and gas development projects have been classified by the Corporation Commission as a reservoir dewatering unit;
 32. Sales of prewritten computer software that is delivered electronically. For purposes of this paragraph, "delivered electronically" means delivered to the purchaser by means other than tangible storage media;
 33. Sales of modular dwelling units when built at a production facility and moved in whole or in parts, to be assembled on-site, and permanently affixed to the real property and used for residential or commercial purposes. The exemption provided by this paragraph shall equal forty-five percent (45%) of the total sales price of the modular dwelling unit. For purposes of this paragraph, "modular dwelling unit" means a structure that is not subject to the motor vehicle excise tax imposed pursuant to Section 2103[- of Title 68 of the Oklahoma Statutes;
 34. Sales of tangible personal property or services to persons who are residents of Oklahoma and have been honorably discharged from active service in any branch of the Armed Forces of the United States or Oklahoma National Guard and who have been certified by the United States Department of Veterans Affairs or its successor to be in receipt of disability compensation at the one-hundred-percent rate and the disability shall be permanent and have been sustained through military action or accident or resulting from disease contracted while in such active service; provided, sales for the benefit of the person to a spouse of the eligible person or to a member of the household in which the eligible

person resides and who is authorized to make purchases on the person's behalf, when such eligible person is not present at the sale, shall also be exempt for purposes of this paragraph. Sales qualifying for the exemption authorized by this paragraph shall not exceed Twenty-five Thousand Dollars (\$25,000.00) per year per individual. Upon request of the Tax Commission, a person asserting or claiming the exemption authorized by this paragraph shall provide a statement, executed under oath, that the total sales amounts for which the exemption is applicable have not exceeded Twenty-five Thousand Dollars (\$25,000.00) per year. If the amount of such exempt sales exceeds such amount, the sales tax in excess of the authorized amount shall be treated as a direct sales tax liability and may be recovered by the Tax Commission in the same manner provided by law for other taxes, including penalty and interest;

35. Sales of electricity to the operator, specifically designated by the Oklahoma Corporation Commission, of a spacing unit or lease from which oil is produced or attempted to be produced using enhanced recovery methods, including, but not limited to, increased pressure in a producing formation through the use of water or saltwater if the electrical usage is associated with and necessary for the operation of equipment required to inject or circulate fluids in a producing formation for the purpose of forcing oil or petroleum into a wellbore for eventual recovery and production from the wellhead. In order to be eligible for the sales tax exemption authorized by this paragraph, the total content of oil recovered after the use of enhanced recovery methods shall not exceed one percent (1%) by volume. The exemption authorized by this paragraph shall be applicable only to the state sales tax rate and shall not be applicable to any county or municipal sales tax rate;
36. Sales of intrastate charter and tour bus transportation. As used in this paragraph, "intrastate charter and tour bus transportation" means the transportation of persons from one location in this state to another location in this state in a motor vehicle which has been constructed in such a manner that it may lawfully carry more than eighteen persons, and which is ordinarily used or rented to carry persons for compensation. Provided, this exemption shall not apply to regularly scheduled bus transportation for the general public;

37. Sales of vitamins, minerals, and dietary supplements by a licensed chiropractor to a person who is the patient of such chiropractor at the physical location where the chiropractor provides chiropractic care or services to such patient. The provisions of this paragraph shall not be applicable to any drug, medicine, or substance for which a prescription by a licensed physician is required;
38. Sales of goods, wares, merchandise, tangible personal property, machinery, and equipment to a web search portal located in this state which derives at least eighty percent (80%) of its annual gross revenue from the sale of a product or service to an out-of-state buyer or consumer. For purposes of this paragraph, "web search portal" means an establishment classified under NAICS code 518112 which operates web sites that use a search engine to generate and maintain extensive databases of Internet addresses and content in an easily searchable format;
39. Sales of tangible personal property consumed or incorporated in the construction or expansion of a facility for a corporation organized under Section 437 et seq. of Title 18 of the Oklahoma Statutes as a rural electric cooperative. For purposes of this paragraph, sales made to a contractor or subcontractor that has previously entered a contractual relationship with a rural electric cooperative for construction or expansion of a facility shall be considered sales made to a rural electric cooperative;
40. Sales of tangible personal property or services to a business primarily engaged in the repair of consumer electronic goods, including, but not limited to, cell phones, compact disc players, personal computers, MP 3 players, digital devices for the storage and retrieval of information through hard-wired or wireless computer or Internet connections, if the

devices are sold to the business by the original manufacturer of such devices and the devices are repaired, refitted or refurbished for sale by the entity qualifying for the exemption authorized by this paragraph directly to retail consumers or if the devices are sold to another business entity for sale to retail consumers; and

41. Before July 1, 2012, sales of rolling stock when sold or leased by the manufacturer, regardless of whether the purchaser is a public services corporation engaged in business as a common carrier of property or passengers by railway, for use or consumption by a common carrier directly in the rendition of public service. For purposes of this paragraph, "rolling stock" means locomotives, autocars and railroad cars.

As the provisions of Title 68 are hereinafter amended, these sections pertaining to the Sales Tax shall be similarly amended by operation of law and without the requirement of individual amendment. Title 68 pertaining to the Oklahoma Sales Tax Code is adopted in its entirety and is incorporated herein by reference as if fully set out.

SECTION 7-210 OTHER EXEMPT TRANSFERS.

Also, there is hereby specifically exempted from the tax herein levied, the transfer of tangible personal property exempted from the Oklahoma Sales Tax Law inclusive but not exclusive of the following:

1. From one (1) corporation to another corporation, pursuant to a reorganization; as used in this Subsection, the term "reorganization" means:
 - A. A statutory merger or consolidation; or
 - B. The acquisition by a corporation of substantially all of the properties of another corporation, when the consideration is solely all or a part of the voting stock of the acquiring corporation, or of its parent or subsidiary corporation;
2. In connection with the winding up, dissolution or liquidation of a corporation only when there is a distribution in kind to the shareholders of the property of such corporation;

3. To a corporation for the purpose of organization of such corporation where the former owners of the property transferred are, immediately after the transfer, in control of the corporation, and the stock or securities received by each is substantially in proportion to this interest in the property prior to the transfer;
4. To a partnership in the organization of such partnership if the former owners of the property transferred are immediately after the transfer, members of such partnership, and the interest in the partnership received by each is substantially in proportion to his interest in the property prior to the transfer; and
5. From a partnership to the members thereof when made in kind in the dissolution of such partnership.

SECTION 7-211 TAX DUE WHEN; RETURNS; RECORDS.

The tax levied hereunder shall be due and payable at the time and in the manner and form prescribed for payment of the State Sales Tax under the Sales Tax Law of the State of Oklahoma.

SECTION 7-212 PAYMENT OF TAX; BRACKETS.

1. The tax herein levied shall be paid to the Tax Collector at the time and in the manner and form provided for payment of the State Sales Tax under the Sales Tax Law of Oklahoma.

2. The bracket system for the collection of the four and one half cent (4.5%) Municipal Sales Tax by the tax collector, shall be as the same as hereafter adopted by the agreement of the City of Tonkawa, Oklahoma, and the tax collector in the collection of both the four and one half percent (4.5%) Municipal Sales Tax and the State Sales Tax.

SECTION 7-213 TAX CONSTITUTES DEBT.

Such taxes, penalty and interest due hereunder shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors and may be collected by suit as any other debt.

SECTION 7-214 VENDOR'S DUTY TO COLLECT TAX.

1. The tax levied hereunder shall be paid by the consumer or user to the vendor and it shall be the duty of each and every vendor in this Municipality to collect from the consumer or user, the full amount of the tax levied by this Article, or an amount equal as nearly as possible or practicable to the average equivalent thereof.

2. Vendors shall add the tax imposed hereunder or the average equivalent thereof, to the sales price or charge, and, when added, such tax shall constitute a part of such price or charge, shall be a debt from the consumer or user to the vendor until paid and shall be recoverable by Law in the same manner as other debts.

3. A vendor, as defined herein, who willfully or intentionally fails, neglects or refuses to collect the full amount of the tax levied by this Article, or willfully or intentionally fails, neglects or refuses to comply with the provisions, or remits or rebates to a consumer or user, either directly or indirectly and by whatsoever means, all or any part of the tax herein levied, or makes in any form of advertising (verbally or otherwise) any statement which infers that he is absorbing the tax, or paying the tax for the consumer or user by an adjustment of prices, at a price including the tax or in any manner whatsoever, shall be deemed guilty of an offense.

SECTION 7-215 RETURNS AND REMITTANCES; DISCOUNTS.

Returns and remittances of the tax herein levied and collected shall be made to the tax collector at the time and in the manner, form and amount as prescribed for returns and remittances required by the State Sales Tax Code; remittances of tax collected hereunder shall be subject to the same discount as may be allowed by said Code for collection of State Sales Tax.

SECTION 7-216 INTEREST AND PENALTIES; DELINQUENCY.

Section 217 of Title 68 O.S. 1981, as amended, is hereby adopted, and made a part of this Article, and interest and penalties at the rates and in the amounts as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this Article. The failure or refusal or any taxpayer to make and transmit the reports and remittances of tax in the time and manner required by this Article shall cause such tax to be delinquent. In addition, if such delinquency continues for

a period of five (5) days, the taxpayer shall forfeit his claim to any discount allowed under this Article.

SECTION 7-217 WAIVER OF INTEREST AND PENALTIES.

The interest, penalty or any portion thereof, accruing by reason of a taxpayer's failure to pay the Municipal Sales Tax herein levied, may be waived or remitted in the same manner provided for said waiver or remittance, as applied in the administration of the State Sales Tax provided in Title 68, O.S. 1981, Section 220; to accomplish the purposes of this Section, the applicable provisions of said Section 220 are hereby adopted by reference and made a part of this Article.

SECTION 7-218 ERRONEOUS PAYMENT; CLAIM FOR REFUND.

Refund of erroneous payment of the Municipal Sales Tax herein levied may be made to any taxpayer making such erroneous payment, in the same manner and procedure and under the same limitations of time, as provided for administration of the State Sales Tax as set forth in a Title 68, O.S. 1981, Section 227, and, to accomplish the purposes of this Section, the applicable provisions of said Section 227 are hereby adopted by reference and made a part of this Article.

SECTION 7-219 FRAUDULENT RETURNS.

In addition to all civil penalties provided by this Article, the willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment or any tax, or portion thereof, rightfully due under this Article, shall be an offense and, upon conviction thereof, the offending taxpayer shall be subject to a fine of not more than the limits established in the general penalty section of this Code of Ordinances.

SECTION 7-220 RECORDS CONFIDENTIAL.

The confidential and privileged nature of the records and files concerning the administration of the Municipal Sales Tax is legislatively recognized and declared, and to protect the same, the provisions of Title 68, O.S. 1981 (as amended), Section 205 of the State Sales Tax Code and each Subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of the Municipal Sales Tax as if set forth herein in full.

SECTION 7-221 AMENDMENTS.

The people of the City of Tonkawa, Oklahoma, by their approval of this Ordinance at the election hereinbefore provided, have authorized the City Council, by Ordinances duly enacted, to make such administrative and technical changes or additions in the method and manner of administration and enforcing this Article as may be necessary or proper for efficiency and fairness; provided, that, the rate of the tax herein provided shall not be changed without approval of the qualified electors of the Municipality, as provided by Law.

SECTION 7-222 PROVISIONS CUMULATIVE.

The provisions hereof shall be cumulative and in addition to any and all other taxing provisions of Municipal Ordinances.

SECTION 7-223 PROVISIONS SEVERABLE.

The provisions hereof are hereby declared to be severable, and if any Section, paragraph, sentence, or clause of this Article is for any reason held invalid or inoperative by any court of competent jurisdiction, such decision shall not affect any other Section, paragraph, sentence or clause hereof.

ARTICLE 3

UTILITIES TAX

SECTION 7-301 FEE LEVIED; APPLICATION.

There is hereby levied and assessed an annual tax of two percent (2%) upon the gross receipts received from all persons, firms, associations, or corporations engaged in the business of furnishing power, light, heat, gas, electricity, telephone exchange service or water within the City limits, except that it shall neither apply to City furnished services nor any person, firm, association or corporation operating under a valid franchise with the City nor apply to utilities furnished by the City.

State Law Reference: Authority of council to levy above tax, 68 O.S. § 2601; tax not applicable to franchise holders, 68 O.S. § 2602.

SECTION 7-302 TAX IS IN LIEU OF OTHER TAXES.

The tax levied by this Article shall be in lieu of any other franchise, license, occupation or excise tax levied by the City.

SECTION 7-303 PAYMENT OF TAX

The tax levied under this Article shall be payable monthly on or prior to the tenth (10th) day of the month for the preceding month's receipts and the proceeds thereof shall be placed in the general revenue fund of the City.

SECTION 7-304 FAILURE TO PAY; ACTION FOR COLLECTION.

Any person failing or refusing to pay the tax levied by this Article shall be regarded as a trespasser and may be ousted from the City. 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 attorneys' fees.

SECTION 7-305 TAX LIEN.

The tax imposed by 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 power, light, heat, gas, electricity, or water within the City and subject to such tax.

SECTION 7-306 RECORD OF SALES

It shall be the duty of any person, firm, association, or corporation subject to the tax levied hereunder to keep and maintain records as to the amount of gross receipts of sales of power, light, heat, gas, electricity or water within the City, and such records shall be subject to review and audit by the City upon reasonable request. In addition, a summary of such sales for the preceding calendar month, including the number of customers served, the number of customers exempt from taxation under applicable Oklahoma sales tax law, the number of units of gas, electricity or water sold to exempt and non-exempt customers, the gross receipts from sales to exempt and non-exempt customers, and the amount of the gross receipt tax levied herein based on such sales, shall be provided unto the City at the time of payment of the tax pursuant to Section 7-303 hereof.

Note: This Article was adopted as Ordinance No. 94-04 on August 16, 1994.

ARTICLE 4

CABLE FRANCHISE

SECTION 7-401 CABLE TV FRANCHISE GRANTED.

On the 2nd day of January 2002, the City of Tonkawa granted to Cable One, Inc., by Ordinance No. 2001-11, a non-exclusive privilege to construct, install, maintain, and operate a Community Antenna Television System in the City of Tonkawa for a period of five (5) years. Ordinance No. No. 2001-11 is attached hereto as appendix 1 and are incorporated by reference into this section and code as if fully set out.

Note: The City and Cable One have been able to negotiate a franchise as of the date of this codification 2017.

ARTICLE 5

GAS FRANCHISE GRANTED (RESERVED)

Note: The City and CenterPoint have been able to negotiate a franchise as of the date of this codification 2017.

ARTICLE 6

TONKAWA HOTEL TAX ORDINANCE

SECTION 7-601 CITATION AND CODIFICATION.

This Article shall be known and cited as the "Tonkawa Hotel Tax Ordinance".

SECTION 7-602 DEFINITIONS. As used in this Article:

A. DIRECTOR shall mean the City Clerk of the City of Tonkawa, Oklahoma.

B. HOTEL shall mean any building or buildings, structure, trailer, or other facility in which the public may,

for consideration, obtain sleeping accommodations in which five (1) or more rooms are used for the accommodation of such guests whether such rooms are in one or several structures. The term shall include hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, trailer houses, trailer motels, apartments not occupied by "permanent residents," and all other facilities where sleeping rooms or facilities or space are furnished for a consideration. The term shall not include hospitals, sanitariums, nursing homes or dormitories.

C. OCCUPANCY shall mean the use or possession, or the right to use or the possession of any room or rooms in a hotel, or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room or rooms.

D. OCCUPANT shall mean a person, who for a consideration, uses, possesses, or has the right to the use or possession of any room or rooms in a hotel under any lease, concession, permit, right of access, license to use, or other agreement.

E. OPERATOR shall mean any person operating a hotel in this City, including, but not limited to, the owner, proprietor, lessee, sublessee, mortgagee in possession, licensee, or any other person otherwise operating such hotel.

F. PERMANENT RESIDENT shall mean any occupant who has or shall have the right of occupancy of any room or rooms in a hotel for thirty (30) or more consecutive days during the calendar year or any preceding year.

G. RENT shall mean the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash credits, and property or services of any kind or nature.

H. RETURN shall mean any return filed or required to be filed as herein provided.

I. ROOM shall mean any room or rooms of any kind in any part or portion of a hotel which is available for or let out for use or possessed for any purpose other than a place of assembly. As used herein, "Place of assembly" means a room or space which is capable of being occupied by seventy-five (75) or more persons and which is used for educational, recreational or amusement purposes and shall include: dance halls, cabarets, night clubs, restaurants, any room, or space for public or private banquets, feasts, social, card parties or weddings, lodge and meeting halls or rooms, skating rinks, gymnasiums, swimming pools, billiard, bowling and table tennis rooms, halls or rooms used for

public or private catering purposes, funeral parlors, markets, recreational rooms, concert halls, broadcasting studios, and all other places of similar type of occupancy.

J. TAX shall mean the tax levied pursuant to this Article.

SECTION 7-603 LEVIED; RATE.

There is hereby levied an excise tax in the amount of five percent (5%) upon the gross proceeds or gross receipts derived from all rent for every occupancy of a room or rooms in a hotel in this city except that the tax shall not be imposed where the rent is less than the rate of three dollars (\$3.00) per day.

SECTION 7-604 EXEMPTIONS.

The following shall be exempt from the tax levied in this Article:

- (1) Permanent residents;
- (2) The United States government or any agency or division thereof;
- (3) The state or any political subdivision thereof.

SECTION 7-605 CERTIFICATE OF EXEMPTION.

Anyone claiming to be exempt from the tax must furnish proof to the director of such exemption and obtain from the director a certificate of exemption.

SECTION 7-606 TAX TO BE SEPARATELY DESIGNATED ON BILLS.

The operator shall separately designate, charge and show the tax on all bills, statements, receipts or any other evidence of charges or payment of rent for occupancy issued or delivered by the operator.

SECTION 7-607 OPERATOR RESPONSIBLE FOR COLLECTION.

The operator shall be responsible for the collection of the tax from the occupant and shall be liable to the city for the tax.

SECTION 7-608 RECORDS TO BE KEPT.

Every operator shall keep records of every occupancy and of all rent paid, charge, or due thereon and of the tax payable therein in such form as the director may by regulations require. Such records shall be available for inspection and examination at any time upon demand by the director, or a duly authorized agent or employee of the city and shall be preserved for a period of three (3) years except that the director may consent to their destruction within that period or may require that they be kept longer.

SECTION 7-609 RETURNS.

On or before the 20th day of each month, every operator shall file with the Director a return of occupancy and rents and of the taxes payable thereon for the preceding calendar month after the effective date of this Article. The Director may permit or require returns to be made by shorter or longer periods and upon such dates as he may specify. The form of return shall be prescribed by the Director and shall contain such information as he may deem necessary for the proper administration of this Article. The Director may require amended returns to be filed within twenty days after notice and to contain the information specified in the notice.

SECTION 7-610 PAYMENT OF TAX.

At the time of filing a return of occupancy and of rents, each operator shall pay to the Director the taxes imposed by this Article upon the rents included in such return, as well as all other monies collected by the operator acting or purporting to act under the provisions of this Article. All the taxes for the period for which a return is required to be filed shall be due from the operator and payable to the Director on or before the date fixed for the filing of the return for such period without regard to whether a return is filed or whether the return which is filed correctly shows the amount of rents and the taxes due thereon.

SECTION 7-611 ASSESSMENT AND DETERMINATION OF TAX.

If a return required by this Article is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be assessed by the Director from such information as may be obtainable and, if necessary, the tax may

be estimated on the basis of external indices, such as number of rooms, location, scale of rents, comparable rents, types of accommodations and services, number of employees, or other factors. Written notice of such assessments shall be given to the person liable for the collection and payment of the tax. Such assessment shall finally and irrevocably fix and determine the tax unless the person against whom it is assessed, within ninety (90) days after the giving of notice of such assessment, shall apply in writing to the City Council or its designee for a hearing or unless the Director on his own motion shall reassess the same. After such hearing, the City Council or its designee shall give written notice of its determination to the person against whom the tax is assessed, and such determination shall be final.

SECTION 7-612 REFUNDS.

A. Procedure. The Director shall refund or credit any tax erroneously, illegally, or unconstitutionally collected if written application to the Director for such refund shall be made within two (2) years from the date of payment thereof. For like causes, and in the same period, a refund may be so made upon the initiative and the order of the Director. Whenever a refund is made, the reasons therefore shall be stated in writing. Such application may also be made by the person who has collected and paid such tax to the Director providing that the application is made within two (2) years of the payment by the occupant to the operator, but no refund of money shall be made to the operator until he has repaid to the occupant the amount for which the application for refund is made. The Director in lieu of any refund required to be made, may also allow credit therefore on the payment due from the applicant.

B. Determination and Hearing. Upon application for a refund the Director may receive evidence with respect thereto and make such investigation as he deems necessary. After making a determination as to the refund, the Director shall give notice thereof to the applicant. Such determination shall be final unless the applicant within ninety (90) days after such notice shall apply in writing to the Director or its designee for a hearing. After such hearing, the Director or its designee shall give written notice of its decision to the applicant.

SECTION 7-613 NOTICES.

Notices provided for under this Article shall be deemed to have been given when such notice has been delivered personally to the operator or deposited in the United States mail to the last known address of the operator.

SECTION 7-614 REMEDIES AVAILABLE.

The remedies provided in this Article shall be the exclusive remedies available to any person for the review of tax liability imposed by this Article.

SECTION 7-615 GENERAL POWERS OF THE DIRECTOR.

In addition to all other powers granted to the Director, he is hereby authorized and empowered:

A. To make, adopt and amend rules and regulations appropriate to the carrying out of this Article for the purposes thereof, for a period not exceeding sixty (60) days, and for cause shown to waive, remit, or reduce penalties or interest;

B. To delegate his functions hereunder to an assistant or other employee or employees of the City;

C. To assess, reassess, determine, revise, and readjust the taxes imposed by this Article;

D. To prescribe methods for determining the taxable and non-taxable rents.

SECTION 7-616 ADMINISTRATION OF OATHS AND COMPELLING TESTIMONY.

The Director, or his designated representative, shall have the power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of their powers and duties under this Article. The Director shall have the power to subpoena and require the attendance of witnesses and the production of books, papers, and documents to secure information pertinent to the performance of his duties hereunder and to the enforcement of this Article and to examine them in relation thereto.

SECTION 7-617 CERTIFICATES OF REGISTRATION.

Every operator shall file with the Director a certificate of registration in a form as prescribed by the Director within

ten (10) days after the effective date of this Article, or in case of operators commencing business or opening new hotels after the effective date, not less than five (5) days prior to such commencement or opening. The Director shall, within five (5) days after such registration, issue, without charge, to each operator a certificate of authority empowering such operator to collect the tax from the occupant and duplicates thereof for each additional hotel. Each certificate or duplicate shall state the hotel to which it is applicable. Such certificate of authority shall be permanently displayed by the operator in such a manner that it may be seen and come to the notice of all occupants and persons seeking occupancy. Such certificates shall be non-assignable and non-transferrable and shall be surrendered immediately to the Director upon the cessation of business at the hotel named, or upon its sale or transfer.

SECTION 7-618 INTEREST.

If any tax levied by this Article becomes delinquent, the person responsible and liable for such tax shall pay interest on such unpaid tax at the rate of one and one-half percent (1 1/2%) per month on the unpaid balance from the date of delinquency.

SECTION 7-619 DISCOUNT.

In order to remunerate the operator for keeping the tax record, filing reports, and remitting the tax when due, a three percent (3%) discount shall be allowed upon all taxes paid prior to the time they become delinquent.

SECTION 7-620 RECORDS CONFIDENTIAL.

The confidential and privileged nature of the records and files concerning the administration of the hotel tax is legislatively recognized and declared, and to protect the same the provisions of 68 O.S. § 205 of the State Sales Tax Code, and each subsection thereof is hereby adopted by reference and made fully effective and applicable to the administration of the Tonkawa Hotel Tax as if herein set forth.

SECTION 7-621 FRAUDULENT RETURNS.

The willful failure or refusal of any taxpayer, operator or other person, corporation or entity to make timely reports and remittances therein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping

payment of the tax, or any portion thereof, rightfully due under this Article, shall be an offense, and upon conviction thereof, the offending taxpayer shall be subject to a fine of not more than Fifty Dollars (\$50.00), including costs; provided however, each day shall be considered a separate offense.

SECTION 7-622 AMENDMENTS.

The registered voters of the City of Tonkawa by their approval of this Article at the election herein provided, hereby authorize the City Council by Article duly enacted to make such administrative and technical changes or additions in the method and manner of administration and enforcing this Article as may be necessary or proper for efficiency and fairness, except that the rate of the tax herein provided shall not be changed without the approval of a majority of the registered voters voting in an election called for that purpose.

SECTION 7-623 USE OF FUNDS.

All taxes collected pursuant to the provisions of this Article shall be deposited into a limited purpose tax fund to be accumulated, earmarked, and expended exclusively for utility infrastructure related to economic development within the City of Tonkawa, Oklahoma.

Note: This Ordinance No. 2001-07 was approved by the City Council on July 3rd, 2001, and by the voting public on September 11, 2001.

ARTICLE 7

USE TAX

SECTION 7-701 EXCISE TAX ON STORAGE, USE OR OTHER CONSUMPTION OF INTANGIBLE, PERSONAL PROPERTY LEVIED.

There is hereby levied and there shall be paid by every person storing, using, or otherwise consuming within the municipality tangible, personal property purchased or brought into this municipality, an excise tax on the storage, use or other consuming within the municipality of such property at the rate of 4.50% of the purchase price of such property. Such tax shall be paid by every person storing, using or otherwise consuming, within the municipality, tangible, personal property purchased or brought into the municipality. The additional tax levied hereunder shall be paid at the time of importation or

storage of the property within the municipality and shall be assessed to only property purchased outside Oklahoma; personal property intended solely for use outside the municipality, but which is stored in the municipality pending shipment outside the municipality or which is temporarily retained in the municipality for the purpose of fabrication, repair, testing, alteration, maintenance, or other service. Any person liable for payment of the tax authorized herein, may deduct from such tax any local or municipal sales tax previously paid on such goods or services; provided, that the amount deducted shall not exceed the amount that would have been due if the taxes imposed by the municipality had been levied on the sale of such goods or services.

Note: This Article was adopted by the enactment of Ordinance No. 94-02 approved on the 1st day of March 1994 (3% rate), increased to 4% on September 18, 2001, by Ordinance No. 2001-08 and increased to 4.5% with Ordinance No. 2007-04.

SECTION 7-702 EXEMPTIONS.

The provisions of this Article shall not apply:

A. In respect to the use of an article of tangible, personal property brought into the municipality by a nonresident individual visiting in this municipality for his or her personal use or enjoyment while within the municipality;

B. In respect to the use of tangible, personal property purchased for resale before being used;

C. In respect to the use of any article of tangible, personal property on which a tax, equal to or in excess of that levied by both the Oklahoma Use Tax Code and the City of Tonkawa Use Tax Ordinance, had been paid by the person using such tangible, personal property in the municipality, whether such tax was levied under the laws of Oklahoma or some other state or municipality of the United States. If any article of tangible, personal property has already been subjected to a tax by Oklahoma or any other state or municipality in respect to its sale or use, in an amount less than the tax imposed by both the Oklahoma Use Tax Code and the City of Tonkawa Use Tax Code, the provisions of this Section shall also apply to it by a rate measured by the difference only between the rate by both the Oklahoma Use Tax Code and the City of Tonkawa Use Tax Code, and the rate by which the previous tax upon the sale or use was computed. Provided, that no credit shall be given for taxes paid in another state or municipality if that state or

municipality does not grant like credit for taxes paid in Oklahoma and the municipality;

D. In respect to the use of machinery and equipment purchased and used by persons establishing new manufacturing or processing plants in the municipality, and machinery and equipment purchased and used by persons to the operation of manufacturing plants already established in the municipality. Provided, this exemption shall not apply unless such machinery and equipment is incorporated into, and is directly used in, the process of manufacturing property subject to taxation under the Sales Tax Code of the municipality. The term "manufacturing plants" shall mean those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such;

E. In respect to the use of tangible, personal property now specifically exempted from taxation under the Sales Tax Code of the municipality;

F. In respect to the use of any article of tangible, personal property brought into the municipality by an individual with intent to become a resident of this municipality where such personal property is for such individual's personal use or enjoyment;

G. In respect to the use of any article of tangible personal property used or to be used by commercial airlines or railroads;

H. In respect to livestock purchased outside Oklahoma and brought into this municipality for feeding or breeding purposes, and which is later resold.

SECTION 7-703 TIME WHEN DUE, RETURNS, PAYMENT.

The tax levied by this Article is due and payable at the time and in the manner and form prescribed for payment of the State Use Tax under the Use Tax Code of the State of Oklahoma.

SECTION 7-704 TAX CONSTITUTES DEBT.

Such taxes, penalty and interest due hereunder shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors and may be collected by suit as any other debt.

SECTION 7-705 COLLECTION OF TAX BY RETAILER OR VENDOR.

Every retailer or vendor maintaining places of business both within and without the State of Oklahoma, and making sales of tangible, personal property from a place of business outside this state for use in this municipality shall at the time of making such sales collect the use tax levied by this Article from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the Tax Commission, if the Tax Commission shall, by regulation, require such receipt. Each retailer or vendor shall list with the Tax Commission the name and address of all his agents operating in this municipality and location of any and all distribution or sales houses or offices or other places of business in this City.

SECTION 7-706 COLLECTION OF TAX BY RETAILER OR VENDOR NOT MAINTAINING A PLACE OF BUSINESS WITHIN STATE OR BOTH WITHIN AND WITHOUT STATE; PERMITS.

The Tax Commission may, in its discretion, upon application, authorize the collection of the tax herein levied by any retailer or vendor not maintaining a place of business within this state but who makes sales of tangible, personal property for use in this municipality and by the out-of-state place of business of any retailer or vendor maintaining places of business both within and without Oklahoma and making sales of tangible, personal property at such out-of-state business for use in this municipality. Such retailer or vendor may be issued, without charge, a permit to collect such taxes, by the Tax Commission in such manner and subject to such regulations and agreements as it shall prescribe. When so authorized, it shall be the duty of such retailer or vendor to collect the tax upon all tangible, personal property sold to his knowledge for use within this municipality. Such authority and permit may be canceled when at any time the Tax Commission considers that such tax can more effectively be collected from the person using such property in this municipality. Provided, however, that in all instances where such sales are made or completed by delivery to the purchaser within this municipality by the retailer or vendor in such retailer's or vendor's vehicle, whether owned or leased (not by common carrier), such sales or transactions shall continue to be subject to applicable municipal Sales Tax at the point of delivery and the tax shall be collected and reported under taxpayer's sales tax permit number accordingly.

SECTION 7-707 REVOKING PERMITS.

Whenever any retailer or vendor not maintaining a place of business in this state, or both within and without this state,

and authorized to collect the tax herein levied, fails to comply with any of the provisions of this Article or the Oklahoma Use Tax Code or any order, rules or regulations of the Tax Commission, the Tax Commission may, upon notice and hearing as provided for in 68 O.S. 1981, § 1408, by order revoke tax permit, if any, issued to such retailer or vendor, and if any such retailer or vendor is a corporation authorized to do business in this state, may, after notice and hearing above provided, cancel said corporation's license to do business in this state and shall issue a new license only when such corporation has complied with the obligations under this Article, the Oklahoma Use Tax Code, or any order, rules or regulations of the Tax Commission.

SECTION 7-708 REMUNERATIVE DEDUCTIONS ALLOWED VENDORS OR RETAILERS OF OTHER STATES.

Returns and remittances of the tax herein levied and collected shall be made to the Tax Commission at the time and in the manner, form and amount as prescribed for returns and remittances required by the Oklahoma Use Tax Code; and remittances of tax collected hereunder shall be subject to the same discount as may be allowed by said Code for the collection of State Use Taxes.

SECTION 7-709 INTEREST AND PENALTIES; DELINQUENCY.

Title 68 O.S. § 217, is hereby adopted and made a part of this Article, and interest and penalties at the rates and in the amounts as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this Article. Provided, that the failure or refusal of any retailer or vendor to make and transmit the reports and remittances of tax in the time and manner required by this Article shall cause such tax to be delinquent. In addition, if such delinquency continues for a period of five (5) days, the retailer or vendor shall forfeit his claim to any discount allowed under this Article.

SECTION 7-710 WAIVER OF INTEREST AND PENALTIES.

The interest or penalty of any portion thereof accruing by reason of a retailer's or vendor's failure to pay the municipal tax herein levied may be waived or remitted in the same manner as provided for said waiver or remittance as applied in administration of the State Use Tax provided in 68 O.S. § 227, and to accomplish the purposes of this section the applicable

provisions of said Section 220 are hereby adopted by reference and made a part of this Article.

SECTION 7-711 ERRONEOUS PAYMENTS; CLAIM FOR REFUND.

Refund of erroneous payment of the municipal Use Tax herein levied may be made to any taxpayer making such erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the State Use Tax as set forth in 68 O.S. § 227, and to accomplish the purpose of this section, the applicable provisions of said Section 227 are hereby adopted by reference and made a part of this Article.

SECTION 7-712 FRAUDULENT RETURNS.

In addition to all civil penalties provided by this Article, the willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this Article shall be an offense and upon conviction thereof the offending taxpayer shall be punished by a fine of not more than One Hundred Dollars (\$100.00) and costs. Each day of noncompliance with this Article shall constitute a separate offense.

SECTION 7-713 RECORDS CONFIDENTIAL.

The confidential and privileged nature of the records and files concerning the administration of the municipal Use Tax is legislatively recognized and declared, and to protect the same the provisions of 68 O.S. § 205, of the State Use Tax Code, and each subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of the municipal Use Tax as is herein set forth in full.

SECTION 7-714 PROVISIONS CUMULATIVE.

The provisions hereof shall be cumulative, and in addition to any and all other taxing provisions of the municipal ordinances.

SECTION 7-715 PROVISIONS SEVERABLE.

The provisions hereof are hereby declared to be severable, and if any section, paragraph, sentence, or clause of this Article is for any reason held invalid or inoperative by any court of competent jurisdiction, such decision shall not affect any other section, paragraph, sentence or clause thereof.

SECTION 7-716 DEFINITIONS.

The definitions of words, terms and phrases contained in the Oklahoma Use Tax Code, 68 O.S. § 1401 are hereby adopted by reference and made a part of this Article. In addition, thereto, the following words and terms shall be defined as follows:

1. City shall mean the City of Tonkawa, Oklahoma.
2. Transaction shall mean sale.

SECTION 7-717 TAX COLLECTOR DEFINED.

The term "tax collector" as used herein means the department of the municipal government or the official agency of the state, duly designated according to law or contract authorized by law to administer the collection of the tax herein levied.

SECTION 7-718 CLASSIFICATION OF TAXPAYERS.

For the purpose of this Article, the classification of taxpayers hereunder shall be as prescribed by state law for purposes of the Oklahoma Use Tax Code.

SECTION 7-719 SUBSISTING STATE PERMITS.

All valid and subsisting permits to do business issued by the Tax Commission pursuant to the Oklahoma Use Tax Code are for the purpose of this Article hereby ratified, confirmed and adopted in lieu of any requirement for an additional municipal permit for the same purpose.

SECTION 7-720 PURPOSES OF REVENUES.

It is hereby declared to be the purpose of this Article to provide revenues for the support of the functions of the municipal government of the municipality, and any and all revenues derived hereunder may be expended by the governing body of the municipality for any purpose for which funds may be lawfully expended as authorized.

ARTICLE 8 TELEPHONE EXCHANGE FEE

DIVISION 1

TELEPHONE EXCHANGE FEE

Section 7-801 FEE LEVIED ON TELEPHONE EXCHANGES

There is hereby levied an annual inspection fee and service charge upon each and every person, firm, or corporation operating a telephone exchange in the city in an amount equal to two percent (2%) of the gross revenues for each current year for exchange telephone transmission service rendered wholly within the limits of the city to compensate the city for the expenses incurred and services rendered incident to the exercise of its police power, supervision, police regulations, and police control of the construction of lines and equipment of the telephone company in the city. The inspection fee and charge shall be due and payable to the city on or before the first day of April of each year, for the calendar year ending December 31 preceding, and shall be paid into and appropriated and expended from the general revenue fund of the city.

State Law Reference: City powers to levy utility tax on gross receipts, 68 O.S. Section 2601 et seq.

Section 7-802 FEE TO BE IN LIEU OF OTHER FEES, TAXES

During continued substantial compliance with the terms of this chapter by the owner of any telephone exchange, the charge levied hereby shall be and continue to be in lieu of all concessions, charges, excise, franchise, license, privilege, and permit fees or taxes or assessments, except ad valorem taxes. However, it is not intended hereby to extinguish or abrogate any existing arrangement whereby the city is permitted to use underground conduit, duct space, or pole contacts of the company for the fire alarm or police calls systems of the city.

DIVISION 2

911 ENHANCED EMERGENCY TELEPHONE SERVICE FEE IMPOSED.

Section 7-811 ENHANCED EMERGENCY TELEPHONE SERVICE FEE AUTHORIZED

A. There is hereby imposed an emergency telephone fee of fifteen percent (15%) on the tariff charges for exchange telephone service or its equivalent on the local exchange telephone company providing service within the city limits of the City of Tonkawa

(hereinafter the "fee").

B. The City shall determine the amount of the fee for the next successive calendar year on or before the preceding September 1 of each successive year.

C. Upon approval of such fee, the City Clerk shall notify by certified mail every local exchange telephone company providing service within the City of the requirement to collect and remit such fee.

D. The City may at its own expense require an annual audit of the books and records of every such local exchange telephone company concerning the collection and remittance of the fee.

Section 7-812 EXCEPTIONS

No such emergency telephone fee shall be imposed upon more than one hundred (100) exchange access line or their equivalent at one location per service user.

Section 7-813 COLLECTION

The emergency telephone fee shall be collected monthly by the local exchange company and forwarded, within thirty (30) days of the close of the month in which such fees were collected, to the City Clerk of the city.

Section 7-814 PURPOSE

Funds collected from this emergency telephone fee shall be spent for engineering, installation, administration and all other recurring or one-time costs necessary to implement, administer, operate, and maintain the enhanced nine-one-one (911) emergency telephone service in the city.

Section 7-815 CITY MANAGER TO ADMINISTER

The City Manager is hereby authorized to administer the enhanced nine-one-one (911) emergency telephone service in the city.

Section 7-816 COOPERATION WITH OTHER GOVERNING BODIES

The City Manager is hereby authorized to cooperate with other governing bodies who may impose a similar fee and who wish to participate in the city's enhanced nine-one-one (911) emergency telephone service.

Section 7-817 FALSE ALARMS; FALSE COMPLAINTS; FALSE REPORTING

A. No person shall call the number nine-one-one (911) for the purpose of making a knowingly false alarm or complaint or reporting knowingly false information which could result in the dispatch of emergency services from any public agency as defined in Paragraph B of this Section.

B. "Public agency" means any city, town, county, municipal corporation, public district, public trust, public authority, or any other entity, public or private, located within this state which provides, has authority to provide, or is licensed to provide firefighting, law enforcement, ambulance, emergency medical or other emergency services.

C. The violation of this Section shall be punishable by a fine of not to exceed One Hundred Dollars (\$100.00), plus court costs, and an assessment for the resulting costs of any dispatching of emergency personnel and equipment for each such violation.

Article 9

Identity Theft Prevention Program

Section 7-901 Short Title.

This Article shall be known as the Identity Theft Prevention Program.

Section 7-902 Purpose.

The purpose of this Article is to comply with 16 CFR § 681.2 in order to detect, prevent and mitigate identity theft by identifying and detecting identity theft red flags and by responding to such red flags in a manner that will prevent identity theft.

Section 7-903 Definitions.

For purposes of this Article, the following definitions apply:

'City' means the City of Tonkawa, Oklahoma, and the Tonkawa Municipal Authority, a public trust, as appropriate.

'Covered account' means (i) An account that a financial institution or creditor offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions, such as a credit card account, mortgage loan, automobile loan, margin

account, cell phone account, utility account, checking account, or savings account; and (ii) Any other account that the financial institution or creditor offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the financial institution or creditor from identity theft, including financial, operational, compliance, reputation, or litigation risks.

'Credit' means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefore.

'Creditor' means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit and includes utility companies and telecommunications companies.

'Customer' means a person that has a covered account with a creditor.

'Identity theft' means a fraud committed or attempted using identifying information of another person without authority.

'Person' means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

'Personal Identifying Information' means a person's credit card account information, debit card information bank account information and drivers' license information and for a natural person includes their social security number, mother's birth name, and date of birth.

'Red flag' means a pattern, practice, or specific activity that indicates the possible existence of identity theft.

'Service provider' means a person that provides a service directly to the city.

Section 7-904 Findings.

(1) The city is a creditor pursuant to 16 CFR § 681.2 due to its provision or maintenance of covered accounts for which payment is made in arrears.

(2) Covered accounts offered to customers for the provision of city services include water, sewer, solid waste and electric services and airport, cemetery, municipal court services. The

city's previous experience with identity theft related to covered accounts is as follows: Utility customers using prior customers' deposits and accounts to continue services, especially in rental situations.

(3) The processes of opening a new covered account, restoring an existing covered account, making payments on such accounts, and changing accounts have been identified as potential processes in which identity theft could occur.

(4) The city limits access to personal identifying information to those employees responsible for or otherwise involved in opening or restoring covered accounts or accepting payment for use of covered accounts. Information provided to such employees is entered directly into the city's computer system and is not otherwise recorded.

(5) The city determines that there is a low risk of identity theft occurring in the following ways:

- A. Use by an applicant of another person's personal identifying information to establish a new covered account;
- B. Use of a previous customer's personal identifying information by another person in an effort to have service restored in the previous customer's name;
- C. Use of another person's credit card, bank account, or other method of payment by a customer to pay such customer's covered account or accounts; and
- D. Use by a customer desiring to restore such customer's covered account of another person's credit card, bank account, or other method of payment.

Section 7-905 Process of Establishing a Covered Account.

(1) As a precondition to opening a covered account in the city, each applicant shall provide the city with personal identifying information of the customer, such as a valid government issued identification card containing a photograph of the customer or, for customers who are not natural persons, a photograph of the customer's agent opening the account. Such applicant shall also provide any information necessary for the City to access the applicant's consumer credit report. Such information shall be entered directly into the city's computer system and shall not otherwise be recorded.

(2) Each account shall be assigned an account number and personal identification number (PIN) which shall be unique to that account. The city may utilize computer software to randomly generate assigned PINs and to encrypt account numbers and PINs.

Section 7-906 Access to Covered Account Information.

(1) Access to customer accounts shall be password protected and shall be limited to authorized city personnel.

(2) Such password(s) shall be changed by City Manager or his designee on a regular basis, shall be at least 8 characters in length and shall contain letters, numbers, and symbols.

(3) Any unauthorized access to or other breach of customer accounts is to be reported immediately to the City Manager and the password changed immediately.

(4) Personal identifying information included in customer accounts is considered confidential and any request or demand for such information shall be immediately forwarded to the City Manager and the City Attorney.

Section 7-907 Credit Card Payments.

(1) In the event that credit card payments that are made over the Internet are processed through a third-party service provider, such third-party service provider shall certify that it has an adequate identity theft prevention program in place that is applicable to such payments.

(2) All credit card payments made over the telephone or the city's website (if provided) shall be entered directly into the customer's account information in the computer data base.

(3) Account statements and receipts for covered accounts shall include only the last four digits of the credit or debit card or the bank account used for payment of the covered account.

Section 7-908 Sources and Types of Red Flags.

All employees responsible for or involved in the process of opening a covered account, restoring a covered account, or accepting payment for a covered account shall check for red flags as indicators of possible identity theft and such red flags may include:

(1) Alerts from consumer reporting agencies, fraud detection agencies or service providers. Examples of alerts

include but are not limited to:

(2) A fraud or active-duty alert that is included with a consumer report;

(3) A notice of credit freeze in response to a request for a consumer report;

(4) A notice of address discrepancy provided by a consumer reporting agency;

(5) Indications of a pattern of activity in a consumer report that is inconsistent with the history and usual pattern of activity of an applicant or customer, such as:

i. A recent and significant increase in the volume of inquiries;

ii. An unusual number of recently established credit relationships;

iii. A material change in the use of credit, especially with respect to recently established credit relationships; or

iv. An account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor.

(7) Suspicious documents. Examples of suspicious documents include:

a. Documents provided for identification that appear to be altered or forged;

b. Identification on which the photograph or physical description is inconsistent with the appearance of the applicant or customer;

c. Identification on which the information is inconsistent with information provided by the applicant or customer;

d. Identification on which the information is inconsistent with readily accessible information that is on file with the financial institution or creditor, such as a signature card or a recent check; or

e. An application that appears to have been altered or forged or appears to have been destroyed and reassembled.

(8) Suspicious personal identification, such as suspicious address change. Examples of suspicious identifying information include:

a. Personal identifying information that is inconsistent with external information sources used by the financial institution or creditor. For example:

i. The address does not match any address in the consumer report; or

ii. The Social Security Number (SSN) has not been issued or is listed on the Social Security Administration's Death Master File.

b. Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer, such as a lack of correlation between the SSN range and date of birth.

c. Personal identifying information or a phone number or address, is associated with known fraudulent applications or activities as indicated by internal or third-party sources used by the financial institution or creditor.

d. Other information provided, such as fictitious mailing address, mail drop addresses, jail addresses, invalid phone numbers, pager numbers or answering services, is associated with fraudulent activity.

e. The SSN provided is the same as that submitted by other applicants or customers.

f. The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of applicants or customers.

g. The applicant or customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.

h. Personal identifying information is not consistent with personal identifying information that is on file with the financial institution or creditor.

i. The applicant or customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.

(9) Unusual use of or suspicious activity relating to a covered account. Examples of suspicious activity include:

a. Shortly following the notice of a change of address for an account, city receives a request for the addition of authorized users on the account.

b. A new revolving credit account is used in a manner commonly associated with known patterns of fraud patterns. For example:

i. The customer fails to make the first payment or makes an initial payment but no subsequent payments.

ii. An account is used in a manner that is not consistent with established patterns of activity on the account. There is, for example:

iii. Nonpayment when there is no history of late or missed payments;

iv. A material change in purchasing or spending patterns;

v. An account that has been inactive for a long period of time is used (taking into consideration the type of account, the expected pattern of usage and other relevant factors).

c. Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's account.

d. The city is notified that the customer is not receiving paper account statements.

e. The city is notified of unauthorized charges or transactions in connection with a customer's account.

f. The city is notified by a customer, law enforcement or another person that it has opened a fraudulent account for a person engaged in identity theft.

(10) Notice from customers, law enforcement, victims or other reliable sources regarding possible identity theft relating to covered accounts.

Section 7-909 Prevention and Mitigation of Identity Theft.

(1) In the event that any city employee responsible for or involved in restoring an existing covered account or accepting payment for a covered account becomes aware of red flags indicating possible identity theft with respect to existing covered accounts, such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his or her discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the City Clerk or her designee. If, in her discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey the information to the Manager or his designee, who may in his or her discretion determine that no further action is necessary. If the City Clerk or City Manager or their designees shall determine that further action is necessary, the city employee shall perform one or more of the following responses, as determined to be appropriate by the City Clerk or City Manager or their designees:

(2) Contact the customer;

(3) Make the following changes to the account if, after contacting the customer, it is apparent that someone other than the customer has accessed the customer's covered account:

(4) change any account numbers, passwords, security codes, or other security devices that permit access to an account;

(5) close the account.

(6) Cease attempts to collect additional charges from the customer and decline to sell the customer's account to a debt collector in the event that the customer's account has been accessed without authorization and such access has caused additional charges to accrue;

(7) Notify a debt collector within one business day of the discovery of likely or probable identity theft relating to a customer account that has been sold to such debt collector in the event that a customer's account has been sold to a debt collector prior to the discovery of the likelihood or probability of identity theft relating to such account;

(8) Notify law enforcement, in the event that someone other than the customer has accessed the customer's account causing additional charges to accrue or accessing personal identifying information; or

(9) Take other appropriate action to prevent or mitigate identity theft.

(10) In the event that any city employee responsible for or involved in opening a new covered account becomes aware of red flags indicating possible identity theft with respect an application for a new account, such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his or her discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the City Clerk or her designee. If, in his or her discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile redflags, the employee shall convey this information to the City Manager or his designee, who may in his or her discretion determine that no further action is necessary. If the City Manager or his designee shall determine that further action is necessary, a city employee shall perform one or more of the following responses, as determined to be appropriate by the City Clerk or City Manager or their designees:

a. Request additional identifying information from the applicant.

b. Deny the application for the new account;

c. Notify law enforcement of possible identity theft;
or

d. Take other appropriate action to prevent or mitigate identity theft.

Section 7-910 Updating the Program.

The city council shall annually review and as deemed necessary by the city council, update the Identity Theft Prevention Program along with any relevant red flags in order to reflect changes in risks to customers or to the safety and soundness of the city and its covered accounts from identity theft. In so doing, the city council shall consider the following factors and exercise its discretion in amending the program:

(1) The city's experiences with identity theft;

(2) Updates in methods of identity theft;

(3) Updates in customary methods used to detect, prevent, and mitigate identity theft;

(4) Updates in the types of accounts that the city offers or maintains; and

(5) Updates in service provider arrangements.

Section 7-911 Program Administration.

(1) The City Clerk and the City Manager are responsible for oversight of the program and for program implementation. The City Clerk and the City Manager are responsible for reviewing reports prepared by staff regarding compliance with red flag requirements and with recommending material changes to the program, as necessary in the opinion of the City Clerk and the City Manager, to address changing identity theft risks and to identify new or discontinued types of covered accounts. Any recommended material changes to the program shall be submitted to the city council for consideration by the council.

(2) The City Clerk and her staff will report to the City Manager at least annually, on compliance with the red flag requirements. The report will address material matters related to the program and evaluate issues such as:

a. The effectiveness of the policies and procedures of city in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts;

b. Service provider arrangements;

c. Significant incidents involving identity theft and management's response; and

d. Recommendations for material changes to the Program.

(3) The City Clerk and her staff are responsible for providing training to all employees responsible for or involved in opening a new covered account, restoring an existing covered account, or accepting payment for a covered account with respect to the implementation and requirements of the Identity Theft Prevention Program. The City Clerk and her staff shall exercise their discretion in determining the amount and substance of training necessary.

Section 7-912 Outside Service Providers.

In the event that the city engages a service provider to perform an activity in connection with one or more covered accounts the City Clerk and/or her staff shall exercise their discretion

in reviewing such arrangements in order to ensure, to the best of their ability, that the service provider's activities are conducted in accordance with policies and procedures, agreed upon by contract, that are designed to detect any red flags that may arise in the performance of the service provider's activities and take appropriate steps to prevent or mitigate identity theft.

Section 7-913 Treatment of Address Discrepancies; Purpose.

Pursuant to 16 CFR § 681.1, the purpose of this and the following sections shall be to establish a process by which the city will be able to form a reasonable belief that a consumer report relates to the consumer about whom it has requested a consumer credit report when the city has received a notice of address discrepancy.

Section 7-914 Definitions.

For purposes of the following sections in this Article, the following definitions apply:

(1) 'Notice of address discrepancy' means a notice sent to a user by a consumer reporting agency pursuant to 15 U.S.C. § 1681(c)(h)(1), that informs the user of a substantial difference between the address for the consumer that the user provided to request the consumer report and the address(es) in the agency's file for the consumer.¹

(2) 'City' means the City of Tonkawa, Oklahoma, and the Tonkawa Municipal Authority, a public trust, as appropriate.

Section 7-915 Policy.

In the event that the city receives a notice of address discrepancy, the city employee responsible for verifying consumer addresses for the purpose of providing the municipal service or account sought by the consumer shall perform one or more of the following activities, as determined to be appropriate by such employee:

(1) Compare the information in the consumer report with:

a. Information the city obtains and uses to verify a consumer's identity in accordance with the requirements of the Customer Information Program rules implementing 31 U.S.C. § 5318(1);

b. Information the city maintains in its own records, such as applications for service, change of address notices, other customer account records or tax records; or

c. Information the city obtains from third-party sources that are deemed reliable by the relevant city employee; or

(2) Verify the information in the consumer report with the consumer.

¹ See 16 CFR § 681.1(b).

Section 7-916 Furnishing Consumer's Address to Consumer Reporting Agency.

(1) In the event that the city reasonably confirms that an address provided by a consumer to the city is accurate, the city is required to provide such address to the consumer reporting agency from which the city received a notice of address discrepancy with respect to such consumer. This information is required to be provided to the consumer reporting agency when:

a. The city is able to form a reasonable belief that the consumer report relates to the consumer about whom the city requested the report;

b. The city establishes a continuing relation with the consumer; and

c. The city regularly and in the ordinary course of business provides information to the consumer reporting agency from which it received the notice of address discrepancy.

(2) Such information shall be provided to the consumer reporting agency as part of the information regularly provided by the city to such agency for the reporting period in which the city establishes a relationship with the customer.

Section 7-917 Methods of Confirming Consumer Addresses.

(1) The city employee charged with confirming consumer addresses may, in his or her discretion, confirm the accuracy of an address through one or more of the following methods:

(2) Verifying the address with the consumer;

(3) Reviewing the city's records to verify the consumer's address;

(4) Verifying the address through third party sources; or

(5) Using other reasonable processes.

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CHAPTER 8: HEALTH AND SANITATION

ARTICLE 1

WEEDS AND TRASH

Section 8-101 ACCUMULATION OF TRASH OR WEEDS UNLAWFUL.

No person, entity or corporation owning or otherwise in possession or control of real property located within the corporate limits of the City shall allow trash to accumulate, or weeds to grow or stand upon such real property.

State Law Reference: Cleaning, mowing property, municipal powers, 11 O.S. Section 22-111C.

Section 8-102 DEFINITIONS.

As used in this Article, the following terms shall have the meanings respectively ascribed to them in this Section:

1. "Cleaning" means the removal of trash from property;
2. "Owner" means the owner of record as shown by the most current tax rolls of the county treasurer;
3. "Trash" means any refuse, litter, ashes, leaves, debris, paper, combustible materials, rubbish, offal, waste, or matter of any kind or form which in uncared for, discarded or abandoned; and
4. "Weed" includes but is not limited to poison ivy, poison oak or poison sumac and all vegetation at any stage of maturity which:
 - a. Exceeds twelve (12) inches in height, except healthy trees, shrubs or produce for human consumption or 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 of a hazard to traffic or create a fire hazard to the property or otherwise interfere with the mowing of the weeds;
 - b. Regardless of height, harbors, conceals, or invites deposits or accumulation of refuse or trash;

- c. Harbors rodents or vermin;
- d. Gives off unpleasant or noxious odors;
- e. Constitutes a fire or traffic hazard; or
- f. Is dead or diseased.

The term "weed" does not include tended crops on land zoned for agricultural use which are planted more than one hundred fifty (150) feet from a parcel zoned for other than agricultural use.

Section 8-103 REPORTS OF ACCUMULATIONS OF GRASS, WEEDS OR TRASH ON PROPERTY.

Any officer or employee of the City who discovers an accumulation of trash or the growth of grass and weeds, or both these conditions, upon any premises within the limits of the City, shall report the condition to the City Council, if, as a result of the accumulation or growth, the premises appear to be:

1. Detrimental to the health, benefit, and welfare of the public and the community;
2. A hazard to traffic; or
3. A fire hazard to property.

State Law Reference: Cleaning and mowing of property, procedures, and powers 11 O.S. Section 22-111.

Section 8-104 CLEANING AND MOWING, NOTICE, CONSENT, HEARING, RIGHT OF ENTRY.

The City may cause property within the corporate limits to be cleaned of trash and weeds or grass to be cut or mowed in accordance with the following procedure:

1. At least ten (10) days' notice shall be given to the owner of the property by mail at the address shown by the current year's tax rolls in the county treasurer's office before the hearing provided for herein or before action may be 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 the work is performed within ten (10) days of the date of the notice the work shall be done by the City and a notice of lien shall be filed with the county clerk against the property for the

costs due and owing the City. At the time of mailing of notice to the property owner, the City shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailer. However, if the property owner cannot be located within ten (10) days from the date of mailing of same, notice may be given by posting a copy of the notice on the property or by publication, as provided in Section 1-102 of Title 11 of the Oklahoma Statutes, one time not less than ten (10) days prior to any hearing or action by the City. If the City anticipates summary abatement of a nuisance in accordance with the provisions as herein provided, the notice, whether by certified mail or publication, shall state:

- a. That any accumulations of trash or excessive weed or grass growth on the owner's property occurring within six (6) months from and after the date of this notice may be summarily abated by the City;
- b. That the costs of such abatement shall be assessed against the owner; and
- c. That a lien shall be imposed on the property to secure such payment, all without further prior notice to the property owner.

At the time of each summary abatement the City Manager shall notify the property owner of the abatement and costs thereof. The notice shall state that the property owner may request a hearing within ten (10) days after the date of mailing the notice. Unless otherwise determined at the hearing the cost of such abatement shall be determined and collected as provided in Section 8-105. Provided however, these summary abatement procedures shall not apply if the records of the county clerk show that the property was transferred after the notice was given pursuant to this Section;

2. The owner of the property may give his written consent to the City authorizing the removal of the trash or the mowing of the weeds or grass. By giving the written consent, the owner waives his right to a hearing by the City;

3. The City Council hereby designate the zoning officer to carry out the duties of the City Council as provided by Sections 8-101 through 8-107 of this Article. A hearing may be held by the zoning officer of the City to determine whether the accumulation of trash or the growth of weeds or grass has caused the property to become detrimental to the health, benefit, and welfare of the public and the community or a hazard to traffic or creates a fire hazard to the danger of property. The property

owner shall have a right of appeal to the Mayor and Council from any order of the zoning officer. Such appeal shall be taken by filing written notice of appeal with the City Clerk within ten (10) days after the administrative order is rendered; and

4. Upon a finding that the condition of the property constitutes a detriment or hazard, and that the property would be benefitted by the removal of such conditions, the agents of the City are granted the right of entry on the property for the removal of trash, mowing of weeds or grass, and performance of the necessary duties as a governmental function of the City. Immediately following the cleaning or mowing of the property, the City Clerk shall file a notice of lien with the county clerk describing the property and the work performed by the City and stating that the City claims a lien on the property for the cleaning or mowing costs.

Section 8-105 DETERMINATION AND ASSESSMENT OF COSTS.

The zoning officer shall determine the actual cost of such cleaning and mowing and any other expenses that may be necessary in conjunction therewith, including the cost of notice and mailing. The City Clerk shall forward by mail to the property owner specified in Paragraph 1 of Section 8-104 a statement of the actual cost and demanding payment. In cleaning and mowing are performed by the City, the cost to the property owner for the cleaning and mowing shall not exceed the actual cost of the labor, maintenance and equipment required. If the cleaning and mowing are done on a private contract basis, the contract shall be awarded to the lowest and best bidder.

Section 8-106 LIEN ON THE PROPERTY, CIVIL REMEDY.

If the costs of the work performed under this chapter are not paid within thirty (30) days from the date of mailing the statement, the City Clerk shall forward a certified statement of the amount of the cost to the county treasurer of the county in which the property is located, and the same shall be levied upon the property and collected by the county treasurer as other taxes authorized by law. Until fully paid, the cost and interest thereon shall be the personal obligation of the property owner from and after the date the cost is certified to the county treasurer. In addition, the cost and the interest thereon shall be a lien against the property from the date the cost is certified to the county treasurer, coequal with the lien of ad valorem taxes and all other taxes and special assessments and prior and superior to all other titles and liens against the property, and the lien shall continue until the cost shall be fully paid. At the time of collection, the county treasurer shall collect a

fee of Five Dollars (\$5.00) for each parcel of property. At any time prior to collection as provided in this Section, the City may pursue any civil remedy for collection of the amount owing and interest thereon including an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this Section. Upon receiving payment, if any, the City Clerk shall forward to the county treasurer a notice of such payment and directing discharge of the lien.

Section 8-107 EXCEPTION

The provisions of this Article shall not apply to any property zoned and used for agricultural purposes or to railroad property under the jurisdiction of the Oklahoma Corporation Commission. However, a municipal governing body may cause the removal of weeds or trash from property zoned and used for agricultural purposes pursuant to the provisions of this Article but only if such weeds or trash pose a hazard to traffic and are located in, or within ten (10) yards of, the public right-of-way at intersections.

Section 8-108 UNLAWFUL TO DEPOSIT RUBBISH.

It is unlawful for any person to throw, place or deposit any rubbish, trash, slop, garbage, filthy substance, grass, weeds, trees, brush or any other refuse or waste matter in any street, avenue, alley or in any ditch or watercourse, or upon the premises of another, or upon any public ground in this City.

Section 8-109 BURNING REFUSE.

A. It is unlawful to burn any trash or refuse or any type of material within the City.

B. It is unlawful for any person to burn trash, waste, rubbish or refuse except under a permit issued by or in receptacles and conditions approved by the State Health Department or U.S. Environmental Protection Agency.

Section 8-110 REMOVAL OF DEAD ANIMALS.

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

Section 8-111 UNLAWFUL TO LITTER.

A. Littering is defined as throwing any trash, refuse, wastepaper, tin can, bottles or any other object or substance whatever upon the public streets, alleys, roadways and sidewalks of the City or upon any real property owned or occupied by another.

B. It is unlawful for any person to litter.

Section 8-112 UNLAWFUL TO LITTER FROM AUTOMOBILES.

It is unlawful for any person to throw from any automobile or motor vehicle being operated and driven upon and over the streets, alleys and roadways of the City any litter, trash, wastepaper, tin cans or any other substance or refuse whatever.

Section 8-113 LITTER NOT TO ACCUMULATE ON PROPERTY.

A. It is unlawful for any person, firm or corporation, occupying any real property, either as tenant or owner, to allow trash, wastepaper, litter objects, bottles, tin cans or any other used or disposed of objects to accumulate upon such real property or premises being so occupied or rented to such an extent as to constitute a littering nuisance.

B. It is unlawful for any person, firm or corporation occupying real property, either as tenant or owner, to allow accumulated trash, wastepaper, litter objects, bottles, tin cans or any other used or disposed of objects to be carried from the occupied premises, either by the wind, elements or otherwise to any adjoining or other real estate not so owned or occupied by the offender.

Section 8-114 ABANDONED REFRIGERATOR; APPLIANCES.

A. It is unlawful for any person to leave in a place accessible to children any abandoned or discarded ice box, refrigerator, or other container which has an airtight door with a lock or fastening device which cannot be easily released for opening from the inside of the ice box, refrigerator, or container, without first removing the door, lock, or fastener.

B. It is unlawful to utilize the premises of any property for the open storage of any stove or other appliance which has been abandoned, discarded or is in disrepair.

ARTICLE 2

(RESERVED)

ARTICLE 3

NUISANCES

Section 8-301 DEFINITION.

A nuisance shall mean the doing of an act unlawfully or omitting to perform a duty, which act or omission:

1. Annoys, injures or endangers the comfort, repose, health and safety of others; or

2. Offends decency; or

3. Unlawfully interferes with, obstructs, or tends to obstruct or renders dangerous for passage any lake or navigable river, stream, canal or basin, or any square, street highway or public parking; or

4. In any way renders other persons insecure in life, or in the use of property; or

5. Involves the maintenance of any building or structure within the City limits which by reason of age, dilapidation or decay is unsafe for occupancy; or constitutes a haven or refuge for vermin and rodents; or presents a fire hazard and endangers the security of other property; or

6. Permits the accumulation of rank vegetation, weeds, grass or other noxious matter or putrid substances; or in maintaining any trash, piles of rubbish, manure or other refuse which is dangerous to health or which in any manner constitutes a fire hazard.

State Law Reference: Similar provisions, 50 O.S. Section 1.

Section 8-302 UNLAWFUL TO MAINTAIN NUISANCE.

No person shall create or maintain a nuisance or permit it to be created or maintained upon property owned by him or under his control.

Section 8-303 ABATEMENT.

A. In addition to prosecution for violation of Section 8-302, whenever a nuisance is found to exist, the City Manager may cause notice thereof to be given to the person maintaining or creating the nuisance or to the person owning or having control

of the property upon which said nuisance exists, to abate such nuisance within the period of time stated in the notice, which shall be not less than three (3) days from the receipt of said notice. The notice shall be served personally or by certified mail. In the event the address is unknown or the person cannot be located the notice shall be posted upon the property involved and published in the official paper of the City for a period of five (5) days. If notice is published the person in charge shall have ten (10) days from the last publication in order to abate such nuisance. In the event the nuisance is not abated after such notice as required, the City Manager shall have the authority to abate it and charge the cost thereof to the person creating, maintaining, or owning or in control of the property upon which the nuisance is created or maintained, and the person so charged shall be afforded an opportunity to appear and present witnesses and be heard. Should the governing body find that a nuisance has been created or maintained the person responsible shall be given a reasonable length of time to abate it.

B. Any person who fails to abate any nuisance as required by this article shall be guilty of an offense.

State Law Reference: Authority to define, prevent, remove and abate nuisances, 11 O.S. Section 22-121.

Section 8-304 PERSON RESPONSIBLE FOR CONTINUING NUISANCE

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

Section 8-305 TIME DOES NOT LEGALIZE NUISANCE

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

Section 8-306 REMEDIES AGAINST PUBLIC NUISANCES

The remedies against a public nuisance are:

1. Prosecution on complaint before the municipal court.
2. Prosecution on information or indictment before a district or federal court or forum.
3. Civil action; and
4. Abatement:

- a. By the person injured as provided in 50 O.S. 12 or
- b. By the City in accordance with law or ordinance.

Section 8-307 REMEDIES AGAINST PRIVATE NUISANCES

The remedies against a private nuisance are:

1. Civil action; or
2. Abatement:
 - a. By the person injured as provided in 50 O.S. 14, 15 or
 - b. By the City in accordance with law or ordinance.

Section 8-308 City HAS POWER TO DEFINE AND SUMMARILY ABATE NUISANCE

As provided in Section 16 of Title 50, the City is empowered to determine what is and what shall constitute a nuisance within its corporate limits and, for the protection of the public health, the public parks and public water supply, outside of its corporate limits. Whenever it is practical to do so, the City has the power summarily to abate any such nuisance after notice and an opportunity for him to be heard, if this can be done.

Section 8-309 SUMMARY ABATEMENT OF NUISANCES

A. Some nuisances are of such nature as to constitute a grave and immediate danger to the peace, health, safety and morals or welfare of one or more persons or of the public generally. It is recognized that circumstances may be such as to justify, and even require, the City or other appropriate officer or agency of the City government to take immediate and proper action summarily to abate such nuisances or to reduce or suspend the danger until more deliberate action can be taken toward such abatement.

B. An officer of the City may submit a statement as to the existence of a nuisance as defined by this ordinance and a request or recommendation that it be abated.

C. The City or its designee shall determine if a nuisance exists as defined by the ordinances of the City or law. If a nuisance does in fact exist, City personnel shall direct the owner or other person responsible for or causing the nuisance by:

1. Certified mail; or
2. By publication if the owner cannot be so served or found,

to abate the nuisance within a specified time if the peace, health, safety, morals or welfare of the person or person or public adversely affected would not be unduly jeopardized by the consequently delay, or if the owner or other person responsible for or causing the nuisance does not abate it within the specified time, or if the persons responsible authorize the City to abate the nuisance, the City shall direct the appropriate officer to abate the nuisance or have it abated, if summary abatement is practical, as authorized by 50 O.S. 16. The City shall send a statement of the cost of such summary abatement to the owner or other persons responsible for or causing the nuisance, as may be just under the circumstances, if their names and addresses are known. Until paid, such cost shall constitute a debt to the City collectible as other debts may be collected.

D. The determination of the existence of a nuisance and order to abate it, as made by the City, may be appealed by the occupant or owner or person causing the nuisance by filing a request for hearing in writing with the City within the period of time specified in the notice for abatement of nuisance. The City Clerk shall cause the matter to be placed on the agenda of the City Council for final determination with appropriate notice of the hearing provided to the person requesting the appeal.

Section 8-310 HEALTH NUISANCES; ABATEMENT

A. Pursuant to authority granted by Section 1-1011 of Title. 63 of the Oklahoma Statutes, the City shall have the authority to order the owner or occupant of any private premises in the City to remove from such premises, at his own expenses, any source of filth, cause of sickness, condition conducive to the breeding of insects or rodents that might contribute to the transmission of disease, or any other conditions adversely affecting the public health, within twenty-four (24) hours, or within such other time as may be reasonable. Such order shall be in writing and may be served personally on the owner or occupant of the premises, or authorized agent thereof, by the City or by a police officer, or a copy thereof may be left at the last usual place of abode of the owner, or if the occupant or agent is unknown or is outside the state, the order may be served by posting a copy thereof on the premises or by publication in at least one issue of a newspaper having a general circulation in the City.

B. If the order is not complied with, the City may cause the order to be executed and complied with, and the cost thereof shall be certified and the cost of removing or abating such nuisance shall be charged to the owner or occupant, enforceable as a lien or any other method allowed by law or ordinance.

Section 8-311 CITY ACTIONS NOT TO JEOPARDIZE PRIVATE ACTIONS

Nothing herein contained shall be construed to abridge the rights of citizens of the City to bring and maintain actions in the proper courts for the abatement of private nuisances or those especially injurious to them.

Section 8-312 UNAUTHORIZED DUMPING, DEPOSITING OR DISPOSAL OF TRASH ON PROPERTY OF ANOTHER

A. It is unlawful to place, deposit or leave any trash, debris, refuse or garbage on the property of another or on public property, including any public street, easement, sidewalk, or other public property, except where such disposal is expressly allowed by law.

B. It is unlawful to place, deposit or leave any trash, debris, refuse or garbage in any dumpster or trash receptacle that is located on the property of another without the express consent of the person on whose property the dumpster or trash receptacle is located.

Section 8-313 OPEN BURNING PROHIBITED

It is unlawful to burn any fire outside of any enclosed building in the City for the purpose of burning grass, trash, leaves, weeds, paper, refuse, garbage, or any other substance except in an approved incinerator, or by obtaining a permit and payment of such fee as set out by the City, or by the approval of the Fire Chief.

Section 8-314 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.

Section 8-315 PROCEDURE CUMULATIVE

The procedure for abating nuisances prescribed in this chapter and by other provisions of law or ordinance shall be cumulative to one another. The City may elect to follow any such procedure which is applicable in abating any particular nuisance.

Section 8-316 TOILET FACILITIES REQUIRED

A. For the purpose of this section, the following terms shall have the meanings respectively ascribed to them herein:

1. "Human excrement" means the bowel and kidney discharge of human beings.

2. "Sanitary water closet" means the flush type which is connected with a sanitary sewer line of such capacity and construction as to carry away the contents at all times; and

3. "Sanitary pit privy" means a privy which is built, rebuilt, or constructed so as to conform with the specifications approved by the state health department.

B. Every owner of a residence or other building in which human reside, are employed, or congregate within this City shall install, equip and maintain adequate sanitary facilities for the disposal of human excrement by use of a sanitary water closet or a sanitary pit privy. The closets and toilets hereby required shall be of the sanitary water closet type when located within one hundred fifty (150) feet of a sanitary sewer and accessible thereto and of the sanitary water closet type (notwithstanding a greater distance from a sanitary sewer) or the water closet type emptying into a septic tank system or the pit privy type. A septic tank system or a pit privy may be used in such cases only if it meets the standards of and is approved by the state health department.

C. All human excrement disposed of within this City shall be disposed of by depositing it in closets and privies of the type provided for in this section. It is unlawful for any owner of property within the City to permit the disposal of human excrement thereon in any other manner, or for any person to dispose of human excrement within the City in any other manner.

D. All privies shall be kept clean and sanitary at all times, and the covers of the seats of privies shall be kept closed at all times when the privies are not being used. No wash water, kitchen slop or anything other than human excrement and toilet paper shall be emptied into a privy. No excrement from any person suffering from typhoid fever, dysentery or other serious bowel disease shall be deposited in any sanitary pit privy or sanitary water closet until it is disinfected in such manner as may be prescribed by the health officer.

E. All facilities for the disposal of human excrement in a manner different from that required by this section and all

privies and closets so constructed, situated or maintained as to endanger the public health are hereby declared to be public nuisance is guilty of an offense and each day upon which any such nuisance continues is a separate offense.

F. No residence, business or commercial building, nor any other premises in the City, of located within three hundred (300) feet of any public sewer later or main shall be connected to or in any manner served by a septic tank; no such person shall allow the installation, maintenance, operation or use of any septic tank in violation of this section.

Section 8-317 OBSTRUCTING HEALTH OR ENFORCEMENT OFFICER

It is unlawful for any person to willfully obstruct or interfere with any health officer or other code enforcement officer charged with the enforcement of the health or nuisance laws of this City.

Section 8-318 LITTERING PROHIBITED GENERALLY

No person shall throw, place, leave, drop, put, or otherwise abandon litter upon any public property, private property or roadway except as otherwise specifically permitted in this code. "Litter" means trash, refuse, rubbish, and all like material.

Section 8-319 ABANDONED REFRIGERATORS

No person shall throw, place, leave, drop, put or otherwise abandoned or discarded ice box, refrigerator or other container which has an air-tight door with a lock or other fastening device which cannot be easily released for opening from the inside of the ice box, refrigerator, or container, without first removing the door, lock or fastener.

Section 8-320 ENFORCEMENT, CITATIONS, APPEALS

A. The City Manager is designated as the administrative officer to perform the duties of the city council with respect to public nuisance abatement. The City Manager may further delegate to the director of community development division or his staff the aforementioned duties of the City Manager, including the duty of administrative officer.

B. The City Manager or his designee are designated to issue citations for violations of Chapter 8, including nuisances, weeds and trash, abandoned vehicles and health laws.

C. Any administrative hearings for violations of the above-

referenced sections shall be before an administrative officer designated by the City Manager. A hearing shall be scheduled on completion and filing with the City Clerk an application therefore, pursuant to the appropriate sections of this part, in accordance with the provisions contained therein.

D. Appeals from the decision of the administrative officer shall be to the municipal court, in accordance with the applicable code provisions.

ARTICLE 4

JUNK MOTOR VEHICLES & OPEN STORAGE

Section 8-401 NUISANCE.

Motor vehicles which are abandoned, dismantled, partially dismantled, wrecked, junked, inoperative, or discarded, or left about the city in places other than authorized junk yard or other areas authorized by the city council and which tend to do any one or more of the followings:

1. Impeded traffic in the streets;
2. Reduce the value of private property;
3. Create fire hazards;
4. Extend and aggravate urban blight; or
5. Result in a serious hazard to the public health, safety, comfort, convenience, and welfare of the residents of the city, are hereby declared to be a nuisance.

Section 8-402 DEFINITIONS.

For the purpose of this chapter, the following terms, phrases, words, and their derivatives shall have the meaning given herein.

1. "Junk Motor Vehicle" or "junk vehicle" or "abandoned motor vehicle" is any motor vehicle, which does not have lawfully affixed thereto both an unexpired license plate or plates, the condition of which is in disrepair, wrecked, dismantled, partially dismantled, inoperative, abandoned or discarded, and is incapable of being moved under its own power and is not exempt from compliance by Section 8-402C. "Junk Motor Vehicle" or "junk vehicle" or "abandoned motor vehicle" shall also mean any motor vehicle located on any private or public property in the

condition of which such motor vehicle is in disrepair, wrecked, dismantled, partially dismantled, inoperative, abandoned or discarded, and incapable of being moved under its own power, and is not exempt from compliance by Section 8-402C., and remains in such condition for a period of thirty (30) days, without regard to whether such motor vehicle has lawfully affixed thereto an unexpired license plate or plates. "Junk Motor Vehicle" or "junk vehicle" or "abandoned motor vehicle" shall also mean motor vehicles used in demolition races or derbies or similar contests.

2. "Motor vehicle" is any vehicle which is self-propelled and designed to travel along the ground or the water and shall include, but not be limited to, automobiles, buses, boats, motor bikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, campers, and trailers;

3. "Private property" means any real property within the city which is privately owned, and which is not public property as defined in this Section; and

4. "Public property" means any street, alley, or highway which shall include the entire width between the boundary lines of every way publicly owned or maintained for the purposes of vehicular travel and shall also mean any other publicly owned property or facility.

5. "Appropriate screen" shall mean an aesthetic barrier with a minimum opaque barrier not less than five (5) feet in height enclosing the junk motor vehicle. Such screen or barrier shall be dense landscaping, or a solid lumbar or masonry fence, wall or combination thereof, and may include the use of the walls of the residence or other building or structure, similar existing fencing, similar existing dense landscaping, all of which shall be of at least an equivalent height and capacity and located on such property to provide for such enclosure. If solid lumber fencing is used, it shall be treated or painted in earth tone colors.

Section 8-403 STORING, PARKING OR LEAVING JUNK MOTOR VEHICLE OR ABANDONED MOTOR VEHICLE ON PUBLIC OR PRIVATE PROPERTY PROHIBITED; AND DECLARED A NUISANCE; EXCEPTIONS.

A. No person shall park, store, leave, or permit the parking, storing, or leaving of any junk motor vehicle of any kind, whether attended or not, upon any public or private property within the city. The presence of a junk motor vehicle or parts thereof, on private or public property is hereby declared a nuisance and a public offense and may be abated as such in accordance with the provisions of this Chapter.

- B. This Section shall not apply to any motor vehicle:
- a. Enclosed within a building on private property;
 - b. Completely within an appropriate screen in the side or back yard on private property;
 - c. Held, stored, or parked in connection with a lawfully operated business enterprise and on property operated in the appropriate zone, pursuant to the zoning laws of the city;
 - d. In operable condition and is not a junk motor vehicle as defined herein.
 - e. Motor vehicles parked on private property which display an unexpired license plate or plates, but which motor vehicles are temporarily out of service due to mechanical breakdown or damage, but only so long as the owner thereof makes diligent efforts to place same back into operable condition and shall not remain on such private property in such condition for longer than thirty (30) days.

SECTION 8-404 PROCEDURES FOR ABATEMENT.

The provisions for abatement of "public nuisance" contained in section 8-101 et seq. of this code shall not apply to junk vehicles or to those which are in abandoned, wrecked, dismantled, inoperative, rusted, junked, or partially dismantled condition, whether attended or not, upon any public property within the city for a period of time in excess of twenty-four (24) hours. The notice, hearing and abatement shall be pursuant to the procedures described herein for public nuisance on public property.

SECTION 8-405 PRESUMPTION OF ABANDONMENT.

A rebuttable presumption shall exist that vehicles have been abandoned when:

1. Weed or grass undergrowth would indicate to a reasonable person that the vehicle has not been moved, thereby permitting such growth to occur;

2. One or more wheels are flat or missing and the vehicle or boat displays an expired license or inspection tag;

3. Portions of the vehicle which are needed for its operation or control are missing.

4. The city has received reports from others as to the length of time such vehicle has been standing in one place without being moved, or that parts are being taken from or added to such vehicle, indicating a salvage or garage operation; or

5. Evidence exists that provisions of this code pertaining to zoning or to junk and salvage yards are being violated.

SECTION 8-406 NOTICE TO REMOVE FROM PUBLIC PROPERTY.

Whenever it comes to the attention of the administrative officer that any junk vehicle, as defined herein, exists as a public nuisance in the city, a notice in writing shall be served upon the occupant of the land where the nuisance exists, or in the event that there is no such occupant, then upon the owner of the property or his agent, notifying them of the existence of the nuisance and requesting its removal in the time specified in this chapter. A written, public nuisance "Notification to Remove" shall be placed on the vehicle advising the owner of the violation of city code and of the twenty-four (24) hours to remove the nuisance from the public property. Concurrent with the abatement notice placed on the vehicle or motor vehicle, the owner of the vehicle or motor vehicle shall be issued a citation. Failure to remove the vehicle or motor vehicle shall be an offense and shall be punishable as provided in Section 8-108 of this code.

SECTION 8-407 RESPONSIBILITY FOR REMOVAL FROM PUBLIC PROPERTY.

Upon proper notice and opportunity to be heard, the owner of the junk vehicle or other abandoned, wrecked, dismantled, or inoperative vehicle or boat, on public property shall be liable for all expenses reasonably incurred by the removal and disposition.

SECTION 8-408 NOTICE TO REMOVE FROM PRIVATE PROPERTY.

A. The administrative officer or his designee shall give notice of removal to the owner or occupant of the private

property where any junk vehicle or any abandoned, wrecked, dismantled or inoperative vehicle or boat is located at least ten (10) days before the time set for compliance. It shall constitute sufficient notice when a copy of a Notice to Remove is posted in a conspicuous place upon the private property upon which the vehicle or boat is located.

B. The Notice of Removal shall contain the demand for removal within ten (10) days, and the Notice to Remove shall state that upon failure to comply with the Notice to Remove, the city shall prosecute a criminal complaint for failure to abate the nuisance or undertake such removal with the cost to be levied against the owner of the junk vehicle or the occupant of the property.

SECTION 8-409 HEARING.

A. Any person to whom any Notice to Remove is directed pursuant to the provisions of this chapter or any other interested party, or any duly authorized agent thereof, may file a written request for hearing before the administrative officer within the ten-day compliance period, for the purpose of contesting the city's demand for removal. The administrative officer, chief of police or his designee and the city attorney or his designee shall constitute a hearing board to hear the request.

B. The hearing shall be held as soon as practicable, but not earlier than five (5) days after receipt of the request, and not later than fifteen (15) days after such receipt. Notice of the time and place of hearing shall be directed to the person making the request. At any such hearing the city and the person to whom notice has been directed may introduce witnesses and evidence.

C. Persons to whom the Notice to Remove is directed pursuant to the provisions of this chapter, or their duly authorized agent, may appear in municipal court pursuant to the citation and summons. Those convicted of failing to abate a public nuisance pursuant to this chapter shall be assessed court costs in addition to any other penalty assessed by the municipal court. If the public nuisance is abated prior to the hearing date stated on the summons, and the person issued the summons to appear in municipal court signs an affidavit before the court clerk attesting to the abatement, the city attorney may recommend to the municipal court that charges be dropped.

SECTION 8-410 REMOVAL OF MOTOR VEHICLES FROM PROPERTY.

If the violation described in the Notice to Remove has not been remedied within the ten-day period of compliance, or in the event that a notice requesting hearing is timely filed, a hearing had, and the existence of the violation is affirmed by administrative officer or his designee, the city attorney shall institute and prosecute additional charges on a daily basis, for failure to abate the nuisance, and the city shall in the discretion of the administrative officer take possession of the junk vehicle and remove it from the premises. It shall be unlawful for any person to interfere with or hinder anyone whom the city or the administrative officer authorizes to enter upon private property for the purpose of removing a vehicle under the provisions of this chapter.

SECTION 8-411 NOTICE OF REMOVAL.

Within forty-eight (48) hours of the removal of such junk vehicle, the administrative officer or his designee shall give notice to the registered owner of the junk vehicle, if known, that the vehicle or motor vehicle was removed, that the vehicle or motor vehicle, has been impounded and stored for violation of this chapter. The notice shall give the location where the vehicle is stored and the proper procedure for redeeming the vehicle, including cost of redemption.

SECTION 8-412 DUTY OF PRIVATE CONTRACTOR.

Any private contractor who causes the vehicle to be removed pursuant to the order of any authorized city employee, shall satisfy all state laws with respect to notice and sale, prior to satisfying its towing and storage lien.

SECTION 8-413 REDEMPTION OF IMPOUNDED VEHICLES OR MOTOR VEHICLES.

The owner of any vehicle or motor vehicle impounded under the provisions of this chapter may redeem such vehicle or motor vehicle at any time after its removal, but prior to the sale or destruction thereof, upon proof of ownership and payment to the private contractor of such sum as may be determined to be the actual and reasonable expense of removal plus storage.

SECTION 8-414 PENALTY; CONTINUING VIOLATIONS.

In addition to the procedures for removal of vehicles, any person who shall violate any of the provisions hereof shall

upon conviction be deemed guilty of an offense against the city. Each act in violation of any of the provisions hereof shall constitute a separate offense and may be chargeable as such. Each day's continued violation of any of the provisions hereof shall constitute a separate offense and may be punishable as such as provided in Section 1-108 of this code.

Section 8-415 OPEN STORAGE OF MATERIALS

The entire front yard area of any residentially zoned lot located in the City, to include side yards not appropriately screened as provided in Section 8-402.4 hereinabove, shall be kept and maintained free and clear of all building and automotive materials, trash, junk, debris, household appliances, chairs, couches, all manner of other items constructed for use inside the building or residence, junkmotor vehicles and camper shells not mounted on motor vehiclesor appropriately stored, and boats and trailers, includingutility trailers, filled with trash, junk and debris.

ARTICLE 5

DILAPIDATED AND UNSECURED BUILDINGS; GRAFFITI

Section 8-501 DEFINITIONS.

- A. As used in this Article:
1. "Dilapidated building" means:
 - a. 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,
 - b. 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,
 - c. a structure which is determined by the municipalgoverning body or administrative officer of the municipal governing body to be an unsecured building, as defined by Section 8-504 of this Article, more than three times within any twelve-month period,

- d. a structure which has been boarded and secured, as defined by Section 8-504 of this Article, for more than thirty-six (36) consecutive months, or
- e. a structure declared by the municipal governing body to constitute a public nuisance.

2. "Owner" means the owner of record as shown by the most current tax rolls of the county treasurer.

Section 8-502 CONDEMNATION OF DILAPIDATED BUILDINGS; NOTICE REMOVAL.

The City may cause dilapidated buildings within the municipal limits to be torn down and removed in accordance with the provisions of this Article:

1. At least ten (10) days' notice that a building is to be torn down or removed shall be given to the owner of the property before the hearing provided for herein may be held. A copy of the notice shall be posted on the property to be affected. In addition, a copy of the notice shall be sent by mail to the property owner at the address shown by the current year's tax rolls in the office of the county treasurer. Written notice shall also be mailed to any mortgage holder as shown by the records in the office of the county clerk to the last-known address of the mortgagee. At the time of mailing of notice to any property owner or mortgage holder, the City shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailer. However, if neither the property owner nor mortgage holder can be located, notice may be given by posting a copy of the notice on the property, or by publication, as defined in Section 1-102 of Title 11 of the Oklahoma Statutes. Such notice may be published once not less than ten (10) days prior to any hearing or action to be taken pursuant to the provisions of this Section; or

The City Manager or his designee ("zoning officer") is hereby designated by the City Council to carry out the duties of the City Council specified in this Article. A hearing shall be held by the zoning officer of the City to determine if the property is dilapidated and has become detrimental to the health, safety, or welfare of the general public and the community, or if the property creates a fire hazard which is dangerous to other property. Pursuant to a finding that the condition of the property constitutes a detriment or a hazard and that the property would be benefitted by the removal of such conditions, the zoning officer may cause the dilapidated building to be torn down and removed. The zoning officer shall fix reasonable dates for the

commencement and completion of the work. The City Clerk shall immediately file a notice of dilapidation and lien with the county clerk describing the property, the findings of the zoning officer at the hearing, and stating that the City claims a lien in 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 municipality if the work is not performed by the property owner within the dates fixed by the zoning officer. The property owner shall have the right of appeal to the City Council from any order of the zoning officer. Such appeal shall be taken by filing written notice of appeal with the City Clerk within ten (10) days after the administrative order is rendered.

Section 8-503 DETERMINATION OF COSTS, LIEN; MISCELLANEOUS

A. The zoning officer shall determine the actual cost of the dismantling and removal of dilapidated buildings and any other expenses that may be necessary in conjunction with the dismantling and removal of the buildings, including the cost of notice and mailing. The City Clerk shall forward a statement of the actual cost attributable to the dismantling and removal of the buildings and a demand for payment of such costs, by mail to the property owner. In addition, a copy of the statement shall be mailed to the mortgage holder at the address provided in Section 8-502. At the time of mailing of the statement of costs to any property owner or mortgage holder, the City shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailer. If the City dismantles or removes any dilapidated buildings, the cost to the property owner shall not exceed the actual cost of the labor, maintenance, and equipment required for the dismantling and removal of the dilapidated buildings. If dismantling and removal of the dilapidated buildings is done on a private contract basis, the contract shall be awarded to the lowest and best bidder.

B. When payment is made to the City for costs incurred, the City Clerk shall file a release of lien, but if payment attributable to the actual cost of the dismantling and removal of the buildings is not made within six (6) months from the date of the mailing of the statement to the owner of such property, the City Clerk shall forward a certified statement of the amount of the cost to the county treasurer of the county in which the property is located. The costs shall be levied on the property and collected by the county treasurer as are other taxes authorized by law. Until finally paid, the costs and the interest thereon shall be the personal obligation of the property owner from and after the

date of the notice of dilapidation and lien is filed with the county clerk. In addition, the cost and the interest thereon shall be a lien against the property from the date the notice of the lien is filed with the county clerk. The lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the cost is fully paid. At the time of collection, the county treasurer shall collect a fee of Five Dollars (\$5.00) for each parcel of property. At any time prior to collection as provided for in this paragraph, the City may pursue any civil remedy for collection of the amount owing and interest thereon including an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this Section. Upon receiving payment, the City Clerk shall forward to the county treasurer a notice of such payment and shall direct discharge of the lien.

C. Nothing in the provisions of this Article shall prevent the municipality from abating a dilapidated building as a nuisance or otherwise exercising its police power to protect the health, safety, or welfare of the general public.

D. The officers, employees or agents of the City shall not be liable for any damages or loss of property due to the removal of dilapidated buildings performed pursuant to the provisions of this Article or as otherwise prescribed by law.

E. The provisions of this Article shall not apply to any property zoned and used for agricultural purposes.

Section 8-504 BOARDING AND SECURING DILAPIDATED BUILDINGS, PROCEDURE, NOTICE.

A. After a building has been declared dilapidated, as provided in this Article, and before the commencement of the tearing and removal of a dilapidated building, the City Council may authorize such a building to be boarded and secured.

However, if the dilapidated building is vacant and unfit for human occupancy, the City may authorize the structure to be demolished pursuant to this Article.

B. The City may cause the premises on which an unsecured building is located to be cleaned of trash and weeds in accordance with Article 1.

C. The zoning officer is hereby designated by the City Council to carry out the following duties of the City Council. The zoning officer may cause an unsecured building to be boarded and secured in accordance with the following procedures:

1. Before the City orders such action, at least ten (10) days' notice that such unsecured building is to be boarded and secured shall be given by mail to any property owners and mortgage holders as provided in Section 8-502. At the time of mailing of notice to any property owner or mortgage holder, the City Clerk 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 mailer. A copy of the notice shall also be posted on the property to be affected. However, if neither the property owner nor mortgage holder can be located, notice may be given by posting a copy of the notice on the property or by publication as defined in 11 O.S. Section 1-102. Such notice shall be published one time, not less than ten (10) days prior to any hearing or action by the City or zoning officer pursuant to the provisions of this Section. If a municipal governing body anticipates summary abatement of a nuisance in accordance with subsection C.9. of this Section, the notice shall state: that any subsequent need for boarding and securing the building within a six-month period after the initial boarding and securing of the building pursuant to such notice may be summarily boarded and secured by the municipal governing body; that the costs of such boarding and securing shall be assessed against the owner; and that a lien may be imposed on the property to secure such payment, all without further prior notice to the property owner or mortgage holder.

2. The owner of the property may give his written consent to the City authorizing the boarding and securing of such unsecured building and to the payment of costs incurred thereby. By giving the written consent, the owner waives any right the owner has to a hearing by the City Council;

3. If the property owner does not give his written consent to such actions, a hearing may be held by the City Council to determine whether the boarding and securing of the unsecured building would promote and benefit the public health, safety, or welfare. Such hearing may be held in conjunction with a hearing on the accumulation of trash or the growth of weeds or grass on the premises of such unsecured building held pursuant to the provisions of Article 1. In making such determination, the City Council shall apply the following standard: the City Council may order the boarding and securing of the unsecured building when the boarding and securing thereof would make such building less available for transient occupation, decrease a fire hazard

created by such building, or decrease the hazard that such building would constitute an attractive nuisance to children. Upon making the required determination, the municipal governing body may order the boarding and securing of the unsecured building.

4. After the City Council orders the boarding and securing of the unsecured building, the City Clerk shall immediately file a notice of lien with the county clerk describing the property, stating the findings of the City at the hearing at which such building was determined to be unsecured, and stating that the City claims a lien on the property for the costs of boarding and securing the building and that such costs are the personal obligation of the property owner from and after the date of filing the notice;

5. Pursuant to the order of the City Council, the agents of the City are granted the right of entry on the property for the performance of the boarding and securing of the building and for the performance of all necessary duties as a governmental function of the City;

6. After an unsecured building has been boarded and secured, the City Council shall determine the actual costs of such actions and any other expenses that may be necessary in conjunction therewith including the cost of the notice and the mailing. The City Clerk shall forward a statement of the actual costs attributable to the boarding and securing of the unsecured building and a demand for payment of such costs to any property owners and mortgage holders as provided in Section 8-503. At the time of mailing of the statement of costs to any property owner or mortgage holder, the City Clerk 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 mailer. If the City boards and secures any dilapidated building, the cost to the property owner shall not exceed the actual cost of the labor, materials and equipment required for the performance of such actions. If such actions are done on a private contract basis, the contract shall be awarded to the lowest and best bidder.

7. When payment is made to the City for costs incurred, the City Clerk shall file a release of lien, but if payment attributable to the actual costs of the boarding and securing of the dilapidated building is not made within six (6) months from the date of the mailing of the statement to the owner of such property, the City Clerk shall forward a certified statement of the amount of the costs to the county treasurer of the county in which the property is located. The costs shall be levied on the property and collected by the county treasurer as are other taxes authorized by law. The costs and the interest thereon shall be the personal obligation of the property owner from and after the

date the notice of unsecured building and lien is filed with the county clerk. In addition, the costs and the interest thereon shall be a lien against the property from the date the notice of the lien is filed with the county clerk. The lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the costs and interest are fully paid. At any time prior to collection as provided for in this paragraph, the municipality may pursue any civil remedy for collection of the amount owing and interest thereon including an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest if severed from the surface owner, shall not be subject to any tax or judgment lien created pursuant to this Section. Upon receiving payment, the municipal clerk shall forward to the county treasurer a notice of such payment and shall direct discharge of the lien.

8. The property owner or mortgage holder shall have a right of appeal to the City Council from any order of the zoning officer. Such appeal shall be taken by filing written notice of appeal with the City Clerk within ten (10) days after the administrative order is rendered.

9. If the City causes a structure within the City limits to be boarded and secured, any subsequent need for boarding and securing within a six-month period constitutes a public nuisance and may be summarily boarded and secured without further prior notice to the property owner or mortgage holder. At the time of each such summary boarding and securing, the City Clerk shall notify the property owner and mortgage holder of the boarding and securing and the costs thereof. The notice shall state that the property owner may request an appeal with the City Clerk within ten (10) days after the mailing of the notice. The notice and hearing shall be as provided for in subsection 1 of this Section. Unless otherwise determined at the hearing the cost of such boarding and securing shall be determined and collected as provided for in subsection 7.

10. The City Council may determine that a building is unsecured and order that such building be boarded and secured in the manner provided for in this Section even though such building has not been declared, by the governing body, to be dilapidated.

11. For the purposes of this subsection:

- a. "Boarding and securing" or "Boarded and secured" means the closing, boarding, or locking of any or all exterior openings so as to prevent entry into

the structure,

- b. "unsecured building" shall mean any structure which is not occupied by a legal or equitable owner thereof, or by a lessee of a legal or equitable owner, and into which there are one or more unsecured openings such as broken windows, unlocked windows, broken doors, unlocked doors, holes in exterior walls, holes in the roof, broken basement or cellar hatchways, unlocked basement or cellar hatchways or other similar unsecured openings which would facilitate an unauthorized entry into the structure, and
- c. "unfit for human occupancy" means a structure that due to lack of necessary repairs is considered uninhabitable and is a hazard to the health, safety, and welfare of the general public.

Section 8-505 OTHER POWERS.

Nothing in the provisions of this Article shall prevent the City from abating an unsecured dilapidated building as a nuisance or otherwise exercising its police power to protect the health, safety, or welfare of the general public.

Section 8-506 EXCEPTION.

The provisions of this Article shall not apply to any property zoned and used for agricultural purposes.

Section 8-507 REMOVAL OF GRAFFITI.

A. The City may cause graffiti to be removed from property within the City limits in accordance with the following procedures:

1. The property owner and the tenant, if any, may give their written consent to the City authorizing removal of the graffiti. By giving such written consent, the owner and the tenant each waives the right to notice and a hearing by the City as otherwise required by this Section;

2. If the consent of the property owner and the tenant, if any, to remove graffiti from the property cannot be obtained, the City may remove the graffiti without such consent pursuant to the procedures set forth in this Section;

3. To remove graffiti from property without the consent of the property owner and the tenant, if any, at least ten (10)

days' notice shall be given by mail directed to the address shown by the current year's tax rolls in the county treasurer's office. Notice to the tenant, if any, shall be given by mail directed to the property address. The notice shall order the property owner and the tenant, if any, to remove graffiti from the property and shall further state that unless such work is performed within twenty (20) days of the date of the notice the work shall be done by the City. At the time of mailing of notice to the property owner and the tenant, if any, 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 mailer(s). In addition, notice shall be given by posting a copy of the notice on the property at least one time not less than ten (10) days prior to any hearing or action by the City. If the City Council anticipates summary abatement of graffiti in accordance with the provisions of this Section, the notice shall state that any accumulations of graffiti on the property occurring within one (1) year from and after the date of the notice may be summarily abated by the City without a hearing and further prior notice to the property owner or the tenant, if any, except by posting of notice at least one time on the property once not less than two (2) business days prior to such summary abatement.

4. A hearing may be held by the City Council to determine whether the accumulation of graffiti on the property has caused the property to become detrimental or a hazard to the health, safety, or general welfare of the public and the community;

5. Upon finding that the condition of the property constitutes a detriment or hazard, and that the property, the public, and the community would be benefitted by removal of such conditions, the agents of the City are granted the right of entry onto the property for the removal of the graffiti thereon and for performance of the necessary duties as a governmental function of the City.

6. The City hereby designates the zoning officer to perform the functions set forth in this Section. The property owner and the tenant, if any, shall have a right of appeal to the City Council from the decision of the zoning officer. Such appeal shall be taken by filing written notice of appeal with the City Clerk within ten (10) business days after the administrative order is rendered.

B. If a notice is given by the City to a property owner and tenant, if any, ordering graffiti to be removed from property within the municipal limits in accordance with the procedures provided for in subsection A of this Section, any subsequent

accumulations of graffiti on the property occurring within a one (1) year period may be summarily abated without further prior notice to the property owner or the tenant, if any. However, prior to the summary abatement by the City, notice thereof shall be posted at least one time on the property not less than two (2) business days prior to such summary abatement. This subsection shall not apply if the records of the county clerk show that the ownership and/or tenancy of the property was transferred after notice was given pursuant to subsection A of this Section.

C. Removal of graffiti by a City pursuant to the provisions of this Section shall be performed at the sole expense of the City. In removing the graffiti, the City shall restore the property as nearly as possible to the condition as it existed immediately prior to the graffiti being placed on the property.

D. Nothing in the provisions of this Section shall prevent the City from abating graffiti as a nuisance or otherwise exercising its police power to protect the health, safety, or general welfare of the public.

E. The City and its officers, employees or agents shall not be liable for any damages or loss of property due to the removal of graffiti performed pursuant to the provisions of this Section.

F. For the purposes of this Section:

1. "Advertising" means any letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind lawfully placed on property by an owner or tenant of the property, or an agent of such owner or tenant, for the purpose of promoting products or services or conveying information to the public;

2. "Graffiti" means, without limitation, any letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind visible to the public that is drawn, painted, chiseled, scratched or etched on a rock, tree, wall, bridge, fence, gate, building or other structure; provided, this definition shall not include advertising or any other letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind lawfully placed on property by an owner of the property, a tenant of the property, or by an authorized agent for such owner or tenant;

3. "Owner" means the owner of record as shown by the most current tax rolls of the county treasurer;

4. "Removal," "remove," or "removed," when used in relation to the eradication of graffiti means the act of taking graffiti off, or masking the presence of graffiti on, a rock, tree, wall, bridge, fence, gate, building or other structure; and

5. "Tenant" means any person shown by the records of the county clerk's office as a lessee of property, or any person lawfully in actual physical possession of property.

ARTICLE 6

ENFORCEMENT

Section 8-601 COUNTY HEALTH DEPARTMENT DESIGNATED TO ENFORCE HEALTH ORDINANCES.

Anywhere in this chapter where the word or words "health officer" are used it may be construed to mean the director of the county health department or his duly designated representative unless another person is designated by the City Council. It is the intent and purpose of the City Council to delegate the enforcement of the health ordinances of this City as set out in this Section and any such decisions rendered under this Section shall be subject to review by the Council upon an appeal from an offender.

Section 8-602 OBSTRUCTING HEALTH OFFICER.

It is unlawful for any person to willfully obstruct or interfere with any health officer or officer charged with the enforcement of the health laws of this City.

Section 8-603 QUARANTINE; VIOLATIONS.

It is unlawful for any person to willfully violate or refuse or omit to comply with any lawful order, direction, prohibition, rule or regulation of the board of health or any officer charged with enforcement of such order, direction, prohibition, rule or regulation.

ARTICLE 7

REMEDIATION OF CONTAMINATED PROPERTY AFTER THE DISCOVERY OF
METHAMPHETAMINE OR OTHER NOXIOUS, HAZARDOUS OR TOXIC
SUBSTANCES.

Section 8-701 PURPOSE AND INTENT.

A. The purpose of this Article is to protect occupants of real property, as well as occupants of adjoining properties and the public at large, from hazardous and contaminated living environments by requiring owners of real property to remediate contamination of property caused by methamphetamine activity, or activities involving other noxious, hazardous, and toxic substances, prior to resumed occupancy pursuant to the standards and conditions described in this Article.

B. For purposes of this Article, the term "activity" or "activities" shall include the manufacture or otherwise processing of methamphetamine or other noxious, hazardous or toxic substances; or other acts involving such substances that present public health and safety risks to current or future occupants of the property, adjacent properties or the public at large.

C. For purposes of this Article, the term "property" or "real property" shall include land, buildings, or other residential or commercial facilities designed for human occupancy that are owned by an individual, firm, corporation, or entity, and that are contaminated by activities defined in this Article.

D. Exempt from provisions of this Article are commercial or industrial firms properly zoned and/or regulated for the legal manufacture or otherwise processing of such substances in compliance with other provisions of this Code, as well as in compliance with federal, state, and local laws, rules and regulations.

Section 8-702 REPORTS OF METHAMPHETAMINE OR OTHER NOXIOUS,
HAZARDOUS AND TOXIC SUBSTANCE ACTIVITY.

Upon discovery that an owner's property is, or has been, the location for any type of methamphetamine or other noxious, hazardous, or toxic substance activity, an owner shall immediately report such activity to the Police Department.

Section 8-703 PROHIBITION OF OCCUPANCY.

Until the assessment and remediation procedures are required

by the Code Enforcement Officer/Building Official and completed by the owner of the Property, use of the property for human habitation is prohibited.

Section 8-704 PUBLIC NOTICE OF CONTAMINATION.

A. Upon informing of or discovery by the Police Department, or agents thereof or other law enforcement entities, that contamination has occurred upon a property involving methamphetamine or other noxious, hazardous, or toxic substances; the Code Enforcement Office/Building Official shall affix upon the property a "Notice to the Public" with the following information:

1. The word "WARNING" in bold type.
2. The address of the contaminated property or, if the property has multiple structures upon it, the address of each contaminated structure.
3. A statement that: "Hazardous substances, toxic chemicals, or other waste products may be present on the property."
4. A warning that: "Any person who enters the structure(s) without permission of the owner or the Police Department, or authorized agents or designees thereof, will have committed a trespass."

B. It shall be unlawful for any person, including the property owner, property manager or occupant, to remove such Notice to the Public while the property is deemed to be in a contaminated condition. Such "Notice to the Public" shall only be removed by the Code Enforcement Officer/Building Official or other authorized employees or agents of the City, upon completion of remediation in compliance with provisions of this Article.

Section 8-705 ASSESSMENT AND REMEDIATION; APPEAL.

A. Upon discovery that an owner's property is or has been the location for any type of activities involving the manufacture or otherwise processing of methamphetamine or other noxious, hazardous or toxic substances, an owner, prior to resumed occupancy of the property and after the removal of such manufacturing or processing equipment or materials by the Police Department, or agents thereof, shall contact the Code Enforcement Officer/Building Official. An assessment of the contamination shall be made by the Code Enforcement Officer/Building Official and a written order detailing the remediation work required at the Property shall be prepared by the Code Enforcement Officer/Building Official and

furnished to the owner. The owner shall successfully complete the work required in the remediation order to the reasonable satisfaction of the Code Enforcement Officer/Building Official. Any owner shall have the right of appeal to the City Council from the remediation order of the Code Enforcement Officer/Building Official. Such appeal shall be taken by filing a written notice of appeal with the city clerk within ten (10) days after the remediation order is rendered. Any action to challenge the decision of the City Council's determination (provided a written notice of appeal was timely filed with the city clerk), shall be filed with an appropriate judicial forum within thirty (30) business days from the date of the order.

Section 8-706 PENALTY

A. Any person, firm, or corporation violating any of the provisions of this Article shall be guilty of an offense, and upon conviction thereof, shall be punished by a fine of Five Hundred Dollars (\$500.00), costs and state assessments.

B. Each day a violation of this Article occurs shall constitute a separate offense.

C. The provisions of this Article shall not preclude the City or any other aggrieved party from pursuing any civil remedies to recover any and all costs associated with administration or enforcement of this Article.

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CHAPTER 9: LICENSING AND BUSINESS REGULATIONS

ARTICLE 1

OCCUPATIONAL LICENSE FEES

Section 9-101 LICENSE REQUIRED; FEE LEVIED ON CERTAIN OCCUPATIONS.

A. It is unlawful for any person to engage in, exercise or pursue any business, profession, trade, occupation, privilege or other activity for which a license is required, or a license fee or tax is levied by any provision of this code or other ordinance of the City, without paying the license fee or tax and securing and possessing a valid license therefor.

B. A license fee is levied on every person engaging in, exercising, or pursuing any of the businesses, professions, trades, occupations, or privileges in this City, as may be provided by the City Council.

C. In order to receive a license under this code, every person, firm or corporation regulated pursuant to this Section is required to possess a valid and current state sales tax permit if such person, firm or corporation is a vendor subject collection of sales taxes under the sales tax code of the City and state. A copy of this permit shall be provided by the applicant for a license to the City Clerk prior to issuance of the City license.

Cross Reference: See also 3-101 et seq. on alcohol and beer licenses, 5-201 et seq. on plumbers, electricians.

State Law Reference: Municipal authority to tax and regulate occupations, 11 O.S. Section 22-106, 22-107.

Section 9-102 SEPARATE LICENSES REQUIRED.

Every person who engages in, exercises, or pursues a business, profession, trade, occupation, or privilege for which a license is required, at or from more than one place in the City, or who engages in, exercises, or pursues more than one such business, profession, trade, occupation, or privilege, shall pay the fee, and secure a separate license, for each such place or for each such business, profession, trade, occupation, or privilege.

Section 9-103 LICENSE TO BE DISPLAYED.

Every holder of a license to engage in, exercise, or pursue

a business, profession, trade, occupation, or privilege, shall conspicuously display the license at all times in some part of his place of business or activity where a person who has entered the place may readily see it; or, if he has no particular place of business or activity, shall carry the license and shall display it to any person who request to see it. In lieu of the manner of displaying such licenses provided above, when licenses are required for coin-operated music or amusement device, vending machines, and similar devices and equipment, the license may be placed on or attached to such device or equipment in such position and manner that it will be clearly visible, and shall be so placed or attached if the license so states on its face. It is unlawful to fail or refuse to display the license as required in this Section.

Section 9-104 LICENSE MAY BE REVOKED.

Any license issued by the City to any person to engage in, exercise, or pursue any business, profession, trade, occupation, or privilege, may be revoked by the City Council after adequate opportunity for a hearing.

Section 9-105 TRANSFER OF LICENSE PROHIBITED.

The assignment or transfer of licenses shall not be permitted in this City.

State Law Reference: License may not be transferred, 11 O.S. Section 22-107.

Section 9-106 DUPLICATE LICENSE.

Whenever any license to engage in, exercise, or pursue a business, profession, trade, occupation, or privilege, has been lost or destroyed without any wrongful act or connivance by the holder, the City Clerk, on application, shall issue a duplicate license for the unexpired time. Before the duplicate is issued, the holder shall make, and file with the City Clerk an affidavit that the licensee has in fact lost or destroyed the license without any wrongful act of connivance by the licensee.

Section 9-107 ISSUANCE AND EXECUTION.

The City Clerk shall issue a license required by this code or other ordinance, when the applicant has filed a proper application, therefor, paid the required tax or fee and complied with all other requirements prescribed for obtaining such license. Each such license so issued shall be signed by the Mayor and City Clerk and the corporate seal of the City shall be affixed

thereto. Such license shall be in suitable form and express the purpose for which it is issued.

Section 9-108 SUBJECT TO STATE LAW AND City ORDINANCES.

All licenses shall be issued subject to the ordinances of the City and the laws of the state. No license shall be construed as authority to do or omit to do any act in violation of law or ordinance.

Section 9-109 APPEALS.

In the event any applicant shall be denied a license by the City Clerk, said applicant shall have the right to appeal to the City Council at the next regularly scheduled meeting, and said City Council shall have the right and power to overrule said denial and to issue a license.

ARTICLE 2

SOLICITORS AND CANVASSERS

Section 9-201 DEFINITIONS.

A. As used in this Article the terms "solicitor" or "canvasser," shall mean any individual, traveling by foot or any means whatsoever, from place to place, from building to building, from house to house, or from street to street, or contacting persons by telephone, taking or attempting to take orders for sale of goods, wares, and merchandise, personal property of every nature whatsoever for future delivery, or for 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 he is collecting advance payments on such sales or not.

B. As used in this Article the term "peddler" shall include the words "hawker" and "huckster" and shall mean any person who travels by foot or by any type of conveyance from place to place, or from street to street, carrying, conveying, or transporting goods, wares or merchandise of whatsoever nature, offering and exposing the same for sale, or who without traveling from place to place, shall sell or offer the same for sale from any vehicle or conveyance.

C. As used in this Article, the term "itinerant merchant/transient street vendor" shall mean any person engaged in the business or occupation of selling any merchandise, products, or services from a temporary indoor or outdoor location obtained

from an owner or lease holder or obtained by occupying the location without permission, or by occupying a location on a street right-of-way. Itinerant merchant/transient street vendors will not include:

1. Participants in wholesale trade shows or conventions, trade fairs, or flea markets;

2. Sellers of Bibles, agricultural goods, including Christmas trees and firewood, or crafts or items made by hand;

3. Participants in fairs and convention center activities conducted primarily for amusement or entertainment;

4. Participants in residential garage sales; or

5. Individuals who maintain a permanent place of business in this state and has a registered agent therein upon whom process, notice or demand permitted by law may be made.

D. As used in this Article, the term "coupon book seller" shall mean any individual, traveling by foot or any means whatsoever, from place to place, from building to building, from house to house, or from street to street, or contacting persons by telephone, taking, or attempting to take orders for sales of coupon books which are to be used for discounts or free goods, wares, merchandise, personal property of every nature whatsoever, for future delivery, whether or not such individual has, carries or exposes for sale a sample of the coupon book for sale or whether he is collecting advance payments on such sales or not.

Section 9-202 FRAUD, ETC.

It shall be unlawful and an offense for any solicitor, peddler, itinerant merchant/transient street vendor, or coupon book seller:

1. To harass, threaten, coerce, or otherwise unreasonably apply duress to any citizen or otherwise breach the peace while attempting to perform the services of a solicitor or coupon book seller;

2. To fail to provide any goods or services which have been paid for, in full or in part;

3. To defraud, trick, cheat or otherwise mislead any person into subscribing for or purchasing any good or service when the solicitor, peddler, itinerant merchant/transient street vendor or coupon book seller knows or should know that the good or

service will not be provided or delivered.

Any person denied a license may appeal to the City Council by filing notice thereof with the City Clerk within five (5) days of the denial. The City Council shall render a decision at its next regular meeting.

Section 9-203 REQUIRED.

A. No person shall engage in the business of solicitor without first having obtained a solicitor's license, except persons soliciting on behalf of public schools or educational, religious or eleemosynary institutions.

B. No person shall engage in the business of peddler without first having obtained a peddler's license, except persons peddling on behalf of public schools or educational, religious or eleemosynary institutions.

C. No person shall engage in the business of itinerant merchant/transient street vendor without first having obtained an itinerant merchant/transient street vendor's license, except persons selling on behalf of public schools or educational, religious or eleemosynary institutions.

D. No person shall engage in the business of coupon book seller without first having obtained a coupon book seller's license, except persons selling on behalf of public schools or educational, religious or eleemosynary institutions.

E. No person shall employ any person covered by subsection A or D hereof without having obtained a solicitor's business license or a coupon book seller's business license.

State Law Reference: Authority to license solicitors, 11 O.S. Section 22-106.

Section 9-204 APPLICATION.

An application for a solicitor's, peddler's, itinerant merchant/transient street vendor's or coupon book seller's license shall be sworn to and filed with the City Clerk. It shall contain the following:

1. Full name, description, birth date, and social security number of each individual applicant.
2. Address, both permanent and local.

3. Nature of business and kinds of goods to be sold, and if applicant is a farmer or truck gardener, whether said goods are produced by him on land he owns, cultivates, and controls.

4. If employed by another, the name and address of applicant's employer together with a brief description of credentials showing the exact relationship.

5. Description and license number or other identification of any vehicle to be used.

6. A statement as to whether or not the applicant has been convicted of a felony, the nature of the offense and the punishment or penalty assessed therefor.

7. Verification of payment of sales tax to the Oklahoma Tax Commission.

8. Whether merchandise or goods are tax exempt and exemption from Oklahoma Sales Tax claimed.

9. The names of at least two (2) reliable property owners in the City, provided, however, for itinerant merchant/transient street vendors, two (2) reliable property owners from within the state will suffice, who will certify as to the applicant's good character and business responsibility, or other available evidence as to good character and business responsibility of the applicant.

10. Documents from the county court clerk's office that establish that the business has complied with state law, in particular the requirements of posting bond pursuant to Title 19 of Oklahoma Statutes Section 1608. This provision is to apply only to itinerant merchant/transient street vendors.

Section 9-205 SOLICITOR'S BUSINESS LICENSE AND COUPON BOOK SELLER'S LICENSE; APPLICATION.

An application for a solicitor's business license or a coupon book seller's business license shall be sworn to and filed with the City Clerk. It shall contain the following:

1. Name and description of applicant, and, if applicable, corporation, business or firm represented.

2. Address of applicant, both permanent and local, and, if applicable, address of corporation, business or firm represented.

3. A description of the nature and type of business to be

carried on, including kinds of goods to be sold. For coupon book sellers, a copy of all contracts with merchants for delivery of goods and services. For solicitors and coupon book sellers, a copy of the sales pitch shall be furnished the City if one is to be made over the telephone.

4. Description and license number or other means of identification of automobiles or means of transportation to be used, if any.

5. The names of at least two (2) reliable property owners in the City who will certify as to the applicant's good character and business responsibility, or other available evidence as to good character and business responsibility of the applicant.

6. A statement as to whether or not the applicant or any employees of applicant have been convicted of a crime or misdemeanor or violation of any municipal ordinance and if so, the nature of the same and the punishment assessed therefor.

7. Verification of payment of sales tax to the Oklahoma Tax Commission.

8. Whether merchandise or goods are tax exempt and exemption from Oklahoma and local sales tax claimed.

9. The names, addresses and description of all solicitors and peddlers employed by applicant.

Section 9-206 INVESTIGATION AND ISSUANCE.

A. Upon receipt of the application for a solicitor's license, solicitor's business license, coupon book seller's license, or coupon book seller's business license, the chief of police 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.

B. If, as a result of such investigation, the applicant's character and business responsibility are found to be unsatisfactory, the chief of police shall so endorse on the application and return it to the City Clerk, and no license shall be issued.

C. If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the chief of police shall so endorse on the application and return it to the City Clerk who shall then issue the license upon payment of the required fee.

Section 9-207 FEE.

No person shall be issued a solicitor's, peddler's, itinerant merchant/transient street vendor's, coupon book seller's license, solicitor's business license or coupon book seller's business license until he pays a license fee as set forth in the City's fee schedule.

Section 9-208 EMPLOYER OF SOLICITOR OR COUPON BOOK SELLER VICARIOUSLY LIABLE FOR ACTS OF SOLICITOR OR COUPON BOOK SELLER.

For purposes of the suspension or revocation of a solicitor's business license or a coupon book seller's license, it shall be sufficient to show that any solicitor or seller in the employ of such license holder has violated any provision of this article.

Section 9-209 TERM.

Any license issued pursuant to the terms of this article shall expire one year from the date of its issuance.

Section 9-210 DISPLAY.

Solicitors, peddler, itinerant merchant/transient street vendors and coupon book sellers employing solicitors, peddlers, itinerant merchant/transient street vendors and coupon book sellers shall exhibit their licenses at the request of any person.

Section 9-211 TRANSFER.

No license issued under the provisions of this article shall be transferable.

Section 9-212 EXCEPTION FOR INTERSTATE COMMERCE.

If any individual, whether a solicitor, peddler, itinerant merchant/transient street vendor or coupon book seller is engaged in interstate commerce, the individual must bring in proof of the interstate commerce nature of his business to the City Clerk. The City Clerk will make a determination of whether or not the business does involve interstate commerce. If it does, a license will be issued, and the fee will be waived. If not, the individual can be licensed pursuant to the licensing requirements in this chapter. A denial of the interstate commerce exception of the fee process may be appealed to the City Council.

ARTICLE 3

GARAGE SALES

SECTION 9-301 DEFINITIONS.

For the purpose of this chapter "garage sale," "yard sale," or "porch sale" means any collection of items of merchandise offered for sale at, inside or in the yard adjacent to a residence.

SECTION 9-302 NUMBER, DAYS AND SIGNS.

A garage or similar sale shall not exceed one in number for any six-month period. No individual sale may exceed five (5) days in length. Advertising signs for such sales shall be limited to one sign posted on the premises and no other signs.

SECTION 9-303 PERMIT REQUIRED, FEE.

A. Prior to conducting a garage or similar sale within the city, the person conducting same shall be required to obtain a permit therefore from the City Clerk. Application to conduct the garage sale shall be made to the City Clerk upon a form to be furnished by the clerk showing the individual or organization holding the sale and the address.

B. The fee for such permits shall be set by the city by motion or resolution, which shall be deemed to be in lieu of any occupation tax requiring by existing ordinance.

C. In the event that the City Clerk determines that two (2) such garage sales, yard sales or porch sales have already been held at the proposed location within the current six-month period, then no such permit shall be issued.

ARTICLE 4

TAXICABS

SECTION 9-401 DEFINITIONS.

For the purpose of this article, "taxicab" means any vehicle carrying passengers for hire.

SECTION 9-402 LICENSE REQUIRED.

No person shall operate a taxicab in the city in intra-city business without first having obtained from the City Manager a license therefore, and without having complied with all other

provisions of this chapter.

SECTION 9-403 LICENSE FEE.

The fee for the license shall be as set by the council by motion or resolution for the first taxicab license and for each additional license. Licenses shall extend from the first day of May until the last day of April following, and full license fee must be paid for any part of the year.

SECTION 9-404 INSPECTION.

No vehicle shall be licensed as a taxicab until it has been thoroughly inspected by the police chief, or such other official as the City Manager shall direct, and found to be in safe, satisfactory, and sanitary condition for the transportation of passengers. All such licensed cabs shall thereafter be inspected in the same manner quarterly between the first and fifth of January, April, July, and October of each year. If any vehicle licensed as a taxicab is involved in a collision or accident, notice thereof shall be given to the City Manager or to such other official as the City Manager may direct, and an inspection shall be made of the cab before it can be again used in service. The report of all such examinations shall be filed with the City Manager.

SECTION 9-405 LIABILITY INSURANCE.

Upon application being granted, the applicant shall, before the license is issued, take out liability insurance, in a reliable company to be approved by the City Manager, in a sum not less than Fifty Thousand Dollars (\$50,000.00) for each taxicab licensed. The applicant must also file competent evidence with the City Manager that the policy covers the period for which a license is to be granted.

SECTION 9-406 NAME OF OWNER.

Every taxicab licensed under this chapter shall have the name of the owner thereof plainly painted in a conspicuous place on the taxicab in letters at least one and one-half (1 ½) inches in height.

SECTION 9-407 APPLICATION FOR LICENSE.

Any person desiring a license for a taxicab shall make written application therefor to the City Manager upon blanks furnished by the City Manager. The application shall contain the full name and address of the owner, the make, model, and year of

manufacture of the car, the engine and factory number of the same.

SECTION 9-408 CARD TO BE ISSUED.

Upon a license being granted, there shall be delivered to the licensee a card of such size and form as may be determined by the City Manager. Such card shall contain the official city license number of the taxicab and shall be signed by the City Manager. Licenses shall not be transferable, with the exception that a license may be transferred from one car to another of the same ownership, with the approval of the City Manager.

SECTION 9-409 CARD TO BE VISIBLE.

The license card above referred to shall be affixed in a place in the taxicab so that same is visible to any passenger.

SECTION 9-410 TAXI STANDS.

Any person obtaining a taxicab license shall be entitled to have set off two (2) parking stands or spaces where the taxicabs may stand while waiting calls or passengers. Such parking spaces shall be assigned by the City Manager, subject, however, to the person first obtaining written permission from the primary tenant of the land immediately adjacent to the space so desired. The permission so obtained shall be renewed and refilled with the City Manager at the time of renewal of any taxicab license.

SECTION 9-411 CHAUFFEUR'S LICENSE REQUIRED.

No person shall drive or operate a taxicab unless the person shall have first obtained a chauffeur's license from the state.

SECTION 9-412 REVOCATION OF LICENSE.

The city council, after opportunity for public hearing, may revoke any taxicab license whenever a violation of any provision of this chapter is shown.

SECTION 9-413 LICENSE FEE IN LIEU OF OCCUPATION TAX.

The license fee herein provided for shall be in lieu of occupation license taxes required by the city.

SECTION 9-414 REGULAR PLACE OF BUSINESS, TELEPHONE.

Any person obtaining a taxicab license as herein provided

and doing intra-city business within the city shall be required to have a regular place of business and to maintain a telephone at that place of business.

ARTICLE 5

SPECIAL EVENTS

Section 9-501 DEFINITION

For the purpose of this Article, the following terms shall have the meanings respectively ascribed to them in this Section:

A. Special event means an event or gathering open to the public in areas or venues not specifically designated for that purpose and which requires a temporary exception to otherwise applicable rules or requirements specifically including, but not limited to:

1. A carnival;
2. A festival;
3. A circus;
4. A race or rally;
5. A parade;
6. Seasonal sales;
7. A concert; and
8. Any event or gathering that requires:
 - a. The temporary complete or partial closure of a public street;
 - b. The temporary closure or restriction of access to public property;
 - c. The temporary offer of merchandise, food, or beverages on public property or on private property where not otherwise permitted by the Code or the applicable certificate of occupancy;
 - d. The temporary erection of a tent on public property or on private property where not otherwise permitted by the Code or the applicable certificate of occupancy;

e. The temporary erection of a stage, band shell, portable building, grandstand, or bleachers on public property or on private property where not otherwise permitted by the Code or the applicable certificate of occupancy;

f. The temporary use, for other than storage, of a trailer or van on public property or on private property where not otherwise permitted by the Code or the applicable certificate of occupancy;

g. The temporary use of equipment to amplify and transmit sound, which exceeds ambient (background) sound pressure levels at the property lines; or

h. The placement of portable toilets on public property or on private property where not otherwise permitted by the Code or the applicable certificate of occupancy.

Section 9-502 CARNIVAL, CIRCUS OR SPECIAL EVENT (TEMPORARY)

A. A temporary use permit for a carnival, circus, or special event may be issued by the City Council subject to the following conditions:

1. A legible and complete application for a permit shall be made at least ten (10) business days prior to the date such temporary carnival, circus, or special event shall commence operation.

a. If a legible and complete application for a permit under this section is submitted less than ten (10) business days prior to the commencement date of any such event the applicant, specifically including nonprofit organizations, shall pay a late submittal fee in the amount of One Hundred Dollars (\$100.00).

b. A legible and complete application for a permit under this section that is submitted less than ten (10) days prior to the commencement date of any such event shall be subject to the foregoing provision: The City makes no assurances that the review of the permit application and the issuance of the permit will be complete for any such application prior to the planned date of the event. Further, it shall be a violation of this ordinance to commence operation of a temporary carnival, circus, or special event without first receiving a temporary event permit.

c. Any legible and complete permit application shall be submitted to the City Council at its next regular or special meeting. The granting or denial of the application shall be in

the City Council's sole discretion; however, the City Council shall not grant a permit unless they are satisfied that the event:

- (1) Will not substantially interrupt the safe and orderly movement of traffic;
- (2) Will not require the diversion of police and fire personnel so that the public service is adversely affected;
- (3) Is unlikely to cause injuries or property damage;
- (4) Will provide adequate sanitation and other required health facilities located in or adjacent to any public assembly areas;
- (5) Provides for sufficient parking places at the site to accommodate the number of vehicles reasonably expected to be parked or the Applicant has made adequate arrangements for off-site parking and transfer of attendees.

2. The application for a permit shall be submitted to the City Clerk and shall contain the following information in order to be considered complete:

a. Name, address, and telephone number of person, organization, or company conducting the event.

b. Date or dates of the carnival, circus, or special event.

c. Name of any and all food vendors participating in the event including, but not limited to, the types of foods and beverages to be offered to the public and the manner in which said foods and beverages are packaged, prepared, and served.

d. A legible site plan drawn to scale and/or with dimensional detail showing the location, size, number, and configuration in detail of the different component parts of the temporary carnival, circus, or special event including, but not limited to, the following:

- (1) all shows;
- (2) concessions;

(3) amusements (specifically including, but not limited to, inflatable slides and jump houses) or rides;

(4) businesses;

(5) signs, including balloons or inflatable devices, that are visible from the public right-of way;

(6) entrances and exits.

(7) parking area;

(8) sanitary facilities;

(9) loudspeakers or sound amplification devices (together with an indication regarding their directional orientation);

(10) any other pertinent information.

e. A written lease or agreement from the owner of such property granting the applicant permission to operate a temporary carnival, circus, or special event on said property during the dates of the proposed application. The written lease or agreement must be signed by the owner of such property and be properly notarized.

f. The approximate number of persons who are anticipated to attend and, if applicable, the number and types of animals and vehicles that will constitute such event.

g. If the event is commercial in nature, then proof of public liability insurance with minimum combined limits of one million dollars (\$1,000,000).

3. The temporary carnival, circus, or special event shall be set up and operated in accordance with and pursuant to the approved site plan and any conditions imposed by the permit. Before any modifications, revisions or deletions are made that conflict with the approved site plan including, but not limited to, the addition or removal of signs, concessions' vendors, amusements and rides an amended site plan shall be submitted for review and approval three (3) business days prior to commencement or continuation of the event in accordance with and pursuant to the amended site plan. Re-submittals or revised site plans shall be limited to one (1) change per event. Notwithstanding the timely submittal of the amended site plan the carnival, circus or special event shall not be authorized to operate in accordance with and pursuant to said amended site plan until such time as the

amended site plan is approved. The amended site plan shall be approved or disapproved no later than three (3) business days after submittal. The City Manager is authorized to approve amendments to site plans.

4. EXCEPTION. A sidewalk sale or a religious or educational program, presentation or fund-raising event that is contained entirely upon or entirely within the confines of private property and does not require the temporary use of or closing off of public streets, fire lanes or public property; that lasts or runs for no more than eight (8) hours on any one day and is limited to a total of four consecutive days in any calendar month; and, which is planned, presented, performed, offered or sponsored by and for the sole benefit of a nonprofit entity ("Exempt Event") shall not be required to obtain a special event permit.

5. Safe and orderly movement of normal traffic shall not be substantially interrupted. The City may require the permit holder to provide additional signage for traffic control and safety-related issues, as deemed necessary by staff. If any circus, carnival, or special event is located adjacent to or abutting a state road, and it is the intent to block the state highway, written permission shall be obtained from the Department of Transportation prior to such event and submitted with the Application.

6. The temporary carnival, circus or special event shall not impede the movement of firefighting equipment, ambulances, or any other emergency vehicle.

7. Waste from non-domestic animals shall be removed daily from the premises which are the subject of the site plan. Animals shall be kept at least three hundred feet (300') away from any residence or commercial establishment during non-operating hours of such event.

8. The application shall be reviewed and approved or disapproved by the Police Chief, Fire Chief, City Manager, or their designees, for review of traffic control, security, fire and other health and safety related issues, prior to submission to the City Council.

9. Any person or entity that seeks a permit for an event shall be required to pay all costs and expenses including, but not limited to, labor and overtime costs as well as materials, gasoline and equipment rental or usage incurred by the City to

provide on-site police protection for the race and its participants as well as any costs and expenses incurred by the City to erect and take down warning signs, cones, and barricades along and about the course to be traveled by the race participants. The City may require that the person or entity seeking a permit or to whom a permit is issued post a cash bond or deposit with the City against which the City may recover all such costs and expenses. Failure to post such a cash deposit or bond may result in the denial of the permit application or revocation of a previously issued permit. Events that are sponsored entirely, or in part, by the City of Tonkawa may, in the sole discretion of the City, be exempted from the requirement to post a cash deposit or bond for such City sponsored event. In the event that security precautions for the event are materially different than those contained in the permit application or in the event public safety is or may be compromised, then such concerns shall first be communicated by a City representative to the permit holder or designee of the permit holder in an effort to expeditiously resolve any such public safety concerns. In the event such public safety concerns are not adequately addressed, the City Manager or his or her duly appointed representative may revoke the permit;

10. Only one race or rally upon and across the roads, streets and thoroughfares of the City shall be allowed per day. Dates for such races or rallies shall be assigned by the Police Department and maintained in the office of the City Clerk. If two or more such race or rally events are planned for the same date, the special event permit will be awarded first to a race or rally event that is sponsored entirely by the City. In all other circumstances, the special event permit shall be awarded to the race or rally event that first submits a fully completed permit application for the date in question.

11. The permit will be valid for a maximum period of five (5) days.

12. All signs for a special event must conform with the ordinances in the code respecting signage.

13. It shall be unlawful for any person to "hawk" or waive patrons into a carnival, circus or special event.

14. A carnival, circus, or special event permit may be denied if:

a. a special event permit has been granted for another special event at the same place and time; or

b. the proposed special event will unreasonably disrupt the orderly flow of traffic and no reasonable means of rerouting traffic or otherwise meeting traffic needs is available; or

c. the application is incomplete; or

d. the applicant fails to comply with or the proposed special event will violate a City code or other applicable law, unless the prohibited conduct or activity would be allowed under this ordinance; or

e. the applicant makes a false statement of material fact on an application for a special event permit; or

f. the applicant, or the operator of the event (the "Event Operator"), or the owner of the premises on which the event is planned (the "Property Owner") has had a special event permit revoked within the preceding twelve (12) months or the applicant, Event Operator or Property Owner have individually or collectively entered a plea of guilty and/or been convicted of two or more violations of a condition or a provision of a special event permit or of this section within the preceding eleven (11) months; or the proposed special event would unduly burden City services, and pose a risk to the public health, safety and welfare.

g. At the discretion of the City Council.

15. The City Manager may revoke a carnival, circus, or special event permit if:

a. the applicant fails to comply with or the carnival, circus, or special event is in violation of a condition or a provision of the permit or the site plan and any amended site plan, an ordinance of the City, or any other applicable law; or

b. the permit holder made a false statement of material fact on an application for a carnival, circus, or special event permit; or

c. the carnival, circus, or special event unduly burdens City services or unreasonably disrupts the public order and poses a risk to the public health, safety, and welfare.

16. The granting of a special event permit does not relieve the applicant, Event Operator or Property Owner from complying with all other provisions of the City's Code of Ordinances (e.g., tent permits, building permits, electrical

permits, food establishment and handling permits). All other permits and licenses required by code or other law for specific activities conducted in conjunction with or as a part of the carnival, circus, or special event must be applied for separately in a form satisfactory to the City.

17. A person commits an offense if he/she:

a. Commences or conducts a carnival, circus, or special event without the appropriate permits or fails to comply with any requirement or condition of a permit or this ordinance; or

b. Participates in a carnival, circus, or special event for which a permit has not been granted, or for which a permit has been suspended or revoked; or

c. Sets up or operates the carnival, circus, or special event in a manner inconsistent with the approved site plan or any subsequently approved amended site plan.

Note: This ordinance is adopted pursuant to Ordinance No. 2007-08 adopted on October 16, 2007.

ARTICLE 6

MEDICAL MARIJUANA DISPENSARIES, MEDICAL MARIJUANA GROWER FACILITIES, AND MEDICAL MARIJUANA PROCESSOR FACILITIES

Section 9-601 DEFINITIONS.

1. "Application" means an Application for a Permit under this Article and includes all supplemental documentation attached or required to be attached thereto; the Person filing the Application shall be known as the "Applicant".

2. "Clerk" means the Tonkawa City Clerk or his/her designee.

3. "Code Enforcement Officer" means the Tonkawa Code Enforcement Officer or his/her designee.

4. "License" means a current and valid License for a Medical Marijuana Dispensary facility issued by the State of Oklahoma.

5. "Licensee" means a person holding a current and valid Oklahoma license for a Medical Marijuana Dispensary facility.

6. "Permit" means a current and valid permit for a Medical Marijuana Dispensary facility issued under this Article, which shall be granted to a permit holder only for and limited to a specific Permitted Premises and specific Permitted Property.

7. "Permit Holder" means the person that holds a current and valid permit issued under this Article.

8. "Permitted Premises" means the particular building or buildings within which the permit holder will be authorized to conduct the facility's activities pursuant to the permit.

9. "Permitted Property" means the real property comprised of a lot, parcel, or other designated unit of real property upon which the permitted premises are situated.

10. "Person" means a natural person, company, partnership, profit or non-profit corporation, limited liability company or any joint venture for a common purpose.

11. "Medical Marijuana Grower Facility" means an establishment licensed under Title 63, Section 422 of the Oklahoma Statutes whereby the growing of medical Marijuana is conducted on the premises and then sold to a licensed retailer or processor.

12. "Medical Marijuana Dispensary" means an establishment licensed under Title 63, Section 421 of the Oklahoma Statutes whereby the retail sale of medical Marijuana is conducted on the premises.

13. "Medical Marijuana Processor Facility" means an establishment licensed under Title 63, Section 423 of the Oklahoma Statutes, whereby Marijuana plants are processed (packaged) into the concentrates, edible, and other forms for consumption and then sold to a licensed retailer.

Section 9-602 MEDICAL MARIJUANA DISPENSARY.

1. No person shall operate a Medical Marijuana Dispensary at any time or any location within the City of Tonkawa unless a currently effective permit for that business at that location has been issued under this Article.

2. Medical Marijuana Dispensary shall operate only as allowed under this Article.

3. The requirements set forth in this Article shall be in addition to, and not in lieu of, any other licensing or permitting requirements imposed by applicable federal, state, or local laws, regulations, codes, or ordinances.

4. All operators of Medical Marijuana Dispensaries are required to obtain a Medical Marijuana Dispensary Permit from the Municipal Clerk.

5. The Medical Marijuana Dispensaries Permit Fee shall be Two Hundred Dollars (\$200.00) per year. The fee shall be used to offset municipal expenses covering costs related to licensing, inspection, administration, and enforcement of retail marijuana establishments.

6. A Medical Marijuana Dispensary Permit shall only be located within a C-1 Local Commercial District, C-2 Commercial Business District, C-3 General Commercial District, and a C-4 Open Display Commercial District.

7. It is the sole and exclusive responsibility of each Permit Holder or Person applying to be a Permit Holder at all times during the Application period and during its operation to immediately provide the City of Tonkawa with all material changes in any information submitted on an Application and any other changes that may materially affect any state license or its City Permit.

8. No Permit issued under this Article may be assigned or transferred to any person unless the assignee or transferee has applied and all required fees under this Article and has been granted a Permit by the City of Tonkawa. No Permit issued under this Article are transferrable to any other location except for the Permitted Premises on the Permitted Property.

9. The original Permit issued under this Article shall be prominently displayed at the Permitted Premises in a location where it can be easily viewed by the public, law enforcement and administrative authorities.

10. Acceptance by the Permit Holder of a Permit constitutes consent by the Permit Holder and its owners, officers, manager, agents, and employees for any state, federal or local law enforcement to conduct lawful examinations of the facility and all articles of property in that facility during business hours

to ensure compliance with this Article, and other local regulations, and with the Permit.

11. No Permit shall be granted or renewed for a Medical Marijuana Dispensary in a residence or residentially zoned property.

12. In addition to the terms of this Article, any Medical Marijuana Dispensary shall comply in all respect with the terms of its zoning district, and with all other applicable federal, state, and local ordinance, laws, codes, and regulations. To the extent that the terms of this Article are in conflict with the terms of any other applicable federal, state, or local ordinances, laws, codes or regulations, the terms of the most restrictive ordinance, law, code, or regulation shall control.

13. No Medical Marijuana Dispensary shall be located within 1,000 feet from a public or private school. This distance is measured by a straight line (shortest distance) from the property line of the dispensary to any entrance of the school.

14. Application. An application for a Permit for a Retail Marijuana Establishment shall be submitted to the City Clerk, and shall contain the following information:

A. The name, address, phone number and email address of the proposed Permit Holder and the proposed Medical Marijuana Dispensary location.

B. The names, home addresses and personal phone numbers for all owners, directors, officers and managers of the Permit Holder and the Medical Marijuana Dispensary facility.

C. One (1) copy of all the following:

D. All documentation showing the proposed Permit Holder's valid tenancy, ownership or other legal interest in the proposed Permitted Property and Permitted Premises. If the applicant is not the owner of the proposed Permitted Property and Permitted Premises, a notarized statement from the owner of such property authorizing the use of the property for a Medical Marijuana Dispensary.

E. If the proposed Permit Holder is a corporation, non-profit organization, limited liability company or any other entity other than a natural person, indicate its legal status, attach a copy of all company formation documents (including amendments), proof

registration with State of Oklahoma, and a certificate of good standing.

F. A valid, unexpired driver's license or state issued ID for all owners, directors, officers, and managers of the proposed Establishment.

G. Evidence of a valid sales tax license for the business if such a license is required by state law or local regulations.

H. Non-refundable Application fee.

I. Submit a Business and Operations Plan, showing in detail the Medical Marijuana Establishment's proposed plan of operation, including the anticipated number of employees, a security plan, a description by category of all products to be sold, a description and plan of all equipment and methods that will be employed to stop any impact to adjacent uses, including enforceable assurances that no odor will be detectable from the outside of the Permitted Premises, and a plan for the disposal of Marijuana and related by-products that will be used at the establishment.

J. Whether the applicant has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in the State of Oklahoma or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or non-renewal, including the licensing authority, the date each action was taken, and the reason for each action.

K. Information regarding any other Medical Marijuana Dispensary that the Licensee is authorized to operate in any other jurisdiction within the State of Oklahoma, or any other State, and the Applicant's involvement in each facility.

L. Any other information reasonably requested by the City of Tonkawa to be relevant to the processing or consideration of the Application.

Section 9-603 CONDITIONS OF OPERATION.

A. Buildings where marijuana is stored or dispensed must be equipped with ventilation/air filtration systems, so any odors detectable off premises do not constitute a public nuisance.

B. The Medical Marijuana Dispensary shall collect the applicable sales tax on any sales subject to municipal sales taxes.

C. Any violations of this Article will result in the revocation of the Medical Marijuana Dispensary permit.

D. It is the intent of the City of Tonkawa that nothing in the Retail Marijuana Establishment Ordinance be construed to:

1. Allow persons to engage in conduct that endangers 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.

Section 9-604 MEDICAL MARIJUANA GROWER FACILITIES.

A. Medical Marijuana Grower Facilities are hereby allowed within the municipal boundaries of Tonkawa, Oklahoma under the following conditions:

1. The facility must acquire a permit for the facility from the Municipal Clerk. The permit for the Medical Marijuana Grower Facility shall be Two Hundred dollars (\$200.00) per year.

2. The Medical Marijuana Grower Facility shall only be located within an A-G Agricultural District, any zoning district permitting a Medical Marijuana Dispensary, I-1 Restricted Light Industrial District, I-2 Light Industrial District or a I-3 Heavy Industrial District; provided however, no Medical Marijuana Grower Facility shall be permitted in any building or property located on either side of Grand Avenue, between 6th Street and 9th Street, nor in any building in any commercial district, which shares a common wall with a separate business located in the same building, unless the building or use is owned and operated by the same property owner.

3. The Medical Marijuana Grower Facility must be constructed and operated in such a manner that the growing of the marijuana plants cannot be seen by the public from a public right of way.

4. The growing area including any lighting, plumbing or electrical components used shall comply with municipal building

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

5. Growing 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 the reasonable enjoyment of life and property.

6. If in the future, the sales are subject to the Oklahoma Tax Code, the Medical Marijuana Grower Facility shall collect and properly remit the applicable municipal sales tax.

Section 9-605 MEDICAL MARIJUANA PROCESSOR FACILITIES.

Medical Marijuana Processor Facilities are hereby allowed within the municipal boundaries of Tonkawa, Oklahoma under the following conditions:

1. The facility must acquire a permit for the facility from the Municipal Clerk. The permit for a Medical Marijuana Processor Facility shall be Two Hundred dollars (\$200.00) per year.

2. A Medical Marijuana Processor Facility shall only be permitted within an I-1 Restricted Light Industrial District, I-2 Light Industrial District, or a I-3 Heavy Industrial District, with all operations located within an enclosed structure.

3. The Medical Marijuana Processor Facility must be constructed and operated in such a manner that the growing or processing of the marijuana plants cannot be seen by the public from a public right of way.

4. The growing area including any lighting, plumbing or electrical components used shall comply with municipal building and fire codes. The growing and processing area must be properly ventilated so as not to create humidity, mold, or other related problems.

5. Growing 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 the reasonable enjoyment of life and property.

6. If in the future the sales are subject to the Oklahoma Tax Code, the Medical Marijuana Processor Facility shall collect and properly remit the applicable municipal sales tax.

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

8. Any violations of this section will result in the revocation of the Medical Marijuana Processor Facility permit.

Section 9-606 PERMIT INSPECTIONS AND OTHER REQUIREMENTS.

A. All permits outlined in this Article will be subject to inspection of the facilities by an authorized municipal inspector prior to issuance.

B. The inspection prior to a permit decision will occur at a time scheduled and approved by both the applicant and the municipal inspector.

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

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

E. Other regulations: Smoking or using marijuana shall be prohibited on all City property including vehicles, buildings, parks, or other facilities.

F. The City Manager is authorized to determine and waive any minor requirement provided in this Article in the event it reasonably appears such requirement may be in conflict with state law or legal precedent or custom and practice in the State of Oklahoma.

CHAPTER 10: MISCELLANEOUS PROVISIONS & OFFENSES

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Section 10-1002 FURNISHING OR SALE OF TOBACCO PRODUCTS AND VAPOR PRODUCTS TO MINORS.
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ARTICLE 11

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Section 11-1101 TRUANCY
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CHAPTER 10: MISCELLANEOUS PROVISIONS & OFFENSES

ARTICLE 1

IN GENERAL

Section 10-101 ATTEMPT TO COMMIT AN OFFENSE.

Any person who attempts to commit a violation of any City ordinance and does any act toward the commission thereof but fails or is prevented or interrupted from committing such violation, is guilty of an offense.

State Law Reference: Attempts, 21 O.S. Section 41 et seq.

Section 10-102 AIDING AND ABETTING.

No person shall knowingly aid, abet, or assist, directly or indirectly, any other person in the commission of a violation of a City ordinance.

State Law Reference: Aiding in a misdemeanor, 21 O.S. Section 28.

Section 10-103 - 10-109 RESERVED.

ARTICLE 2

OFFENSES INVOLVING INJURY TO PERSONS

Section 10-201 ASSAULT.

A. No person shall commit an assault.

B. As used in subsection A the term "assault" shall mean any willful and unlawful attempt or offer with force or violence to do a corporal hurt to another.

State Law Reference: Assault defined, 21 O.S. Section 641; punishment for assault, 21 O.S. Section 644.

Section 10-202 BATTERY.

A. No person shall commit a battery.

B. As used in subsection A the term "battery" shall mean any willful and unlawful use of force or violence upon the person of another.

State Law Reference: Battery defined, 21 O.S. Section 642; punishment for battery, 21 O.S. Section 644.

Section 10-103 FIGHTS OR QUARRELS.

No person shall wrangle, quarrel, fight or challenge another to fight within the City.

State Law Reference: Disturbing the peace by fighting, quarreling, etc. 21 O.S. Section 1362; duels and challenges, 21 O.S. Section 661 et seq.

Section 10-104 - 10-106 RESERVED.

ARTICLE 3

OFFENSES INVOLVING PROPERTY

Section 10-301 DEFINITIONS.

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

"Petit larceny" shall mean the taking of personal property not exceeding Five Hundred Dollars (\$500.00) in value, accomplished by fraud or stealth, with the intent to deprive another thereof.

"Private property" shall mean any property other than public property.

"Public property" shall mean that property which is dedicated to the public use and over which the federal, state or municipal governments or any political subdivision thereof exercises control and dominion.

State Law Reference: Larceny defined, 21 O.S. Section 1701; petit larceny defined, 21 O.S. Section 1704.

Section 10-302 TRESPASS ON PUBLIC PROPERTY.

A. No person shall trespass on public property.

B. As used in this Section:

1. "Trespass" shall mean each and every actual entry upon the premises of an owner or other person in lawful possession

of the premises or government in violation and contrary to the provisions of any official sign posted to regulate and govern such entry or use.

2. "Official sign" shall mean any permanently fixed notice posted by the federal, state, or municipal government owning or maintaining any said public property.

C. No person, who has the possession of any weapon, other than those persons exempted in this subsection, shall enter or remain on any public property, on which signs have been posted prohibiting the possession of any such weapons on said public property; provided however, the provisions of this subsection shall not apply to commissioned peace officers or duly CLEET licensed armed security personnel who are under contract with the posting entity which owns, controls, leases or operates the posted premises.

State Law Reference: Trespass, 21 O.S. Section 1835.

Section 10-303 TRESPASS ON PRIVATE PROPERTY.

A. No person shall trespass on private property.

B. As used in subsection A, the term "trespass" shall mean each and every actual entry upon the premises of an owner or other person in lawful possession of the premises without the express or the implied consent of the owner or other person in lawful possession. "Trespass" shall also mean remaining upon the premises of an owner or other person in lawful possession after having been told to leave the premises by the owner, or the agent, or employee of the owner, or other person in lawful possession of the premises. "Trespass" shall also be defined as the act of remaining on private property at any time other than during posted hours of business operation after having been directed to vacate such premises by a police officer; provided that the provisions of this sentence shall not apply to persons, including employees, whose presence upon such premises is authorized by the owner or by a person in lawful possession of such premises; nor shall the provisions of this sentence apply unless hours of business operation are posted upon such premises. "Trespass" shall also be defined as the act of returning to private property before the posted time of opening for business operation on the next business day after having been directed to vacate such premises under the terms of this subsection.

State Law Reference: Trespass, 21 O.S. Section 1835.

Section 10-304 TAMPERING WITH PRIVATE OR PUBLIC PROPERTY.

No person shall maliciously injure, deface, or destroy any real or personal property, either public or private, which is not his own.

State Law Reference: Tampering, destroying, etc., property, 21 O.S. Section 349, 372, 1751, 1753-1755, 1757, 1758, 1759, 1762, 1765, 1767.1, 1768, 1770-1779, 1784-1787, 1789, 1831.

Section 10-305 LARCENY.

No person shall commit the offense of petit larceny.

State Law Reference: Larceny, 21 O.S. Section 1704, 1706, 1709, 1710, 1723, 1722, 1731.

Section 10-306 FRAUDULENT SCHEMES, BAD CHECKS, ETC.

A. Every person who, with intent to cheat and defraud, shall obtain or attempt to obtain from any person any money, property or valuable thing, of the value of Five Hundred Dollars (\$500.00), or less, by means or by use of any trick or deception, or false or fraudulent representation or statement or pretense, or by any other means or instruments or device commonly called the "confidence game," or by means or use of any false or bogus checks, or by any other written or printed or engraved instrument or spurious coin, shall be guilty of an offense.

B. As used in this Section:

1. The term "false or bogus check or checks" shall include checks or orders given for money or property or in any case where the maker receives a benefit or thing of value which are not honored on account of insufficient funds of the maker to pay same, as against the maker or drawer thereof, the making, drawing, uttering or delivering of a check, draft or order, payment of which is refused by the drawee, shall be prima facie evidence of intent to defraud and the knowledge of insufficient funds in, or credit with, such bank or other depository; provided, such maker or drawer shall not have paid the drawee thereof the amount due thereon, together with the protest fees, within five (5) days from the date the same is presented for payment; and provided, further, that said check or order is presented for payment within thirty (30) days after same is delivered and accepted.

2. The word "credit" shall be construed to mean an arrangement or understanding with the bank or depository for

the payment of such check, draft, or order.

State Law Reference: Similar provisions, 21 O.S. Section 1541.1, 1541.4, 1541.5.

Section 10-307 OBTAINING SERVICE FROM PUBLIC UTILITY WITHOUT AUTHORIZATION.

No person shall obtain any water, gas, electricity, cable, or other type of service from any public utility except by express authorization and in the manner directed by such public utility.

Section 10-308 DEFRAUDING PUBLIC ACCOMMODATIONS, PROOF; EXCEPTIONS

A. No person shall obtain food, lodging or other accommodations in any hotel, motel, inn, boarding, eating, or rooming house or place, or any other lodging place, with the intent to defraud the owner or keeper.

B. Proof that lodging, food and other accommodations were obtained by false pretenses or fictitious show of any package or other property or that the person gave a check or negotiable paper on which payment was refused or that the person left the hotel, motel, inn, boarding, eating or rooming house or place, or any other lodging place, without paying or offering to pay for the food, lodging or other accommodations or that the person surreptitiously removed or attempted to remove the package or property, or that the person registered under a fictitious name shall be prima facie proof of the attempt to defraud.

C. No person shall refuse to pay the legal fare of any vehicle after having hired the same, and no person shall hire any vehicle with intent to defraud the person from whom it is hired of the value of such service.

D. This section shall not apply where there has been an agreement in writing for delay in payment.

Section 10-309 CONCEALING UNPURCHASED MERCHANDISE; MERCHANT' AUTHORITY TO DETAIN

Any person concealing unpurchased merchandise of any establishment on the on premises or outside the premises of the establishment, shall be presumed to have so concealed the merchandise with the intention of committing a wrongful taking of such merchandise. Such concealment or the finding of such merchandise concealed upon the person or among the belonging of

such person shall be conclusive evidence of reasonable grounds and probable cause for the detention in a reasonable manner and for a reasonable length of time of such person by a merchant, his agent or employee; any such reasonable detention shall not be deemed to be unlawful nor render any such merchant, his agent or employee, criminally or civilly liable.

Section 10-310 CONGREGATING, PARKING ON PREMISES AFTER HOURS

A. No person shall stand, walk, sit, lie, congregate, or otherwise occupy or remain upon the premises of any place or business within the City after business hours without the consent of the lawful owner, occupant, lessee or employee thereof.

B. No person shall stop, stand, park, leave, or place any motor vehicle, whether occupied or not, upon any public or private property, without the consent of the lawful owner, occupant, lessee, or employee thereof, except where such property is provided for public parking and the use for such parking lot is not restricted by proper notice. In addition to fine or other punishment for a violation of this subsection, the vehicle so parked, left or placed shall be subject to impoundment upon complaint of the property owner or lawful occupant; the person violating this subsection shall be wholly responsible for the payment of towage and storage charges.

C. No person may be charged under this section unless the premises in question is posted with a conspicuous sign which states, substantially, that the premises are posted, and that any person congregating, occupying, or remaining upon the premises or parking or leaving a motor vehicle thereon, is subject to prosecution pursuant to the City code.

D. When used in this section, the term "after business hours" shall mean that the doors of the business which are open to the public during business hours are closed and locked and that the business is no longer admitting customers. The term applies to places of business which are vacant or permanently or temporarily closed or otherwise unoccupied. The term "place of business" means any private property upon which a building, house or other structure is used for commercial or public purposes, e.g., without limitation, restaurants, gas stations, shopping malls or centers, theaters, convenience stores, grocery stores, drug stores, or pharmacies, recreational facilities, wholesale or retail shopping activities, offices, banks or other financial institutions, manufacturing, or professional services.

E. There is a rebuttable presumption that any person or motor vehicle upon the premises of a place of business that is

properly posted pursuant to this section after such time as the front door or other such door that admits members of the public is closed and locked is on the premises of such business unlawfully under this section; however, this presumption shall not be applied within thirty (30) minutes of any opening or closing times posted by such place of business. This presumption may only be rebutted by proof beyond a reasonable doubt that any person held by the municipal judge to be subject to this rebuttable presumption was on the premises in question with permission of the lawful owner, occupant, lessee, or employee thereof.

F. If a motor vehicle is alleged to be unlawfully parked or left under this section, it shall be rebuttably presumed that the person whose name the motor vehicle was last registered was the person who parked or left the motor vehicle.

G. The parking or leaving of a motor vehicle as set forth herein shall constitute the unlawful parking or leaving of a motor vehicle after business hours, punishable as provided in Section 1-108 of this code.

H. If a person violates Subsection A of this section, it shall constitute the offense of unlawful presence on property after business hours or congregating after business hours, punishable as provided in Section 1-108 of this code.

I. The provisions of this section are cumulative of other applicable offenses enacted in this code or state law.

Section 10-311 POSTING ADVERTISING ON PUBLIC OR PRIVATE BUILDING

A. No person shall place upon any public or private building or utility pole or other public property any advertising matter of any kind, nor print or exhibit printing, in words, signs or characters, except with the express consent of the owner, lessee or authorized agent of the owner of the building.

B. No person shall place, post, paint, mark, write, print, or put any sign, poster, picture, announcement, writing, device, advertisement or other marking upon any public or private building or utility pole or other public property, fence, sidewalk, bridge, post, automobile, or vehicle or property of another without the express consent of the owner, lessee or authorized agent of the owner of the building.

Section 10-312 ELECTRIC FENCES PROHIBITED

It is unlawful for any person to erect, install or maintain

any electrically charged fence within the City, except the building official may issue a permit for an electrically-charged fence to retain animals upon proof that the fence will not be hazardous to life, and upon proof that the electric charge is regulated by a controlling device.

ARTICLE 4

OFFENSES AGAINST DECENCY AND MORALITY

DIVISION 1

GENERALLY

Section 10-401 NUDITY; INDECENT EXPOSURE OR LEWD ACTS IN PUBLIC.

No person shall appear in a state of nudity or make any indecent exposure of his genitals or perform any lewd act in any public place not designed for same.

State Law Reference: Indecent exposure, public lewdness, etc., 21 O.S. Section 1021.

Section 10-402 PROSTITUTION.

A. It shall be unlawful for any person to commit an act of prostitution.

B. No person shall knowingly or intentionally pay, or offer or agree to pay, money or other property to another person for having engaged in, or on the understanding that the other person will engage in, sexual intercourse or deviate sexual conduct with the person or with any other person.

C. As used in subsection A the term "prostitution" shall mean any sexual intercourse or deviate sexual conduct, which is performed for money or other property.

State Law Reference: Prostitution, 21 O.S. Section 1028 et seq.

Section 10-403 GAMBLING, DEFINITION.

As used in the division the term "gambling game" shall mean any game of faro, monte, poker, roulette, craps, wheel of fortune, or any banking or percentage game, or any other gambling game of chance played with dice, cards, or any other device whatsoever for property, money, checks, credit or any other representation of

value.

Section 10-404 GAMBLING GAMES PROHIBITED.

No person shall deal, play, or carry on, or open or cause to be opened, or to conduct, either as principal or agent, whether for hire or otherwise, any gambling game.

Section 10-405 SLOT MACHINES.

No person shall set up, operate, or conduct, or permit to be set up, operated or conducted in or about his place of business whether as owner, employee or agent, any slot machine or other mechanical or electrical device for the purpose of having or allowing it to be played for money, property, checks, credits, or for any other representation of value.

State Law Reference: Similar provisions, 21 O.S. Section 941.

Section 10-406 GAMBLING ROOMS AND PARAPHERNALIA.

Any person who keeps or maintains a gaming room, gaming table, or any policy or pool tickets used for gaming, or knowingly permits a gaming room, gaming table or any policy or pool tickets to be kept, maintained, played, or sold on any premises occupied or controlled by him or any person having any gaming paraphernalia in his possession, shall be guilty of an offense.

State Law Reference: Gambling, generally, 21 O.S. Section 941-995.18.

Section 10-407 DISORDERLY PLACES, DEFINITIONS.

As used in this chapter the term "disorderly house" shall mean any structure or vehicle by which the peace, comfort, health, welfare or decency of the public is disturbed by reason of the people therein committing or resorting to any of the following acts:

1. The sale, distribution, possession or use of any controlled dangerous substance, the sale, distribution, possession or use of which is declared unlawful by state statute or City ordinance; or

2. The violation of any ordinance or state statute regulating the sale, distribution, possession or use of alcoholic beverages including beer containing more than one-half of one

per cent alcohol by volume; or

3. The performance of any sexual act declared unlawful by ordinance or state statute including, but not limited to, soliciting for the purposes of prostitution, or

4. The violation of any ordinance or state statute prohibiting gambling.

Section 10-408 MAINTAINING A DISORDERLY HOUSE.

No person shall keep or maintain, or aid, abet, or assist in keeping and maintaining a disorderly house.

State Law Reference: Keeping a disorderly house, 21 O.S. Section 1026.

Section 10-409 LEASING PROPERTY FOR DISORDERLY HOUSE.

A. No owner, lessee, lessor, or other person, partnership or corporation having control over any house, building, structure, tent, vehicle, mobile home, or recreational vehicle shall knowingly use, lease, sublease or otherwise permit the use of same for the purpose of keeping therein any disorderly house, and knowing or ascertaining that such house, building, structure, tent, vehicle, mobile home, or recreational vehicle is so occupied as a disorderly house, no persons, partnership or corporation shall continue to grant permission to so use such premises as a disorderly house.

B. The occurrence of any act in any house, building, structure, tent, vehicle, mobile home, or recreational vehicle which results in the conviction of any person in the municipal court for a violation of this Article, or of Section 10-408, shall, after the lapse of thirty (30) days from such conviction, constitute notice to all owners, lessors, and other persons having control thereof that such premises are being occupied as a disorderly house. However, no such notice as contemplated by this subsection shall be effective unless written notice of such conviction shall have been delivered in person to such owner, lessee, or other person having control over such premises by a duly authorized officer of the police department.

C. Any person required to discontinue any lease or permitted use of property by subsections A and/or B herein shall not accept any rents, fees, profits, or consideration of any type from the lessees or other persons or corporations occupying or in control or possession of the premises at the time the disorderly house requiring such discontinuance of lease or permitted use

occurred. Each day for which such rent, fee, profit, or consideration is accepted shall constitute a separate offense.

State Law Reference: Leasing property for a disorderly house, 21 O.S. Section 1027.

Section 10-410 RESIDENTS AND VISITORS TO DISORDERLY HOUSES.

No person shall knowingly reside in, enter into, or remain in a disorderly house, provided however, that in any prosecution for violation of this Section, the City shall have the burden to prove such knowledge by direct evidence only and not by circumstantial evidence. This Section shall not apply to physicians or officers in the discharge of their professional or official duties.

SECTION 10-411 URINATING AND DEFECATING IN PUBLIC

A. For purpose of this section the following definition shall apply:

"Public Place" included streets and alleys, public highways or public buildings, public meeting halls, schools, playgrounds, parks, restaurants, stores, professional offices (and waiting rooms used in conjunction therewith), filling stations, and public conveyances of all kinds and any other place of like or similar nature which is open to and generally used by the public with the consent, express or implied, of the owner of the place or premises.

B. A person is guilty of urinating or defecating in public if he/she intentionally urinates or defecates in a public place, other than a washroom or toilet room, under circumstances where such act is or could be observed by any member of the public situated in or near a public place.

C. Urinating or defecating in a public place is an offense.

ARTICLE 5

OFFENSES AGAINST PUBLIC PEACE AND ORDER

Section 10-501 RIOTOUS CONDUCT; DISTURBING PEACE.

No person shall conduct himself in a riotous or disorderly manner, or make or cause to be made any loud, or unnecessary, or offensive noise, or wantonly disturb the quiet of the City or any lawful assembly of persons, or any church or religious meeting or any house, family or neighborhood, or any person.

State Law References: Riot generally, 21 O.S. Section 1311 et seq.; grossly disturbing the peace, 21 O.S. Section 22; disturbing the peace, 21 O.S. Section 1362.

Section 10-502 UNLAWFUL ASSEMBLY.

A. Any person who collects or assembles in crowds and bodies for unlawful or mischievous purposes in any place in the City to the annoyance or inconvenience of other persons, or who shall be involved in, or incite or attempt to incite a riot, or who shall fail to disperse upon the command of a police officer or other lawful authority shall be guilty of an offense.

B. No three (3) or more persons shall assemble together or act in concert to do any act with force and violence against the property of the City, the person or property of another, or against the peace, or to the terror of others or make any movement or preparation therefor. No person shall remain present at the place of such assembly after being warned by a police officer to disperse.

State Law Reference: Riots and unlawful assembly, 21 O.S. Section 1311 et seq.

Section 10-503 OBSTRUCTING STREETS, SIDEWALKS, ETC.

Any person who collects or assembles and stands or sits in crowds or loiters about or hinders, obstructs, impedes, or blocks the free and uninterrupted passage on any sidewalk, street, alley or driveway or in front of any place of business, or in any hall, stairway, office building or any other public place and who fails to disperse upon the command of a police officer or other lawful authority shall be guilty of an offense.

Section 10-504 FIGHTING WORDS OR GESTURES.

Any person who utters any indecent, lewd, or filthy words, or uses any threatening language toward any other person, or makes any obscene gesture to or about any other person in any public place which is likely to provoke the average person to retaliation and thereby cause a breach of the peace shall be guilty of an offense.

State Law Reference: Similar provisions, 21 O.S. Section 1362.

Section 10-505 FALSE ALARMS.

It is unlawful for any person to turn in a false alarm of any nature or in any manner to deceive or attempt to deceive the fire department or police department or any officer or employee thereof with reference to any fire alarm or reported fire, accident, or other emergency or knowingly to cause the fire department or police department or its officers or employees to make a useless run.

Section 10-506 REMOVAL OF BARRICADES.

It is unlawful for any person except by proper authority to remove any barricade or obstruction placed by authority of the City to keep traffic off any pavement, street, curb, sidewalk, or other area.

Section 10-507 ELUDING POLICE OFFICERS.

Any operator of a motor vehicle who has received a visual and audible signal, a red light and a siren or a siren only from a police officer driving a motor vehicle showing the same to be an official police vehicle, directing the operator to bring his vehicle to a stop, and who willfully increases his speed or extinguishes his lights in an attempt to elude such police officer, or who does willfully attempt in any other manner to elude such police officer, or who does elude such peace officer, is guilty of an offense.

Section 10-508 LOUD NOISE OR MUSIC PROHIBITED; AMPLIFIED SOUND.

It is unlawful for any person to disturb the peace and quietude of any part of the City by operating, having operated, or permitting to be operated, any contrivance, whether electric or not, any motor vehicle, or any other device, with or without a loudspeaker, in such a manner as to emit loud music, noise or words. However, this Section shall not prohibit religious bodies from playing chimes, bells, carillons, or other religious music.

ARTICLE 6

OFFENSES AGAINST GOVERNMENT

Section 10-601 OBSTRUCTING OR INTERFERING WITH OFFICIAL PROCESS.

No person shall oppose, obstruct, or otherwise interfere with a police officer or other peace official in the discharge

of his official duties.

State Law Reference: Obstructing police officers, 21 O.S. Section 540.

Section 10-602 RESISTING ARREST.

A. Resisting arrest is the intentional opposition or resistance to, or obstruction of, an individual acting in his official capacity and authorized by law to make a lawful arrest or seizure of property, or to serve any lawful process or court order, when the offender knows or has reason to know that the person arresting, seizing property, or serving process is acting in his official capacity.

B. The phrase "obstruction of" as used herein shall, in addition to its common meaning, signification and connotation mean:

1. Flight by one sought to be arrested before the arresting officer can restrain him and after notice is given that he is under arrest.

2. Any violence toward or any resistance or opposition to the arresting officer after the arrested party is actually placed under arrest and before he is incarcerated in jail.

3. Refusal by the arrested party to give his name and make his identity known to the arresting officer.

4. Resisting arrest is an offense.

Section 10-603 AIDING IN ESCAPE.

No person shall set at liberty or rescue or attempt by force or in any other manner to set at liberty any person who is under the legal custody and charge of an officer.

Section 10-604 ESCAPES FROM CUSTODY.

No person held in custody by any peace officer shall escape or attempt to escape from such officer or to attempt to break jail.

State Law Reference: Attempts to escape from jail, 21 O.S. Section 436.

Section 10-605 IMPERSONATING AN OFFICER OR EMPLOYEE.

No person shall impersonate any officer or employee of the City or falsely represent himself to be such an officer or employee

or exercise any duties, functions, and powers of any such officer or employee.

State Law Reference: Impersonation of public officer, 21 O.S. Section 263, 264, 1533.

ARTICLE 7

WEAPONS AND RELATED OFFENSES

Section 10-701 CARRYING DANGEROUS WEAPONS.

A. It shall be unlawful for any person to carry upon or about his person, or in his portfolio or purse, any dagger, Bowie knife, dirk knife, switchblade knife, spring-type knife, sword cane, knife having a blade which automatically by hand pressure applied to a button, spring, or other device in the handle of the knife, prohibited knife, blackjack, loaded can, billy, hand chain, metal knuckles or any other offensive or dangerous weapon.

B. The provisions of subsection A shall not prohibit the proper use of knives for hunting, fishing, or recreational purposes, nor shall subsection A be construed to prohibit any use of weapons in a manner otherwise permitted by City ordinance or state statute.

C. As used in subsection A the term "prohibited knife" shall mean any knife which is not being carried while engaged in the performance of a lawful occupation or business, when such knife is:

1. Over six (6) inches in length; or
2. Has a blade over four (4) inches in length.

D. The police department shall seize the weapon upon the arrest of, or issuance of a citation to, any person for violating subsection A. Upon conviction of such a person of a violation of subsection A such weapon shall be forfeited to the City.

State Law Reference: Carrying dangerous weapons, 21 O.S. Section 1272.

Note: Pistol and revolver removed from ordinance in codification due to change in state law prohibiting municipalities from regulating possession of handguns.

Section 10-702 RECKLESS CONDUCT.

It is unlawful for any person to engage in reckless conduct while having in his possession any shotgun, rifle or pistol, such actions consisting of creating a situation of unreasonable risk and probability of death or great bodily harm to another and demonstrating a conscious disregard for the safety of another person.

Section 10-703 DISCHARGING FIREARMS; EXCEPTIONS; NOISE FROM GUN RANGES.

A. No person shall discharge any species of firearms, in the City except when doing so in the 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. It is unlawful to discharge a rifle, firearm, BB gun, dart gun, or pellet gun within the City limits.

C. This section shall not apply to any person discharging any species of firearms within or without any authorized indoor or outdoor commercial gun range (hereinafter "gun range"), when such discharge occurs within the gun range areas designated for such purpose. Provided however, in no event shall the owner or person in lawful possession of any gun range permit any noise emanating at the property line of such gun range to exceed one hundred fifty (150) decibels.

D. No person shall violate any provision of this section.

Section 10-704 FIREWORKS REGULATED.

A. For the purpose of this Section "fireworks" shall have the meaning prescribed by state law, Section 1622 of Title 68 of the Oklahoma Statutes.

B. The manufacture, sale, furnishing, storage, discharge, firing or use of fireworks within the corporate limits of the city is hereby prohibited. Provided however, the transportation of fireworks in their unopened original packaging in a motor vehicle within the corporate limits of the City is not prohibited.

C. The city manager, in conjunction with chief of the fire department, shall have the power to adopt reasonable rules and regulations for the granting of permits for supervised public displays of fireworks by the City, fair associations, amusement parks and other organizations, in accordance with the City's fire

code.

D. The chief of the fire department or any police officer shall seize, take, remove, or cause to be removed, at the expense of the owner, all stocks of fireworks offered or exposed for sale, stored or held in violation of this Section.

State Law Reference: Bottle rockets prohibited by state law, 68 O.S. Section 1624; state fireworks licenses required, 68 O.S. Section 1621 et seq.

Cross Reference: Fire Prevention Code, Section 13-101; license and occupation taxes, Section 9-101.

ARTICLE 8

ALCOHOL, DRUGS AND RELATED SUBSTANCES

Section 10-801 RESERVED.

Section 10-802 RESERVED.

Section 10-803 DEFINITIONS.

As used in this article the following words and phrases shall have the meanings respectively ascribed to them in this Section:

"Administer" shall be defined in Section 2-101 of Title 63 of the Oklahoma Statutes.

"Controlled dangerous substance" shall be as defined in Section 2-101 of Title 63 of the Oklahoma Statutes.

"Deliver" or "delivery" shall be as defined in Section 2-101 of Title 63 of the Oklahoma Statutes.

"Drug paraphernalia" shall mean all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled dangerous substance in violation of state law. It includes, but is not limited to:

1. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of

any species of plant which is a controlled substance or from which a controlled dangerous substance can be derived;

2. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled dangerous substances;

3. Isomerization devices used intended for use, or designed for use in increasing the potency of any species of plant which is a controlled dangerous substance;

4. Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled dangerous substances;

5. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled dangerous substances;

6. Dilutants and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled dangerous substances;

7. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana;

8. Blenders, bowls, containers, spoons and mixing devices used, intended for use in compounding controlled dangerous substances;

9. Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled dangerous substances;

10. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled dangerous substances;

11. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled dangerous substances into the human body;

12. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

- a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens,

- hashish heads, or punctured metal bowls;
- b. Water pipes;
- c. Carburetion tubes and devices;
- d. Smoking and carburetion masks;
- e. Roach clips meaning objects used to hold burning materials, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
- f. Miniature cocaine spoons, and cocaine vials;
- g. Chamber pipes;
- h. Carburetor pipes;
- i. Electric pipes;
- j. Air-driven pipes;
- k. Chillums;
- l. Bongs;
- m. Ice pipes or chillers;

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

Statements by an owner or by anyone in control of the object concerning its use;

- a. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled dangerous substance;
- b. The proximity of the object, in time and space, to a direct violation of this article or of the State Uniform Controlled Dangerous Substance Act;
- c. The proximity of the object to controlled dangerous substance;
- d. The existence of any residue of controlled dangerous substances on the object;

- e. Direct or circumstantial evidence of the intent of any owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intended to use the object to facilitate a violation of this article or the State Uniform Controlled Dangerous Substance Act; the innocence of the owner, or of anyone in control of the object, as to a direct violation of this article shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
- f. Instructions, oral or written, provided with the object concerning its use;
- g. Descriptive materials accompanying the object which explain or depict its use;
- h. National and local advertising concerning its use;
- i. The manner in which the object is displayed for sale;
- j. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- k. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
- l. The existence and scope of legitimate uses for the object in the community;
- m. Expert testimony concerning its use.

"Marijuana" shall be as defined in Section 2-101 of Title 63 of the Oklahoma Statutes.

"Sale" includes barter, exchange or gift or offer therefor, and each such transaction made by any person, principal, proprietor, agent, servant, or employee.

State Law Reference: Uniform Controlled Dangerous Substance Act, 63 O.S. Section 2-101 et seq.

Section 10-804 RESERVED.

Section 10-805 IMPLEMENTS FOR CONTROLLED DANGEROUS SUBSTANCES.

A. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance in violation of this article or state law.

B. It is unlawful for any person to deliver, possess with intent to deliver or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance in violation of this article or state law.

C. It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

Section 10-806 SMELLING, INHALING, ETC., OF GLUE, ETC.

A. It shall be unlawful for any person deliberately to smell, inhale, breathe, drink, or otherwise consume any compound, liquid, chemical, narcotic, drug or any other substance containing any ketones, aldehydes, organic acetones, ether, chlorinated hydrocarbons, such as gasoline, glue, fingernail polish, adhesive cement, mucilage, dope or any other substance or combination.

B. The provisions of subsection A shall not pertain to any person who inhales, breathes, drinks, or otherwise consumes such material or substance pursuant to the direction or prescription of any licensed doctor, physician, surgeon, dentist or podiatrist; or

State Law Reference: Similar provisions, 63 O.S. Section 465.20.

Section 10-807 RESERVED.

ARTICLE 9. CURFEW FOR MINORS

Section 10-901. CURFEW FOR MINORS

A. Definition. For the purpose of this Section.

B. "Minor" shall mean any person under the age of eighteen (18) years but shall not include any person who is legally emancipated or certified as an adult.

C. Curfew Generally. No minor shall loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places, to include, but not be limited to, driving, riding or parking any motorized or non-motorized vehicle in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places, during the period ending at 6:00 a.m. and beginning:

1. At 11:00 p.m. Sunday through Thursday, and
2. At 12:00 midnight on Friday and Saturday.

D. Exceptions. The following shall constitute valid exceptions to the operation of Subsection B:

1. At any time, if the minor is accompanied by his or her parent, legal guardian or adult person having care and custody of the minor, or other person who has reached the age of 21 years old and who is specifically approved by the minor's parent, legal guardian, or adult person having care and custody of the minor, which person shall be responsible for the acts of the minor;

2. Until the hour of 12:00 A.M. on any day of the week, if the minor is on an errand as directed by his or her parent, legal guardian or adult person having care and custody of the minor;

3. If the minor is legally employed, for the period from one-half hour before to one-half hour after work, while going directly between his or her home and place of employment. This exception shall also apply if the minor is in a public place during curfew hours in the course of his or her employment. To come under this exception, the minor must be carrying a written statement from the employer attesting to the place and hours of employment;

4. Until the hour of 12:00 A.M. on any day of the week, if the minor is on the property of or the sidewalk directly adjacent to the building in which he or she resides or the buildings immediately adjacent thereto if the owner of the adjacent building does not object;

5. If the minor is coming directly home from a school activity or an activity of a religious or other voluntary association, or a place of public entertainment such as a movie, play, or sporting event. This exception will apply for one-half hour after the completion of such event. If the event is not commercial in nature or does not have a fixed, publicly known time at which it will end, the sponsoring organization must register the event with the police department at least 24 hours in advance, informing it of the time such event is scheduled to begin, the place at which it shall be held, the time at which it shall end, and the name of the sponsoring organization;

6. If the minor is exercising first amendment rights protected by the Constitution, such as the free exercise of religion, speech, or assembly, provided the minor first has given notice to the chief of police by delivering a written communication signed by the minor and countersigned by a parent of the minor which specifies when, where, in what manner, and for what first amendment purpose the minor will be on the streets at night during the curfew period.

E. Violations.

1. In the absence of convincing evidence, a police officer shall use his best judgment in determining age. A police officer who has probable cause to believe that a minor is in violation of this Section shall take such minor to the police station, or other place designed by the police chief or an appropriate place of detention or to the minor's home. The minor shall be interviewed. This interview is intended to permit ascertainment, under constitutional safeguards, of relevant facts, to centralize responsibility, and to provide for accurate, fair, and impartial reporting of the incident. Police procedures shall be constantly refined in the light of experience and proper police action, in appropriate incidences, may be to deliver the minor to the home, especially for minors of tender age and when the identity may be readily ascertainable. In any event the police office shall file a written report of the incident within twenty-four (24) hours of the incident. If the minor is taken to an appropriate place of detention, the minor's parents, legal guardian, or other adult person having the care and custody of the minor at the time the violation of this Section shall be immediately contacted. When the parent, legal guardian or adult person

having care and custody of such minor arrives at the appropriate place of detention, or when the minor is taken to the residence of such parent, legal guardian or adult person having care and custody of the minor, the parent, legal guardian, or adult person having care and custody of the minor shall be given a copy of this section and the notice as provided in subsection (D) (2). If no such parent, legal guardian or adult person having care and custody of the minor takes custody of the minor, the minor maybe referred to an appropriate state agency, released to a responsible adult or relatives, or such other necessary action may be taken as the police officer deems appropriate.

2. In the case of a violation of this section by a minor, the minor may be referred to state or county juvenile authorities and in addition, the police officer or designee shall send the minor's parents, legal guardian or adult person having care and custody of the minor, written notice of the violation, by certified mail, return receipt requested, or by serving such notice personally on such person, warning them that further violations may result in the filing of a charge against such parent, legal guardian or adult person having care and custody of the minor for a violation of subsection (D) (3).

3. No parent, legal guardian or other adult person having the care and custody of a minor shall permit such minor to violate the provisions of Subsection B. In any prosecution for the violation of the provisions of this Section, proof that the minor violated Subsection B hereinabove, together with proof that the parent, legal guardian or adult person having the care and custody of such minor was given written notice of a previous violation of Subsection B as provided by Subsection D2, shall constitute in evidence a prima facie presumption that the parent, legal guardian or adult person having the care and custody of such minor permitted such minor to violate Subsection B of this Section.

4. Any parent, legal guardian or adult person having the care and custody of a minor who is contacted by the police pursuant to Subsection D1 hereinabove for a violation by such minor of Subsection B and who refuses to take custody of such minor, shall be guilty of an offense.

F. It is unlawful for any person, firm or corporation operating or having charge of any public place to knowingly permit or suffer the presence of minor during the curfew times as specified in this section.

G. 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 minor to be out after curfew. The Council may also prescribe the procedures for taking into custody minors found in violation of this section.

H. No minor shall violate this section.

I. 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, for a specific time stated in writing and signed by the police chief, minor and parent, guardian or custodian of such minor. If the police chief rejects such request or limits the requested time period, the aggrieved party may request a hearing before the municipal judge and his decision in the matter shall be final.

J. Any law enforcement officer who shall witness a violation of this section may take such offender into his custody to be prosecuted for such violation, require the posting of a sufficient bond for the minor's appearance in court, or may place the minor in the custody of his parent, guardian or custodian or other responsible adult person.

ARTICLE 10

PREVENTION OF YOUTH ACCESS TO TOBACCO AND VAPOR PRODUCTS AND OTHER TOBACCO RULES

Section 10-1001 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. Cigarette: means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and costs of or contains:

1. any roll of tobacco wrapped in paper or in any substance not containing tobacco,

2. tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filter, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette.

The term "cigarette" includes "roll-your-own" (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.) For purposes of this definition of cigarette, nine one-hundredths (0.09) of an ounce of "roll-your-own" tobacco shall constitute one individual "cigarette".

B. Person: means any individual, firm, fiduciary, partnership, corporation, trust, or association, however formed;

C. Proof of age means a driver license, license for identification only, or other generally accepted means of identification that describes the individual as ~~eighteen (18)~~ twenty-one (21) years of age or older and contains a photograph or other likeness of the individual and appears on its face to be valid;

D. Sample: means a tobacco product or vapor product distributed to members of the public at no cost for the purpose of promoting the product;

E. Sampling: means the distribution of samples to members of the public in a public place;

F. Tobacco product: means any product that contains tobacco and is intended for human consumption excluding drugs or devices approved for cessation by the United States Food and Drug Administration.

G. Transaction scan: means the process by which a seller checks, by means of a transaction scan device, the validity of a driver license or other government-issued photo identification; and

H. Transaction scan device means any commercial device or combination of devices used at a point of sale or entry that is capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of a driver license or other government-issued photo identification.

I. "Vapor product" shall mean noncombustible products, that may or may not contain nicotine, that employ a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce a vapor in a solution or other form. "Vapor products" shall include any vapor cartridge or other container with or without nicotine or other form

that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of a solution, that may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, or electronic device.

Section 10-1002 FURNISHING OR SALE OF TOBACCO PRODUCTS AND VAPOR PRODUCTS TO MINORS.

A. It is unlawful for any person to sell, give or furnish in any manner any tobacco, tobacco product or vapor product to another person who is under twenty-one (21) years of age, or to purchase in any manner tobacco, a tobacco products or vapor product on behalf of any such person. It shall not be unlawful for an employee under twenty-one (21) years of age to handle tobacco, tobacco products or vapor products when required in performance of the employee's duties.

B. A person engaged in the sale or distribution of tobacco, tobacco products or vapor products shall demand proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be less than twenty-one (21) years of age. If an individual engaged in the sale or distribution of tobacco, tobacco products or vapor products has demanded proof of age from a prospective purchaser or recipient who is not under twenty-one (21) years of age, the failure to subsequently require proof of age shall not constitute a violation of this subsection.

C. Any violation of subsection A or B of this section is an offense against the City of Tonkawa; upon conviction of any such offense, the violator shall be punished as follows:

1. Not more than One Hundred Dollars (\$100.00) for the first offense;

2. Not more than Two Hundred Dollars (\$200.00) for the second offense within a two-year period following the first offense;

3. Not more than Three Hundred Dollars (\$300.00) for the third or subsequent offense within a two-year period following the first offense.

D. Proof that the defendant demanded, was shown, and

reasonably relied upon proof of age shall be a defense to any action brought pursuant to this section. A person cited for violating this section shall be deemed to have reasonably relied upon proof of age, and such person shall not be found guilty of the violation if such person proves that:

1. The individual who purchased or received the tobacco product or vapor product presented a driver license or other government-issued photo identification purporting to establish that such individual was twenty-one (21) years of age or older; or

2. The person cited for the violation confirmed the validity of the driver license or other government-issued photo identification presented by such individual by performing a transaction scan by means of a transaction scan device.

Provided, that this defense shall not relieve from liability any person cited for a violation of this section if the person failed to exercise reasonable diligence to determine whether the physical description and picture appearing on the driver license or other government-issued photo identification was that of the individual who presented it. The availability of the defense described in this subsection does not affect the availability of any other defense under any other provision of law.

Section 10-1003 RECEIPT OF TOBACCO PRODUCTS AND VAPOR PRODUCTS BY MINORS.

A. It is unlawful for any person who is under twenty-one (21) years of age to purchase, receive, or have in his or her possession a tobacco product, or vapor 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 or vapor products. It shall not be unlawful for an employee under age twenty-one (21) years of age to handle tobacco products or vapor products when required in the performance of the employee's duties.

B. When a person is convicted or enters a plea and receives a continued sentence for a violation of subsection A of this section, the total of any fines, fees, or costs shall not exceed the following:

1. One Hundred Dollars (\$100.00) for a first offense;
and

2. Two Hundred Dollars (\$200.00) for a second or subsequent offense within a one-year period following the first offense.

Section 10-1004 DISTRIBUTION OF TOBACCO PRODUCT AND VAPOR PRODUCT SAMPLES.

A. It shall be unlawful for any person or retailer to distribute tobacco, tobacco products, tobacco or tobacco product samples or vapor products samples to any person under twenty-one (21) years of age.

B. No person shall distribute tobacco, tobacco product or vapor product samples in or on any public street, sidewalk, or park that is within three hundred (300) feet of any playground, school, or other facility when the facility is being used primarily by persons under twenty-one (21) years of age.

C. When a person is convicted or enters a plea and receives a continued sentence for a violation of subsections A or B of this section, the total of any fines, fees, or costs shall not exceed the following:

1. One Hundred Dollars (\$100.00) for the first offense;

2. Two Hundred Dollars (\$200.00) for the second offense;
and

3. Three Hundred Dollars (\$300.00) for the third or subsequent offense.

Section 10-1005 PUBLIC ACCESS TO DISPLAYED TOBACCO PRODUCTS AND VAPOR PRODUCTS

A. It is unlawful for any person or retail store to display or offer for sale tobacco products or vapor products in any manner that allows public access to the tobacco product or vapor products without assistance from the person displaying the tobacco product or vapor products or an employee or the owner of the store. The provisions of this subsection shall not apply to retail stores which do not admit into the store persons under twenty-one (21) years of age.

B. When a person is convicted or enters a plea and receives a continued sentence for a violation of this section, the total of any fines, fees, or costs shall not exceed Two Hundred Dollars

(\$200.00) for each offense.

Section 10-1006 REPORT OF VIOLATIONS AND COMPLIANCE CHECKS.

A. Any conviction for a violation of this Article and any compliance checks conducted by the Police Department pursuant to Subsection B of this section shall be reported in writing to the Alcoholic Beverage Laws Enforcement (ABLE) Commission within thirty (30) days of the conviction or compliance check. Such reports shall be compiled in the manner prescribed by the ABLE Commission. Convictions shall be reported by the [Court Administrator/Court Clerk] or his designee and compliance checks shall be reported by the Chief of Police or his designee.

B. Persons under twenty-one (21) years of age may be enlisted by the Police Department to assist in enforcement of this Article pursuant to the rules of the ABLE Commission.

SECTION 10-1007 TOBACCO-FREE IN CITY-OWNED AND OPERATED BUILDINGS AND REAL PROPERTIES LOCATED WITHIN THE CORPORATE LIMITS OF THE CITY OF TONKAWA.

Sections 10-1007 through Section 10-1011 shall be hereafter known as the Tobacco-Free in City-Owned and Operated Buildings and Real Properties located within the corporate limits of the City of Tonkawa Ordinance.

Section 10-1008 DEFINITIONS

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

A. "Indoor area" shall mean any indoor city-owned and operated property located within the Tonkawa corporate limits. 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 ceiling that is predominantly 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" shall mean any covered area, partially covered

area or area open to the sky that is on a property owned and operated by the City of Tonkawa and located within the Tonkawa corporate limits;

C. "Recreational area" shall mean any area that is owned and operated by the City of Tonkawa located within the Tonkawa corporate limits and open to the public for recreational purposes, regardless of any fee or age requirement, and includes parks, picnic areas, playgrounds, sports fields, walking paths, gardens, hiking trails, bike paths, riding trails, swimming pools, roller skating rinks and skateboard parks;

D. "Tobacco product" shall mean 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" shall mean to prohibit the use of any tobacco product by anyone, anywhere, at any time as further defined by this Ordinance.

F. "Vapor product" shall mean noncombustible products, that may or may not contain nicotine, that employ a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce a vapor in a solution or other form. "Vapor products" shall include any vapor cartridge or other container with or without nicotine or other form that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

Section 10-1009 PROHIBITION OF TOBACCO PRODUCTS AND VAPOR PRODUCTS ON CITY-OWNED AND OPERATED PROPERTIES WITHIN THE CORPORATE LIMITS.

A. The possession of lighted tobacco in any form is a public nuisance and dangerous to public health and is hereby prohibited when such possession is in any indoor or outdoor areas owned and operated by the City of Tonkawa located within the Tonkawa corporate limits.

B. All buildings and other properties, including indoor and outdoor areas, owned, and operated by the City of Tonkawa located within the Tonkawa corporate limits, shall be entirely tobacco free to include all forms of tobacco products including vapor products.

C. All indoor and outdoor recreational areas owned and operated by the City of Tonkawa located within the Tonkawa corporate limits, shall be entirely tobacco free to include all forms of tobacco products including vapor products.

Section 10-1010 POSTING.

A. The City of Tonkawa shall post a sign or decal, at least four inches by two inches in size, at each entrance of city owned and operated property located within the Tonkawa corporate limits indicating the property is tobacco-free.

B. The posting of signs or decals is the responsibility of the City Manager and/or supervisor of the city owned, and operated property located within the Tonkawa corporate limits.

Section 10-1011 ENFORCEMENT.

The City of Tonkawa shall, at a minimum, do the following in order to prevent tobacco and vapor product use in city owned and operated property located within the Tonkawa corporate limits:

A. Post signs at entrances to city owned and operated properties located within the Tonkawa corporate limits 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 Ordinance.

ARTICLE 11

TRUANCY

Section 11-1101 TRUANCY

A. Parental Responsibility. For those public, private, and other schools wherein attendance is mandated by the State of Oklahoma, it shall be unlawful for a parent or legal guardian of a minor who is over the age of six (6) years and under the age of eighteen (18) years to neglect or refuse to cause or compel the minor to attend and comply with the rules of such public, private or other school of the parent or legal guardian's choosing in which the minor is enrolled.

B. Refusal of Minor to Attend School: For those public,

private and other schools wherein attendance is mandated by the State of Oklahoma, it is unlawful for any minor, who is over the age of six (6) and who has not finished four (4) years of high school work, to neglect or refuse to attend and comply with the rules of such public, private or other school or receive an education by other means for the full term the schools of the district in which the minor attends are in session.

Section 11-1102 EXCEPTIONS

The following shall constitute valid exceptions to the operation of Section 11-1101 of this Article:

A. Mental or Physical Disability. If any such minor is prevented from attending school by reason of mental or physical disability as determined by the board of education of the district, upon a certificate of the school physician or public health physician; or if no physician is available, a duly licensed and practicing physician.

B. Emergency Situation. If any such minor is excused from attendance at school, due to an emergency, by the principal of the school in which the minor is enrolled, at the request of the parent or legal guardian of the minor.

C. Excused by School and Parent: If any such minor is excused attending school by:

1. The administrator of the school or district where the minor attends school; and

2. The parent of the minor. Providing, further, that no minor shall be excused from attending school by such joint agreement between a school administrator and the parent or legal guardian of the minor unless and until it has been determined that such action is in the best interest of the minor and/or community, and that said minor shall, therefore, be under the supervision of the parent or legal guardian until the minor has reached the age of eighteen (18) years.

D. Observing Religious Holy Days. If any such minor is observing religious holy days, if, prior to the absence, the parent or legal guardian of the minor submits a written request for the absence. The school district shall excuse a student pursuant to this subsection for the days on which the religious holy days are observed and for the days on which the student must travel to and from the site where the student will observe the holy days.

Section 11-1103 VIOLATIONS

A. Separate Offense Each Day. Each separate day of violation shall constitute a separate offense whether against the parent or legal guardian of a minor for violation of Section 11-1101A or the minor for a violation of Section 11- 1101B of this Article.

B. Penalty. A violation of this Article shall be subject to a fine of not to exceed \$250.00 plus costs and state assessment.

CHAPTER 11: PARKS, RECREATION AND CEMETERY

ARTICLE 1

PARKS AND RECREATION

Section 11-100 TONKAWA PARKS AND RECREATION BOARD CREATED;
MEMBERS; DUTIES; MEETINGS.

Section 11-101 RULES AND REGULATIONS ADOPTED.

Section 11-102 PENALTY.

ARTICLE 2

LIBRARY

Section 11-201 LIBRARY DEPARTMENT AND BOARD, LIBRARIAN,
POWERS AND DUTIES.

Section 11-202 MULTI-COUNTY LIBRARY SYSTEM, PARTICIPATION.

Section 11-203 REQUIREMENTS OF STATE LAW.

Section 11-204 LIBRARY GOVERNING BOARD, MEMBERS, HOW
APPOINTED.

Section 11-205 JOINT CREATION OF LIBRARY DISTRICT.

Section 11-206 CITY PUBLIC LIBRARY.

Section 11-207 MERGER OF CITY
LIBRARY.

Section 11-208 MULTI-COUNTY LIBRARY RESPONSIBILITIES, OFFICE

ARTICLE 3

CEMETERY

(RESERVED)

CHAPTER 11

PARKS, RECREATION AND CEMETERY

ARTICLE 1

PARKS AND RECREATION

SECTION 11-100 TONKAWA PARKS AND RECREATION BOARD CREATED;
MEMBERS; DUTIES; MEETINGS.

A. Created. There is hereby created a board to be known as the Tonkawa Parks and Recreation Board.

B. Members. The Tonkawa Parks and Recreation Board shall consist of five (5) members to be appointed by the City Council. The terms shall be initially staggered with two members serving terms of two (2) years and three (3) members serving terms of three (3) years. All successor members shall serve a term of three (3) years.

C. Duties. The powers and duties of the Tonkawa Parks and Recreation Board shall be as follows:

1. To advise and assist the City in planning of all parks owned and operated by the City;
2. To advise with and recommend plans for the development of the parks of the City;
3. To advise the City in its overall coordination of the park programs; to inform and instruct the public on matters involving the city parks; and

4. To promote the use of the parks both by individual initiative and recreational programs as appropriate.

D. Meetings. The Tonkawa Parks and Recreation Board shall meet at such times as are agreed by the members thereof and shall have the authority to make its own rules and regulations for the purpose of conducting its business and meetings.

SECTION 11-101 RULES AND REGULATIONS ADOPTED.

The city council shall from time to time adopt rules and regulations governing the city parks, lakes, and recreation facilities.

SECTION 11-102 PENALTY.

It is unlawful for any person to use any parks or recreational facilities owned or operated by the city without having complied with the rules and regulations promulgated by the city in connection therewith. Any violation of the rules and regulations, or failure to comply with such, shall constitute an offense.

ARTICLE 2

LIBRARY

SECTION 11-201 LIBRARY DEPARTMENT AND BOARD, LIBRARIAN, POWERS AND DUTIES.

A. There shall be a library department, which shall be under the supervision and control of a library board of five (5) members. The council shall appoint the members for terms of five (5) years and until their successors have been appointed and have qualified, and the terms shall regularly expire at 7:30 P.M. on the first Monday in May every year. Their terms shall be staggered as required by law and vacancies shall be filled in the same manner as the original appointments.

B. The council may remove members of the library board when it deems necessary for the good of the department. Every year the board shall elect a chairman and vice-chairman from its own membership, and a secretary, who need not be a member of the board. The board shall determine the time and place of its regular meetings. The City Manager, the chairman, any three (3) members of the board or any member of the council may call special meetings of the board. The members shall serve without compensation. The board shall adopt regulations for the administration of the public libraries and shall have supervision

and control thereof. The members of the board shall serve without compensation but may be reimbursed for necessary and related expenses.

C. The City Manager shall appoint the librarian, who shall be an officer of the city, and all employees of the department. The librarian, subject to the authority of the library board, shall have supervision and control of the department, including all other personnel of the library department.

State Law Reference: Municipal libraries, boards of five (5) directors, operation, 11 O.S. Sections 31-101 et seq.

SECTION 11-202 MULTI-COUNTY LIBRARY SYSTEM, PARTICIPATION.

A. The city is located within the proposed district to be served by a multi-county library, to be established and created pursuant to state law.

B. It is the desire of the city council to provide good library service to city residents by participating in the multi-county library organized under state law.

SECTION 11-203 REQUIREMENTS OF STATE LAW.

In order to participate in the multi-county library district, the county board of commissioners must pass a resolution and each city and town of two thousand (2,000) population or more, according to the latest federal census, must enact an ordinance for participation in the multi-county library district. The board of county commissioners must agree to submit to the residents of the county a proposition for a vote of the people for a library levy according to the Oklahoma Constitution.

SECTION 11-204 LIBRARY GOVERNING BOARD, MEMBERS, HOW APPOINTED.

The governing board of the library district shall consist of one member to be appointed by the governing body of each city over two thousand (2,000) population or more, or one member appointed by the governing body of the county seat town if there is no city with a population of two thousand or more according to the latest federal census; one member to be appointed by the board of county commissioners of each county; and one member appointed by the governing board of any town with a population of at least one thousand (1,000) a distance of at least thirty (30) miles from the next nearest town having a board member.

SECTION 11-205 JOINT CREATION OF LIBRARY DISTRICT.

The city jointly with the governing boards of the county and the other cities and towns concerned hereby requests to join with and be a part of the Multi-county Library System. The city agrees to appoint one person to represent the city on the multi-county library governing board. Additional counties may be added to the district upon their application to and approval by the State Department of Libraries Board.

SECTION 11-206 CITY PUBLIC LIBRARY.

The city is the possessor of the city public library and operates it for the benefit of the people of the city.

SECTION 11-207 MERGER OF CITY LIBRARY.

The city public library is hereby incorporated into the multi-county library system in accordance with the provisions of the state library code. The city will provide maintenance and necessary utility services of the library quarters and maintain its present operating budget until the duration of the demonstration program.

SECTION 11-208 MULTI-COUNTY LIBRARY RESPONSIBILITIES, OFFICES.

The multi-county library is hereby requested to assume the responsibility of improving the city public library by supplementing the operating budget with personnel, books, films, equipment and other library materials and services, with the understanding that after the successful vote of a library levy, the multi-county library will assume support of the city public library, except that the city will continue to maintain suitable quarters of the library and provide maintenance and necessary utility services to the library quarters and may from time to time as its option appropriate funds for the operation or improvement of the city public library. All books, and all library buildings, furnishing and equipment belonging to the city as of November 20, 1984, as listed on the inventory attached to Ordinance No. 84-6, shall remain the property of the city to be used for multi-county library services; provided that upon termination of the multi-county library, the property will be returned to the city.

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CEMETERY - (RESERVED)

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CHAPTER 12

PLANNING, ZONING AND DEVELOPMENT

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CHAPTER 12: PLANNING, ZONING AND DEVELOPMENT

ARTICLE 1

BOARDS AND COMMISSIONS

DIVISION 1

PLANNING COMMISSION

Section 12-101 PLANNING COMMISSION CREATED.

There is hereby created a planning commission of the city. The commission shall be composed of five (5) members, nominated by the Mayor, and confirmed by the city council. The Mayor shall be ex-officio member of the commission. Each appointed member shall hold office for a period of three (3) years, or until his successor takes office. The appointed 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. Members may be removed by the city council only for inefficiency, neglect of duty or malefaction in office. Vacancies occurring, otherwise than through the expiration of term, shall be filled only for the un-expired terms by the Mayor with confirmation by the city council. The Mayor shall receive no compensation for his service on the commission.

State Law Reference: Planning commissions, 11 O.S. 45-101 et seq.

SECTION 12-102 QUORUM.

Three (3) members of the planning commission shall constitute a quorum for the transaction of business. Any action taken shall be official when concurred in by not less than a majority of all appointed members of the planning commission present.

Note: Quorum amended on January 16, 2001 by Ordinance No. 2001-01A.

SECTION 12-103 ORGANIZATION AND RULES.

Each year the commission shall elect a chairman, a vice chairman and a secretary, and may create and fill such other offices as it may deem necessary. The term of the chairman, vice chairman, and secretary shall be one year. The planning commission shall adopt rules for the transaction of business and regulations necessary to effectuate the purposes of this Chapter 12 of the city code. (Prior Code, Sec. 16-6.)

SECTION 12-104 POWER TO EMPLOY STAFF.

The planning commission, subject to approval of the city council, shall have the power and authority to employ planners, engineers, attorneys, clerks, and other help deemed necessary within the limits of the appropriation fixed by the city council. The salary and compensation of such employees shall be fixed by the city council and shall be paid out of the city treasury as are other officers and employees. Necessary expenses incurred by the commission shall be paid from the city treasury as other legal expenses of the city.

SECTION 12-105 POWERS AND DUTIES.

The planning commission shall have the power to prepare and recommend to the city council for adoption a comprehensive plan for the physical development of the city. In conducting its work, the planning commission may consider and investigate any subject matter tending to the development and betterment of the city and may make recommendations as it may deem advisable concerning the adoption thereof to the city council. The planning commission may make or cause to be made surveys, studies, maps, and plans in the conduct of its activities. Before final action is taken by the city council on the location or design of any public buildings, statue, memorial, park, boulevard, street, alley, playground, public grounds, bridge or change in any location of any street or alley, such question shall be submitted to the planning commission for investigation and report. In the preparation of the comprehensive plan, the planning commission may from time to time prepare and recommend to the city council for adoption a part or parts thereof, which parts shall cover one or more major geographical divisions of the city or one or more major elements of the comprehensive plan. The planning commission may from time to time recommend extending, amending, or changing any portion of the comprehensive plan.

SECTION 12-106 PURPOSES OF PLAN.

In the preparation of such plan, the planning commission may make careful and comprehensive surveys and studies of present conditions and future growth of the city with due regard to its relation to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the city and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provisions for traffic, the promotion of safety from fire

and other dangers, adequate provision for light and air, the promotion of healthful and convenient distribution of population, the promotion of good civic design and arrangement, and wise and efficient expenditure of public funds.

SECTION 12-107 SUBDIVISION OF LAND.

The planning commission may prepare and recommend to the city council for adoption rules and regulations governing the subdivision of land within the corporate limits for the city. All plans, plats or replats of land laid out in lots, plots, blocks, streets, alleys, or other ways intended to be dedicated to public or private use within the corporate limits of the city may first be submitted by the city council to the planning commission for its recommendations. The disapproval of any such plan, plat or replat by the city council shall be deemed a refusal of the dedications shown thereon. No plat or replat of subdivision of land, or dedication of street or alley or other easement shall be entitled to record unless it bears the signature of the Mayor, attested by the City Clerk, certifying the approval and acceptance thereof by the city council.

SECTION 12-108 ZONING COMMISSION.

The planning commission shall also act as the zoning commission, which shall have the power to prepare and to recommend to the city council for adoption a zoning plan to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land for trade, industry, residence, and other purposes.

SECTION 12-109 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 plan. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

SECTION 12-110 COMPREHENSIVE PLAN, PURPOSE OF REGULATIONS AND MATTERS CONSIDERED.

Zoning regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate

light and air; to prevent the over-crowding of land; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks, and other public requirements. Such regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality.

DIVISION 1

BOARD OF ADJUSTMENT

SECTION 12-121 BOARD OF ADJUSTMENT CREATED.

There is hereby created a board of adjustment consisting of five (5) members, who shall be appointed for a term of three (3) years and removable for cause by the city council upon written charges and after public hearing. The members of the City Council shall not be members of the Board of Adjustment. Vacancies shall be filled for the unexpired term of any members whose term becomes vacant. The board of adjustment in effect on the effective date of this section shall be constituted as the board of adjustment, with terms of three (3) years, or until their successors are appointed and qualified.

Note: Approved on June 16, 2015, by Ordinance No. 2015-02.

SECTION 12-122 MEETINGS AND PROCEDURES.

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 require the attendance of witnesses by subpoena. The board shall keep the minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the City Clerk and shall be a public record. The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant or any matter upon which it is required to pass under any such ordinance or code, or to affect any variation in such ordinance or code.

SECTION 12-123 APPEALS.

A. Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within thirty (30) days after the decision by filing with the officer from whom the appeal is taken and with the City Clerk notice of appeal specifying the grounds therefore, and by paying a filing fee of Fifteen Dollars (\$15.00) at the office of the City Clerk at the time the notice is filed. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

B. An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal has been filed with him that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property. In such case, 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.

C. Notice of public hearing before the board of adjustment shall be given by publication in a newspaper of general circulation in the municipality where the property is located and by mailing written notice by the city clerk to all owners of property within a three hundred (300) foot radius of the exterior boundary of the subject property. A copy of the published notice may be mailed in lieu of the written notice; however, the notice by publication and written notice shall be published and mailed at least ten (10) days prior to the hearing.

D. The notice, whether by publication or mail, of a public hearing before the board of adjustment shall contain:

1. Legal description of the property and the street address or approximate location in the municipality;
2. Present zoning classification of the property and the nature of the appeal or variance requested; and
3. Date, time, and place of hearing.

E. At the hearing, any party may appear in person or by agent or by attorney.

F. The record of the meeting at which the variance or special exception was granted shall show that each element of a variance was established at the public hearing on the question, otherwise said variance or special exception shall be voidable on appeal to the district court.

SECTION 12-124 POWERS, APPEALS.

The board of adjustment shall have the powers to hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the administrative officer in the enforcement of the zoning regulations set forth in Sections 12-201 et seq. of this code.

SECTION 12-125 POWERS TO GRANT VARIANCES.

The board of adjustment shall have the power to authorize upon appeal in specific cases such variances from the terms of the zoning regulations in Sections 12-201 et seq. of this code as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the zoning regulations, will in any individual case, result in unnecessary hardship, so that the spirit of the zoning regulations shall be observed, public safety and welfare secured, 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:

1. At the time of the original adoption of the regulations there are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography, or other extraordinary or exceptional situation or condition of a specific piece of property;

2. The strict application of the zoning regulations to this particular and exceptional piece of property would create an unnecessary hardship, not self-imposed by the owner or developer;

3. Such conditions are peculiar only to the particular piece of property involved and not generally prevalent in the area;

4. Relief if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the zoning regulations, provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by the zoning regulations set forth in Sections 12-201 et seq. of this code.

SECTION 12-126 POWERS RELATIVE TO EXCEPTIONS.

The board shall have the power to hear and decide special exceptions to the terms of this title upon which the board is required to pass under this title. Upon appeal, the board is empowered to permit the following exceptions:

1. To permit the extension of a district where the boundary line of a district divides a lot in single ownership as shown of record;

2. To interpret the provisions of this title where the street layout actually on the ground varies from the street layout as shown on the map fixing the several districts, which map is on file in the office of the City Clerk; and

3. To grant exceptions to the off-street parking requirements set forth in Sections 12-280 et seq. of this code when it is determined that the size and shape of the lot to be built on is such that off-street parking provisions could not be complied with, and that the proposed use will not create undue traffic congestion in the adjacent streets.

SECTION 12-127 EXERCISE OF POWERS

In exercising its powers, the board may, in conformance with the provisions of this title, reverse or affirm, wholly or partly, or may modify the order, requirement, decisions or determination appealed from and may make such order, requirement, decision or determination as out to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. In considering all appeals from rulings made under this title, the board shall, in making its findings on any specific case, determine the effect of the proposed change upon the supply of light and air to adjacent property, upon the congestion of the public streets, upon the public safety from fire and other hazards, upon the established property values within the surrounding area, and upon other factors relating to the public health, safety, comfort, morals, and general welfare of the people of the city. Every ruling made upon any appeal to the board shall be accompanied by a written finding of fact based upon the testimony received at the hearing afforded by the board and shall specify the reason for granting or denying the appeal.

SECTION 12-128 APPEAL TO DISTRICT COURT.

A. An appeal from any action, decision, ruling, judgment, or order of the board of adjustment may be taken by any person or persons, jointly or severally aggrieved, or any taxpayer or any

officer, department, board or bureau of the city to the district court by filing notice of appeal, with the City Clerk and with the board of adjustment within ten (10) days from the filing of the decision of the board, which notice shall specify the grounds of such appeal. Upon filing of the notice of appeal as herein provided, the board shall transmit to the court clerk the original or certified copy of all the papers constituting the record in the case, together with the order, decision or ruling of the board.

B. An appeal to the district court from the board of adjustment stays all proceedings in furtherance of the action appealed from, unless the chairman of the board of adjustment from which the appeal is taken certifies to the court clerk, after the notice of appeal has been filed, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the district court or superior court upon application or notice to the administrative officer in charge of the enforcement of the terms and provisions of this title, and upon notice to the chairman of the board of adjustment from which the appeal is taken, and upon due cause being shown, the court may reverse or affirm, wholly or partly, or modify the decision brought up for review.

SECTION 12-129 EXPENSES.

Any person requesting a variance, special condition or any other relief from the Board of Adjustment shall pay an application fee of One Hundred Dollars (\$100.00) to be used to defray any associated expenses, such as postage for notice to property owners within the 300' radius as required and all publication costs. The applicant shall further submit with its application a certified abstractor's, registered professional engineer's or registered land surveyor's list of the names of all property owners within a three hundred feet (300') radius of the exterior boundary of the territory on which the applicant seeks the amendment. The City will provide the stationary, labor, required notices, mailing and publication.

Note: Approved on June 16, 2015, by Ordinance No. 2015-02.

ARTICLES 2 & 3
ZONING REGULATIONS
DIVISION 1
GENERAL PROVISIONS

SECTION 12-201 CITATION.

These regulations, in pursuance of the authority granted by the legislature of the State of Oklahoma in Sections 401-410 of Chapter 7 of Title 11 of the Oklahoma Statutes, shall be a part of the general plan for the city and shall be known as the zoning ordinance and may be cited as such.

SECTION 12-202 PURPOSE AND NECESSITY.

The regulations contained herein are necessary to encourage the most appropriate uses of land to:

1. Maintain and stabilize the value of property;
2. Reduce fire hazards and improve public safety and safeguard the public health;
3. Decrease traffic congestion and its accompanying hazards;
4. Prevent undue concentration of population; and
5. 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 these regulations they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience, and general welfare.

SECTION 12-203 NATURE OF ZONING PLAN.

These regulations classify and regulate the use of land, building, and structures within the city limits of the city as hereinafter set forth. The regulations contained herein are necessary to promote the health, safety, convenience, and welfare of the inhabitants by dividing the city into zones and regulating therein the use of the land and the use and size of buildings as to height and number of stories, the coverage of the land by

building, the size of yards and open spaces, density of population and location of buildings.

SECTION 12-204 REGULATION OF USE, HEIGHT, AREA YARDS AND OPEN SPACES.

Except as hereinafter otherwise provided, no land shall be used and no building, structure or improvements 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.

SECTION 12-205 ZONING DISTRICTS ESTABLISHED.

The city is hereby divided into zones as shown on the zoning map filed with the City Clerk. The map and all explanatory material thereon are hereby made a part of these regulations by reference zones which shall be designated as follows:

Agricultural

Residential:

- R-1 one-family district;
- R-1 zero lot line residential district;
- R-2 two-family district;
- R-3 multiple-family district; and
- R-4 multiple-family district;

Commercial:

- C-1 local commercial district;
- C-2 commercial business district;
- C-3 general commercial district;
- C-3A downtown commercial district; and
- C-4 open display commercial district.

Industrial:

- I-1 restricted light industrial district;
- I-2 light industrial district; and
- I-3 heavy industrial district;

Specific district regulations are set forth in Sections 12-221 through 12-348A inclusive.

SECTION 12-206 DEFINITIONS.

For the purpose of these regulations certain terms and words are to be used and interpreted as defined hereinafter. Words used in the present tense shall include the future tenses, words in the singular number include the plural, and words in the plural number include the singular, except where the natural construction of the writing indicates otherwise. The word "shall" is mandatory and not directory:

1. "Accessory building" means a building customarily incidental and subordinate to the main building and located on the same lot with the main building;

2. "Accessory use" means a use customarily incidental appropriate and subordinate to the principal use of land or buildings located upon the same premises;

3. "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 any tree, wall, bush, rock, post, fence, building or structure. 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. Neither directional, warning nor other signs posted by public officials in the course of their public duties nor merchandise or materials being offered for sale shall be construed as advertising signs for the purpose of this definition;

4. "Alley" means a public passage or way affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation;

5. "Apartment house or multiple family dwelling" means a single detached dwelling designed for and occupied by three (3) or more families living independently of each other as separate housekeeping units, including apartment houses, apartment hotels and flats, but not including auto or trailer courts or camps, hotels, or resort type hotels;

6. "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 (1/2) 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;

7. "Boarding house" 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 (3) or more persons;

8. "Building" means any structure intended for shelter, housing or enclosure of person, animals, or chattel. When separated by dividing walls without openings, each portion of such structure so separated, shall be deemed a separate structure;

9. "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 deck line of a mansard roof, or to the average height of the highest gable of a pitch or hip roof;

10. "Building main" means a building in which is conducted the principle 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;

11. "Building site" means a single parcel of land under one ownership, occupied, or intended to be occupied by a building or structure;

12. "Child care center" means any place, home or institution which receives three (3) or more children under the age of sixteen (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; provided, however, this definition shall not include public and private schools organized, operated or approved under the laws of this state, custody of children fixed by a court of competent jurisdiction, children related by blood or marriage within the third degree to the custodial person, or to churches or other religious or public institutions caring for children within the institutional building while their parents or legal guardians are attending services, meetings or classes or engaged in church activities;

13. "Coverage" means the percentage of the lot acre covered by the building. The building area shall include all overhanging roofs;

14. "District" means any section or sections of the city for which regulations governing the use of buildings and premises or the height and area of buildings are uniform;

15. " Dwelling " means any building, or portion thereof, which is designed or used as living quarters for one or more families, but not including house trailers;

16. " Dwelling, single-family " means a dwelling designed to be occupied by one family;

17. " Dwelling ", two-family " means a dwelling designed to be occupied by two (2) families living independently of each other;

18. " Dwelling multiple " means a dwelling designed for occupancy by three (3) or more families living independently of each other, exclusive of auto or trailer courts of camps, hotels, or resort type hotels;

19. " Family " means one or more persons related by blood or marriage, including adopted children, or a group of not to exceed five (5) persons (excluding servants) not all related by blood or marriage, occupying premises, and living as a single nonprofit housekeeping unit as distinguished from a group occupying a boarding or lodging house, hotel, club, or similar dwelling for group use. A family shall be deemed to include domestic servants employed by the family;

20. " Garage apartment " means a dwelling unit for one family erected above a private garage;

21. " Garage, private " means an accessory building or a part of a main building used for storage purposes only for not more than three (3) automobiles, or for a number of automobiles which does not exceed one and one-half (1 ½) times the number of families occupying the dwelling unit to which such garage is accessory, whichever number is greater. Such space shall not be used for storage of more than two (2) commercial vehicles which shall not exceed one and one-half (1 ½) tons rated capacity, per family living on the premises, and not to exceed two (2) spaces shall be rented to persons not residing on the premises for storage of non-commercial passenger vehicles;

22. " Garage, public " means any garage other than a private garage, available to the public, used for the care, servicing, repair or equipping of automobiles or where such vehicles are parked or stored for remuneration, hire or sale;

23. " Gasoline or filling stations " mean any area of land, including structures thereon, that is used for the sale of gasoline, oil fuels or other automobile accessories, but not butane or propane fuels and which may or may not include facilities for

lubricating, washing, cleaning or otherwise servicing automobiles, but not including the painting thereof;

24. "Fraternity or sorority house" means a building other than a hotel, where for compensation and by pre-arrangement for definite periods, meals, or meals and lodging are provided for organized living groups;

25. "Help-yourself laundry" means a laundry providing home type washing, drying, and ironing machines for hire to be used by the customers on the premises;

26. "Home occupation" means any occupation or profession carried on by the inhabitants which is clearly incidental and secondary to the use of the dwelling for dwelling purposes, which does not change the character thereof, 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 of merchandise or sign other than one non-illuminated nameplate not more than two (2) 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 conducting a beauty or barber shop, tear o o m or restaurant, rest home, clinic, doctor ordentist office, childc a r e center, tourist home, or cabinet, metal or auto repair shop shall not be deemed a home occupation;

27. "Hotel" means a building or group of building under one ownership containing six (6) or more sleeping rooms occupied, intended or designed to be occupied as the more or less temporary abiding place of persons who are lodged with or without meals for compensation, but not including an auto nor trailer court nor camp, sanatorium, hospital, asylum, orphanage or building where persons are housed;

28. "House trailer" means any portable or mobile vehicle used or designed to be used for living purposes;

29. "Kennel" means any lot or premises on which four (4) or more dogs, more than six (6) months of age are kept.

30. "Lot" means any plot of land occupied or intended to be occupied by one building or a group of buildings, and its accessory buildings and uses, including such open spaces as required by these regulations and other laws or ordinances and having its principal frontage on a street;

31. "Lot corner" means a lot of which at least two (2) adjacent sides abut for their full lengths on a street, provided that the interior angle at the intersection of such two (2) sides is less than one hundred thirty-five degrees. (135 degrees);

32. "Lot, double frontage" means a lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot;

33. "Lot, interior" means a lot other than a corner lot;

34. "Lot, area" means the total horizontal area included within lot lines;

35. "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;

36. "Lot frontage" means that dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of corner lot;

37. "Lot lines" mean the lines bounding a lot as defined herein;

38. "Medical facilities":

a. "Convalescent, rest or nursing home" means a health facility where persons are housed and furnished with meals and continuing nursing care for compensation;

b. "Dental clinic or medical clinic" means a facility for the examination and treatment of ill and afflicted human outpatients, provided, however, that patients are not kept overnight except under emergency conditions;

c. "Dental office or doctor's office" means the same as dental or medical clinic;

d. "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;

e. "Public health center" means a facility primarily utilized by a health unit for the provisions of public health

services including related facilities such as laboratories, clinics, and administrative offices operated in connection therewith; and

f. "Sanitarium" means an institution providing health facilities for inpatient medical treatment or treatment and recuperation using natural therapeutic agents;

39. "Non-conforming use" means a structure of land lawfully occupied by a use that does not conform to the regulations of the district in which it is situated;

40. "Rooming house" means a building where lodging only is provided for compensation to three (3) or more, but not exceeding forty (40) persons; all in excess of this number shall be defined as a hotel under the terms of these regulations;

41. "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, then the space between the floor and the ceiling next above it;

42. "Story, half" means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use. A half story containing independent apartment of living quarters shall be counted as a full story;

43. "Street" means any public thoroughfare right-of-way which affords the principal means of access to abutting property, provided however, that any such thoroughfare right-of-way less than forty (40) feet in width shall be considered an alley for the purpose of these regulations;

44. "Street, intersecting" means any street which joins another street at an angle, whether or not it crosses the other;

45. "Structures" mean anything constructed or erected, the use of which requires location on the ground or attached to something having a location on the ground;

46. "Structural alterations" mean 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;

47. "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;

48. "Trailer court" means land or property which is used or intended to be used or rented for occupancy by two (2) or more trailers or movable sleeping quarters of any kind;

49. "Tourist home" means a dwelling in which sleeping accommodations in not more than four (4) rooms are provided or offered for transient guests for compensation;

50. "Tree" means any object of natural growth;

51. "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 these regulations 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;

52. "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;

53. "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 buildings or any projections other than steps, unclosed 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; and

54. "Yard, side" means a yard between the building and the side line of the lot and extending from the front lot line to the rear lot line and being the minimum horizontal distance between a side lot line and the side of the main building or any projections other than steps.

SECTION 12-207 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:

1. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries;

2. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be the boundaries;

3. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such scaled distance there from as indicated on the zoning map;

4. 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.

SECTION 12-208 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.

DIVISION 2

SPECIFIC DISTRICT REGULATIONS

SECTION 12-221 GENERAL DESCRIPTION, R-1 SINGLE-FAMILY DWELLING DISTRICT.

This is the 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 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 is 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.

SECTION 12-222 USES PERMITTED.

Property and buildings in an R-1, single-family dwelling district, shall be used only for the following purposes:

1. Detached one-family dwelling;
2. Church;
3. Public school or school offering general educational courses the same as ordinarily given in public schools and having no rooms regularly used for housing and sleeping;
4. Public park or playground;
5. Public library;
6. General purpose farm or garden, but not the raising of livestock;
7. Home occupation;
8. Accessory buildings which are not a part of the main buildings, including a private garage or accessory buildings which are a part of the main building, including a private garage;
9. Bulletin board or sign, not exceeding twenty (20) square feet in area appertaining to the lease, hire or sale of a building or premises, which board or sign shall be removed as soon as the premises are leased, hired, or sold.

SECTION 12-223 USES PERMITTED ON REVIEW.

The following uses may be permitted on review by the city planning commission in accordance with provisions contained in Section 12-382:

1. Municipal use, public building, and public utility;
2. Plant nursery in which no building or structure is maintained in connection therewith;
3. Golf club;
4. Private club not conducted for profit;
5. Intensity of use, lot area and lot width.

SECTION 12-224 FRONT YARD REGULATIONS.

All buildings shall be set back from street right-of-way lines to comply with the following front yard requirements:

1. The minimum depth of the front yard shall be twenty-five (25) feet;

2. If twenty-five percent (25%) or more of the lots on one side of the street between two (2) intersecting streets are improved with buildings all of which have observed an average setback line of greater than twenty-five (25) feet, and no building varies more than five (5) 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 forty (40) feet; and

3. When a yard has double frontage the front yard requirements shall be provided on both streets.

SECTION 12-225 SIDE YARD REGULATIONS.

A. For dwellings of one story located on interior lots there shall be a side yard on each side of the main building of no less than five (5) feet and of not less than eight (8) feet for dwellings of more than one story, except as herein provided in Section 12-352. For unattached buildings of accessory use there shall be a side yard of not less than five (5) feet; provided however, that unattached one-story buildings of accessory use shall not be required to set back more than three (3) feet from an interior side lot line when all parts of the accessory buildings are located not more than fifty (50) feet from the rear property line.

B. For dwellings and accessory buildings located on corner lots there shall be a side yard set back from the intersecting street of not less than fifteen (15) feet in case such lot is back to back with another corner lot, and twenty (20) feet in every other case. The interior side yard shall be the same as for dwellings and accessory buildings on an interior lot.

C. Churches, main and accessory buildings, other than dwellings, and buildings accessory to dwellings, shall set back from all exterior and interior side lot lines a distance of not less than thirty-five (35) feet.

SECTION 12-226 REAR YARD REGULATIONS.

There shall be a rear yard for a main building of not less than twenty (20) feet or twenty percent (20%) 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.

SECTION 12-227 LOT WIDTH.

For dwellings there shall be a minimum lot width of fifty (50) feet at the front building line, and such lot shall abut on a street for a distance of not less than thirty-five (35) feet.

SECTION 12-228 INTENSITY OF USE.

A. For each dwelling, and buildings accessory thereto, there shall be a lot area of not less than six thousand (6,000) square feet.

B. 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 these regulations, that lot may be used for any of the uses, except churches, permitted by Section 12-222.

C. 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 Sections 224 to 226 and the off-street parking areas required in Section 12-361.

SECTION 12-229 COVERAGE.

Main and accessory buildings shall not cover more than thirty percent (30%) of the lot area on interior lots, and thirty-five percent (35%) on the lot area on corner lots; accessory buildings shall not cover more than twenty percent (20%) of the rear yard.

SECTION 12-230 HEIGHT REGULATIONS.

No buildings shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height except as provided in Section 12-353.

SECTION 12-231 GENERAL DESCRIPTION, R-2 TWO-FAMILY DWELLING DISTRICTS.

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 educational facilities normally required to provide a balanced and attractive residential area. These areas are intended to be defined and protected from the encroachment of uses not performing a function necessary to the residential environment. Internal stability, attractiveness, order, and efficiency are encouraged by providing for adequate light, air, and open space for dwellings and related facilities and through the consideration of the proper functional relationship and arrangement of each element.

SECTION 12-232 USES PERMITTED.

Property and buildings in an R-2, two-family dwelling district, shall be used only for the following purposes:

1. Any uses permitted in R-1, single-family dwelling district;
2. Two-family dwelling or a single-family dwelling and a garage apartment;
3. Accessory buildings and uses customarily incidental to any of the above uses when located on the same lot.

SECTION 12-233 USES PERMITTED ON REVIEW.

Any use permitted on review in R-1, single-family dwelling district.

SECTION 12-234 FRONT YARD REGULATIONS.

All buildings shall be set back from the street right-of-way lines to comply with the following front yard requirements:

1. The minimum depth of the front yard shall be twenty-five (25) feet.
2. If twenty-five percent (25) or more of the lots on one side of the street between two (2) intersecting streets are improved with buildings, all of which have observed an average setback line of greater than twenty-five (25) feet and no building varies more than five (5) 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 forty (40) feet; and

3. When a yard has double frontage the front yard requirements shall be provided on both streets.

SECTION 12-235 SIDE YARD REGULATIONS.

A. 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 (5) feet and of not less than eight (8) feet for dwellings of more than one story and for garage apartments, except as hereinafter provided in Section 12-352.

B. For unattached buildings of accessory use there shall be a side yard of not less than five (5) feet; provided however, that unattached one-story buildings of accessory use shall not be required to set back more than three (3) feet from an interior side lot line when all parts of the accessory building are located not more than fifty (50) feet from the rear property line.

C. For dwellings and accessory building located on corner lots there shall be a side yard setback from the intersecting street of not less than fifteen (15) feet in case such lot is back-to-back with another corner lot and twenty (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.

D. Churches, main and accessory buildings other than dwellings and buildings accessory to dwellings, shall set back from all exterior and interior side lot lines a distance of not less than thirty-five (35) feet.

SECTION 12-236 REAR YARD REGULATIONS.

A. For main buildings, other than garage apartments, there shall be a rear yard of not less than twenty (20) feet or twenty percent (20%) of the depth of the lot, whichever is smaller.

B. Garage apartments may be located in the rear yard of a single-family dwelling but shall not be located closer than ten (10) feet to the rear lot line. Unattached buildings of accessory use may be located in the rear yard of a main building.

SECTION 12-237 LOT WIDTH.

For single-family dwellings, two-family dwellings or single-family dwellings and garage apartments, there shall be a minimum lot width of fifty (50) feet at the front buildingline, and the lot shall abut on a street for a distance of not less than thirty-five (35) feet.

SECTION 12-238 INTENSITY OF USE.

A. For each single-family dwelling and accessory buildings there shall be a lot area of not less than six thousand (6,000) square feet.

B. For each two-family dwelling and accessory building there shall be a lot area of not less than six thousand (6,000) 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.

C. Where a lot has less than herein required and all boundary lines of that lot touch lands under other ownership on the effective date of these regulations that lot may be used for any use except churches, permitted in the R-1 single-family district.

D. For churches and main and accessory building, other than dwellings and buildings accessory to dwellings, the lot area shall be adequate to provide the yard area required by Sections 12-234 to 12-236 and off-street parking area required in Section 12-361.

SECTION 12-239 COVERAGE.

Main and accessory buildings shall not cover more than thirty-five percent (35%) of the lot area. Accessory buildings shall not cover more than twenty percent (20%) of the rear yard.

SECTION 12-240 HEIGHT REGULATION.

No building shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height, except as provided in Section 12-353.

Section 12-204.1 ZONING MAP ADOPTED

A timely and proper notice was published in the Tonkawa News

notifying the public of a hearing before the Tonkawa Planning Commission which hearing was held on the 15th day of April 2019, at 5:30 p.m., concerning the adoption of a zoning map for the City of Tonkawa, Oklahoma. The notice also advised that the City Council may consider the zoning map at a meeting to be held on 16th day of April 2019, at 5:30 p.m. A copy of such affidavit of publication from the Tonkawa News is on file in the Office of the City Clerk. A public hearing was held and comments were made. The Tonkawa Planning Commission made a recommendation to the Tonkawa City Council to adopt the zoning map, as amended. On the 16th day of April 2019, the Tonkawa City Council convened for the purpose of adopting the zoning map, with locations and boundaries of the zoning districts as provided in the "Zoning Map of the City of Tonkawa, Oklahoma dated the 16th day of April 2019 ("Zoning Map"). The Zoning Map was thereafter adopted and shall be henceforth be considered and will serve as the Zoning Map of the City of Tonkawa, Oklahoma, for all purposes and shall be displayed in City Hall and placed on file in the Office of the City Clerk.

SECTION 12-240A GENERAL DESCRIPTION, R-1 ZERO LOT LINE RESIDENTIAL DISTRICT.

General Description, R-1 Zero Lot Line Residential District: The purpose of the R-1 Zero Lot Line Residential District is to provide for zero-lot-line development that maximizes the efficient use of space through compact form and flexibility of design while maintaining density, setback, and lot coverage controls that are compatible with adjacent and nearby development.

SECTION 12-240B USES PERMITTED.

Property and buildings in an R-1 Zero Lot Line Residential District shall be used only for the following purposes:

1. Single family "zero-lot-line" dwellings, and
2. Accessory uses and structures.

SECTION 12-240C USES PERMITTED ON REVIEW.

None.

SECTION 12-240D DIMENSIONAL REQUIREMENTS.

The following dimensional requirements shall apply to single family "zero-lot-line dwellings:"

1. The front yard setback shall be twenty-five feet (25').

2. Side Yard Setbacks:

a. In the event of the construction of duplexes, the side yard setback on one side shall be one inch (1"); on the opposite side, the side yard requirement shall be five feet (5'); or

b. In the event of the construction of three or more dwelling units, but not more than five (5) dwelling units, both side yard setbacks shall be one inch (1");

except in any event, side yard setback adjacent to a right-of-way shall be at least twenty feet (20').

3. The rear yard setback shall be twenty feet (20'). Unattached rear yard accessory buildings shall be set back one foot (1') from the utility easement line.

4. Width in Feet at Building Line: No maximum width at the Building Line.

5. Minimum Lot Size: No minimum lot size.

6. Maximum Lot Coverage:

a. For single story houses (ranchers): 40%.

b. A second story may be constructed that contains not more than 50% of the floor area of the first floor, provided that the subdivision developer donates at least 5% of the gross plat area of the subdivision to the City, the Homeowners' Association, or another entity acceptable to the Planning Commission as open space at the time the final plat is approved. Said open space must be within the plat of the subdivision or within one thousand feet (1000') of the subdivision, provided that the Planning Commission must approve any land dedicated outside the subdivision.

7. Height: No building shall exceed two stories above ground or thirty-five (35) feet in height.

9. Maximum Impervious Ratio: No more than 60% of the lot shall be covered with impervious surfaces.

SECTION 12-240E REQUIRED CONDITIONS.

The following shall be required conditions for buildings and uses with a R-1 Zero Lot Line Residential District:

1. Zero-lot-line dwellings shall be constructed against the lot line on one side of the lot, or as otherwise provided in Section 12-240D, with the exception of corner lots, and no windows, doors, or other openings shall be permitted on that side. Where adjacent zero-lot-line dwellings are not constructed against a common lot line, the developer must provide for a perpetual wall maintenance easement of five feet (5') in width, and an architectural feature encroachment easement of eighteen inches (18"), along the adjacent lot and parallel to such wall.

2. At the discretion of the Planning Commission, a developer implementing a R-1 Zero Lot Line Residential District may be required to be buffered the district from other adjacent residential zoning districts with a minimum ten-foot (10') landscape buffer to run the length of the development.

SECTION 12-241 GENERAL DESCRIPTION, R-3 MULTIPLE-FAMILY DWELLING DISTRICT.

This is a residential district to provide for medium and high population density. The principal use of land can range from single-family to multiple-family and garden apartment uses. Certain uses which are functionally more compatible with intensive residential uses than with commercial uses are permitted, as are recreational, religious, and educational facilities normally required to provide residential areas. 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.

SECTION 12-242 USES PERMITTED.

Property and buildings in an R-3, multiple family dwelling district, shall be used only for the following purposes.

1. Any use permitted in an R-2 residential district;
2. Multiple-family dwelling, apartment house;
3. Rooming or boarding house;
4. Fraternity or sorority house; and
5. Accessory buildings and uses customarily incidental to the above uses when located on the same lot.

SECTION 12-243 USES PERMITTED ON REVIEW.

The following uses may be permitted on review by the city planning commission in accordance with provisions contained in Section 12-382:

1. Any use permitted on review in an R-1 or R-2 residential district;
2. Childcare center;
3. Medical facility;
4. Trailer court; and
5. Travel Trailer Park in strict accordance with an approved use by review hearing as provided by Section 12-382, after approval and in strict accordance with an approved site plan review hearing as provided by Section 12-349, and consistent with Sections 12-606A and 12-606B.

SECTION 12-244 FRONT YARD REGULATIONS.

All buildings shall be set back from street right-of-way lines to comply with the following front yard requirements:

1. The minimum depth of the front yard shall be twenty-five (25) feet;
2. If twenty-five percent (25%) or more of the lots on one side of the street between two (2) intersecting streets are improved with buildings, all of which have observed an average setback line of greater than twenty-five (25) feet, and no building varies more than five (5) feet from the 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 forty (40) feet; and
3. When a yard has double frontage the front yard requirements shall be provided on both streets.

SECTION 12-245 SIDE YARD REGULATIONS.

A. For dwellings and churches located on an interior lot, a side yard of not less than five (5) feet shall be provided on both sides of the main dwelling for the first story and additional three (3) feet of side yard shall be provided for each additional story or part thereof.

B. For unattached buildings of accessory use there shall be a side yard of not less than five (5) feet; provided, however, that unattached one-story buildings of accessory use shall

not be required to set back more than three (3) feet from an interior side lot line when all parts of the accessory building are located not more than fifty (50) feet from the rear property line.

C. For dwellings and accessory buildings located on corner lots there shall be a side yard set back from the intersecting street of not less than fifteen (15) feet in case such lot is back to back with another corner lot, and twenty (20) feet in every other case. The interior side yard shall be the same as for dwellings and accessory buildings on an interior lot.

D. Trailer courts shall be planned in such a manner that no trailer, or related building, shall be located closer than fifteen (15) feet to any side lot line.

SECTION 12-246 REAR YARD REGULATIONS.

A. For main buildings, other than garage apartments, there shall be a rear yard of not less than twenty (20) feet or twenty percent (20%) of the depth of the lot, whichever is smaller.

B. A garage apartment may be located in the rear yard of another dwelling but shall not be located closer than ten (10) feet to the rear lot line.

C. Unattached buildings of accessory use may be located in the rear yard of a main building.

SECTION 12-247 LOT WIDTH.

There shall be a minimum lot width of fifty (50) feet at the front building line for single-family and two-family dwellings, and ten (10) feet additional width at the front building line for each family, more than two (2), occupying a dwelling. However, a lot width at the front building line shall not be required to exceed one hundred fifty (150) feet. A lot shall abut on a street not less than thirty-five (35) feet.

SECTION 12-248 INTENSITY OF USE.

A. There shall be a lot area of:

1. Not less than six thousand (6,000) square feet for a single-family dwelling;

2. Not less than six thousand (6,000) square feet for a two-family dwelling;

3. Not less than six thousand (6,000) square feet plus an additional area of not less than one thousand five hundred (1,500) square feet for each family unit in excess of two (2) and not more than ten (10), and an additional area of not less than one thousand (1,000) square feet for each family unit in excess of ten (10), occupying a dwelling shall be required.

B. There shall be a lot area of not less than six thousand (6,000) square feet where a garage apartment is located on the same lot with a single-family dwelling. When a garage apartment is located on the same lot with a two-family or multiple-family dwelling, the lot area shall provide not less than one thousand (1,000) square feet more than is required for the two-family or multiple-family dwelling.

C. Where a lot has less area than herein required and all boundary lines of that lot touch lands under other ownership on the effective date of these regulations, that lot may be used for any use, except churches, permitted in the R-1 single-family dwelling district.

D. For fraternity, sorority, rooming and boarding houses the lot area shall be adequate to provide the yard areas required by Sections 12-244 to 12-246 and the off-street parking required in Section 12-361.

SECTION 12-249 COVERAGE.

Main and accessory building shall not cover more than forty percent (40%) of the lot area. Accessory buildings shall not cover more than thirty percent (30%) of the rear yard.

SECTION 12-250 HEIGHT REGULATIONS.

No buildings shall exceed three and one-half (3 ½) stories or forty-five (45) feet in height, except as provided in Section 12-353.

SECTION 12-251 GENERAL DESCRIPTION R-4 MULTIPLE FAMILY DWELLING DISTRICT II.

This is a residential district providing for a relatively high population density and allowing for high rise apartments. The principal use of land can range from single-family to multiple-family uses as in the R-3 district. Certain uses which are functionally more compatible with intensive residential uses than with commercial uses are permitted, as are recreational, religious, and educational facilities normally required to provide the basic elements of a balanced and attractive residential area.

Internal stability, attractiveness, order, and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities and through consideration of the proper functional relationship of each element.

SECTION 12-252 USES PERMITTED.

Property and buildings in an R-4, multiple-family dwelling district II, shall be used only for the following purposes:

1. Any use permitted in an R-3 residential district;
2. Accessory buildings and uses customarily incidental to the above uses when located on the same lot.

SECTION 12-253 USES PERMITTED ON REVIEW.

Any use permitted on review by the city planning commission in an R-1, R-2, or R-3 residential district shall be in accordance with provisions contained in Section 12-382 of these regulations. In addition, a Travel Trailer Park in strict accordance with an approved use by review hearing as provided by Section 12-382, after approval and in strict accordance with an approved site plan review hearing as provided by Section 12-349, and consistent with Sections 12-606A and 12-606B.

SECTION 12-254 FRONT YARD REGULATIONS.

All building shall be set back from the street right-of-way lines to comply with the following front yard requirements:

1. The minimum depth of the front yard shall be twenty-five (25) feet;
2. If twenty-five percent (25%) or more of the lots on one side of the street between two (2) intersecting streets are improved with buildings, all of which have observed an average setback line of greater than twenty-five (25) feet, and no building varies more than five (5) 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 forty (40) feet;
3. When a yard has double frontage the front yard requirements shall be provided on both streets.

SECTION 12-255 SIDE YARD REGULATIONS.

- A. For dwellings and churches located on an interior lot

a side yard of not less than five (5) feet shall be provided on both sides of the main dwelling for the first story and an additional three (3) feet of side yard shall be provided for each additional story or part thereof with a maximum of twenty-five (25) feet.

B. For unattached buildings of accessory use there shall be a side yard of not less than five (5) feet; provided, however, that unattached one-story buildings of accessory use shall not be required to set back more than three (3) feet from an interior side lot line when all parts of the accessory buildings are located not more than fifty (50) feet from the rear property line.

C. For dwellings and accessory buildings located on corner lots there shall be a side yard set back from the intersecting street of not less than fifteen (15) feet in case such lot is back to back with another corner lot, and twenty (20) feet in every other case. The interior side yard shall be the same as for dwellings and accessory buildings on an interior lot.

D. Trailer courts shall be planned in such a manner that no trailer, or related building, shall be located closer than fifteen (15) feet to any side lot line.

SECTION 12-256 REAR YARD REGULATIONS.

A. For main buildings, other than garage apartments, there shall be a rear yard of not less than twenty (20) feet or twenty percent (20%) of the depth of the lot, whichever is smaller.

B. Garage apartments may be located in the rear yard of another dwelling but shall not be located closer than ten (10) feet to the rear lot line.

C. Unattached buildings of accessory use may be located in the rear yard of a main building with a rear yard of five (5) feet.

SECTION 12-257 LOT WIDTH.

There shall be a minimum lot width of fifty (50) feet at the front building line for single-family, two-family and three-family dwelling units. For each additional family over three (3) there shall be added five (5) feet to the minimum width. The lot width at the front building line shall not be required to exceed one hundred and fifty (150) feet. A lot shall abut on a street not less than thirty-five (35) feet.

SECTION 12-258 INTENSITY OF USE.

A. There shall be a lot area of:

1. Not less than six thousand (6,000) square feet for a single or two-family dwelling; and

2. Not less than six thousand (6,000) square feet plus and additional area of not less than one thousand (1,000) square feet for each family unit in excess of two (2).

B. There shall be a lot area of not less than six thousand (6,000) square feet where a garage apartment is located on the same lot with a single-family dwelling. When a garage apartment is located on the same lot with a two-family or multiple-family dwelling lot area shall provide not less than one thousand (1,000) square feet more than is required for the two-family or multiple-family dwelling.

C. Where a lot has less area than herein required and all boundary lines of that lot touch lands under other ownership on the effective date of these regulations, that lot may be used for any use, except churches, permitted in the R-1 single-family dwelling district.

D. For fraternity, sorority, rooming, and boarding houses the lot area shall be adequate to provide the yard areas required by Sections 12-254 to 12-256 and the off-street parking required in Section 12-361.

SECTION 12-259 COVERAGE.

Main and accessory buildings shall not cover more than forty percent (40%) of the lot area. Accessory buildings shall not cover more than thirty percent (30%) of the rear yard.

SECTION 12-260 HEIGHT REGULATIONS.

No buildings shall exceed twelve (12) stories or one hundred and thirty-five (135) feet, whichever is greater.

SECTION 12-271 GENERAL DESCRIPTION, C-1 LOCAL COMMERCIAL DISTRICT.

This commercial district is for the conduct of retail trade and to provide personal services to meet the regular needs and for the convenience of the people of adjacent residential areas. Because these shops and stores may be an integral part of the neighborhood closely associated with residential, religious, recreational, and educational elements, more restrictive

requirements for light, air, open space and off- street parking are made than are provided in other commercial districts.

SECTION 12-272 USES PERMITTED IN A C-1 COMMERCIAL DISTRICT.

Property and buildings in a C-1, local commercial district, shall be used only for the following purposes:

1. Any use permitted in R-4 residential district;
2. Any use permitted on review in R-4 residential district;
3. Retail stores and shops supplying the regular and customary needs of the residents of the neighborhood and primarily for their convenience, as follows:
 - a. Antique shop;
 - b. Apartment hotel;
 - c. Appliance store;
 - d. Arts school, gallery or museum;
 - e. Artist materials, supply, studio;
 - f. Assembly halls for nonprofit corporations;
 - g. Automobile service station;
 - h. Automobile parking lot;
 - i. Baby shop;
 - j. Bakery goods store;
 - k. Bank;
 - l. Barber shop;
 - m. Beauty shop;
 - n. Book or stationery store;
 - o. Camera shop;
 - p. Candy store;
 - q. Catering establishment;
 - r. Cleaning, pressing, laundry agency, providing cleaning and pressing is not done on the premises;
 - s. Curio or gift shop;
 - t. Drug store or fountain;
 - u. Dry goods store;
 - v. Department store;
 - w. Dairy products or ice cream store;
 - x. Delicatessen;
 - y. Dress shop;
 - z. Florist shop, greenhouse, nursery;
 - aa. Furniture
 - bb. Grocery store or supermarket;
 - cc. Hardware store
 - dd. Hotel;
 - ee. Help-yourself laundry;
 - ff. Jewelry or notion store;
 - gg. Libraries;
 - hh. Lodge hall;

- ii. Meat market;
- jj. Medical facility;
- kk. Messenger or telegraph service;
- ll. Museums;
- mm. Music conservatories;
- nn. Musical instrument sales;
- oo. Newspaper or magazine sales;
- pp. Office business;
- qq. Office supply;
- rr. Optometrists sales and service;
- ss. Paint and decorating shop;
- tt. Parking lot;
- uu. Photographer studio;
- vv. Pharmacy;
- ww. Radio and television sales and service
- xx. Restaurant, including Drive-in Restaurants;
- yy. Retail liquor store;
- zz. Sewing machine sales, instruction;
- aaa. Sporting goods sales;
- bbb. Shoe repair shop;
- ccc. Tailor shop;
- ddd. Tourist court;
- eee. Toy store; or
- fff. Variety store
- ggg. Medical Marijuana Dispensaries and/or Medical Marijuana Grower Facilities in strict accordance with the applicable provisions of Article 6 of Chapter 9 of the Tonkawa Municipal Code 2021, as amended; provided however, no Medical Marijuana Grower Facility shall be permitted in any building or property which shares a common wall with a separate business located in the same building, unless the building or use is owned and operated by the same property owner.

4. Name plate and sign relating only to the use of the store and premises or to product sold on the premises. Lighted signs of flashing or intermittent type shall be prohibited; and

5. Accessory buildings and uses customarily incidental to the above uses.

SECTION 12-272A USE PERMITTED UPON APPROVAL OF SITE PLAN.

A Travel Trailer Park may be permitted in a C-1 Local Commercial District by the city planning commission upon approval and in strict compliance with a site plan approved pursuant to the site

plan review process contained in Section 12-349 of this municipal code and the development is constructed and developed in strict accordance with such approved site plan and consistent with Sections 12-606A and 12-606B.

SECTION 12-273 AREA REGULATIONS.

The area requirements for dwellings shall be the same as the requirements of the R-4 residential district.

SECTION 12-274 FRONT YARD REGULATIONS.

The following requirements shall apply to all other uses permitted in this district: All buildings shall set back from the street right-of-way line to provide a front yard having not less than twenty-five (25) feet in depth.

SECTION 12-275 SIDE YARD REGULATIONS.

The following requirements shall apply to all other uses permitted in this district: On the side of a lot adjoining a dwelling district there shall be a side yard of not less than ten (10) feet. Whenever the rear lot line of a corner lot abuts a dwelling district the side yard adjacent to the street shall be not less than fifteen (15) feet in width. In all other cases no side yard shall be required.

SECTION 12-276 REAR YARD REGULATIONS.

The following requirements shall apply to all other uses permitted in this district: Where a commercial 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 thirty (30) feet.

SECTION 12-277 HEIGHT REGULATIONS.

No building shall exceed two and one-half (2 ½) stories of thirty-five (35) feet in height, except as hereinafter provided in Section 12-353.

SECTION 12-281 C-2 COMMERCIAL BUSINESS DISTRICT.

This commercial district is designed to be the Central Business District or the downtown shopping and employment area for the community and surrounding area. This District is intended to provide space for retailing of all kinds, professional offices, financial institutions, upper-level apartment dwellings, hotels and limited wholesaling, conducive to a high volume of pedestrian

traffic.

SECTION 12-282 USES PERMITTED IN A C-2 COMMERCIAL BUSINESS DISTRICT.

1. Property and buildings in a C-2 Commercial Business District shall be used only for the following purposes:

A. Any use permitted in C-1 Local Commercial District.

B. Offices, retail stores and shops supplying medical and hospital related professional and personal services to medical staff, patients and visitors and primarily for their convenience, as follows:

- (1) Barber shop;
- (2) Beauty shop;
- (3) Book or stationery store;
- (4) Drug store or fountain;
- (5) Florist shop;
- (6) Gift shop;
- (7) Hotel
- (8) Medical facility; provided, however, that this shall in no way be construed as permitting undertaking establishments and funeral homes;
- (9) Newspaper or magazine sales;
- (10) Optometrists sales and service;
- (11) Pharmacy; and
- (12) Restaurant;

C. Medical Marijuana Dispensaries and/or Medical Marijuana Grower Facilities in strict accordance with the applicable provisions of Article 6 of Chapter 9 of the Tonkawa Municipal Code 2021, as amended; provided however, no Medical Marijuana Grower Facility shall be permitted in any building or property located on either side of Grand Avenue, between 6th Street and 9th Street, nor in any building which shares a common wall with a separate business located in the same building, unless the building or use is owned and operated by the same property owner.

2. Name plate and sign relating only to the use of the store and premises or to products sold on the premises. Lighted signs of flashing or intermittent type shall be prohibited;

3. Accessory buildings and uses customarily incidental to the above uses.

4. Use by Review

The following uses may be permitted after review and approval by the Planning Commission in accordance with Section 12-382 (Use by Review).

A. Light manufacturing.

B. Warehouses, general.

SECTION 12-283 AREA REGULATIONS.

There shall be no minimum lot area or width in a C-2 Commercial Business District.

SECTION 12-284 FRONT YARD REGULATIONS.

There shall be no front yard setbacks in a C-2 Commercial Business District.

SECTION 12-285 SIDE YARD REGULATIONS.

There shall be no side yard setbacks in a C-2 Commercial Business District.

SECTION 12-286 REAR YARD REGULATIONS.

The following requirements shall apply to all other uses permitted in this district: Where a commercial 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 thirty (30) feet; otherwise, no rear yard setback is required.

SECTION 12-287 HEIGHT REGULATIONS.

No building shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height, except as hereinafter provided in Section 12-353.

SECTION 12-291 GENERAL DESCRIPTION, C-3 GENERAL 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 generated by the uses will be primarily passenger vehicles only those truck and commercial vehicles required for stocking and delivery of retail goods.

SECTION 12-292 USES PERMITTED IN A C-3 GENERAL COMMERCIAL DISTRICT.

Property and buildings in a C-3 general commercial district shall be used only for the following purposes:

1. Any use permitted in a C-1 local commercial district, or a C-2 Commercial Business district;

2. Indoor amusement enterprises.

3. Automobile sales and services, machinery sales and service, and public garages, provided no gasoline is stored above ground; used automobile and machinery repairing if conducted wholly within a completely enclosed building, but not including automobile or machinery wrecking establishment or junk yards;

4. Any of the following uses:

- a. Auto court or tourist court.
- b. Ambulance service office or garage;
- c. Bakery;
- d. Boat sales;
- e. Building material and lumber sales yard, but not including the sale of rock, sand, gravel, and the like as an incidental part of the main business;
- f. Bus terminal;
- g. Carpenter and cabinet shop;
- h. Cleaning and dyeing works;
- i. Clothing or apparel store;
- j. Commercial school or hall;
- k. Dance hall;
- l. Department store;
- m. Drive-in theater or restaurant;
- n. Electric transmission station;
- o. Feed and fuel store;
- p. Frozen food locker;
- q. Furniture repair and upholstery;
- r. Funeral parlor or mortuary;
- s. Gasoline and oil retail distributing plant;
- t. Heating, ventilating or plumbing supplies, sales and services;
- u. Hospital for small animals;
- v. Interior decorating store;
- w. Ice storage locker plant/ storage house for food.

- x. Key shop;
- y. Kennel;
- z. Laboratories, testing and experimental;

- aa. Laundry;
- bb. Leather goods shop;
- cc. Manufacturing and repair, light assembly shops including but not limited to oil field bits and electronic equipment;
- dd. Music, radio or television shop;
- ee. Night club;
- ff. Nursery or garden supply store;
- gg. Pawn shop;
- hh. Pet shop;
- ii. Printing shop;
- jj. Recreation center;
- kk. Research laboratories;
- ll. Roller skating rink;
- mm. Sign painting shop;
- nn. Sporting goods store;
- oo. Stock and bond broker;
- pp. Storage warehouse;
- qq. Theater;
- rr. Tavern;
- ss. Soy store; and
- tt. Wholesale Distribution
- uu. Medical Marijuana Dispensaries and/or Medical Marijuana Grower Facilities in strict accordance with the applicable provisions of Article 6 of Chapter 9 of the Tonkawa Municipal Code 2021, as amended; provided however, no Medical Marijuana Grower Facility shall be permitted in any building or property which shares a common wall with a separate business located in the same building, unless the building or use is owned and operated by the same property owner.

5. Buildings, structures and uses accessory and customarily incidental to any of the above uses, provided that there shall be no manufacture processing or compounding of products other than such as are customarily incidental and essential to retail establishments;

6. Name plate and sign relating only to the use of the store and premises or to product sold on the premises; and

7. Any other store or shop for retail trade or for rendering personal, professional, or business service which does not produce more noise, odor, dust, vibration, blast or traffic than those enumerated above.

SECTION 12-292A USE PERMITTED UPON APPROVAL OF SITE PLAN.

A Travel Trailer Park may be permitted in a C-3 General Commercial District by the city planning commission upon approval and in strict compliance with a site plan approved pursuant to the site plan review process contained in Section 12-349 of this municipal code and the development is constructed and developed in strict accordance with such approved site plan and consistent with Sections 12-606A and 12-606B.

SECTION 12-293 AREA REGULATIONS.

A. The same regulations for dwellings shall be the same as the requirements of the R-4 residential district.

B. Buildings shall be provided with a yard area adequate to meet the off-street parking requirements set forth in Section 12-361.

SECTION 12-294 FRONT AND SIDE YARD REGULATIONS.

The following requirements shall apply to all other uses permitted in this district:

All buildings shall set back from the street right-of-way line to provide a front yard having not less than twenty-five feet (25') in depth.

On the side of a lot adjoining a dwelling district there shall be a side yard of not less than ten (10) feet. Whenever the rear lot line of a corner lot abuts a dwelling district the side yard adjacent to the street shall be not less than fifteen (15) feet in width. In all other cases no side yard shall be required.

SECTION 12-295 REAR YARD REGULATIONS.

Where a commercial 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 thirty (30) feet in width; In all other cases no rear yard is required.

SECTION 12-296 HEIGHT REGULATIONS.

The height regulations for dwellings and accessory buildings for dwellings shall be the same as those of the R-4 residential district. For other uses no height restrictions are required.

Section 12-297 C-3A DOWNTOWN BUSINESS DISTRICT.

A. SPECIFIC DESCRIPTION. The Boundaries for the Downtown Business District shall be as follows: North boundary (point of beginning) is Main Street and North Avenue, east to 5th Street. East boundary is south along 5th Street to NOC Drive. South boundary is along NOC Drive west to 9th Street. West boundary is north along 9th Street to alley north of Grand Avenue, then east along alley for ½ block to alley going north, including the west side of Main Street in the north 100 block, to Tonkawa Avenue, and thereafter traveling east on Tonkawa Avenue, to the east side of Main Street, turning north on east side of Main Street, and continuing north to point of beginning.

B. GENERAL DESCRIPTION. This District is designed to be the Central Business District or the downtown shopping and employment area for the community and surrounding area. This District is intended to provide space for retailing of all kinds, professional offices, financial institutions, upper-level apartment dwellings, hotels and limited wholesaling, conducive to a high volume of pedestrian traffic.

C. DISTRICT USE REGULATIONS. Permitted Uses.

Any use permitted in C-3 General Commercial District.

D. AREA REGULATIONS.

1. No minimum lot area or width.
2. No front yard setbacks.
3. No side yard setbacks
4. Height. Maximum Thirty-five (35) feet.

Reserving Sections 12-298 and 12-299

Section 12-304 FRONT AND SIDE YARD REGULATIONS.

The following requirements shall apply to all other uses permitted in this district:

All buildings shall set back from the street right-of-way line to provide a front yard having not less than twenty-five feet (25') in depth.

On the side of a lot adjoining a dwelling district there shall be a side yard of not less than ten (10) feet. Whenever the rear

lot line of a corner lot abuts a dwelling district the side yard adjacent to the street shall be not less than fifteen (15) feet in width. In all other cases no side yard shall be required.

SECTION 12-301 GENERAL DESCRIPTION, C-4 OPEN DISPLAY COMMERCIAL DISTRICT.

This commercial district is intended to provide a location for the limited amount of merchandise, equipment and material being offered for retail sale that because of the type of material or transportation requirements are suitable for display and storage outside the confines of an enclosed building. There will be more assembly of equipment and incidental activity than would prevail in the general commercial district. Persons of the community and the surrounding trade territory will require direct access. However, the concentration of shoppers will be much smaller and visits less frequent than in general commercial district.

SECTION 12-302 USES PERMITTED IN A C-4 COMMERCIAL DISTRICT.

Property and buildings in a C-4 open display commercial district shall be used only for the following purposes:

1. Any use permitted in a C-3 general commercial district;
2. Boat sales;
3. Farm implements and machinery, new and used, sales;
4. House trailer sales;
5. Metal and wood fencing, ornamental grillwork and decorative wrought iron work and play equipment sales;
6. monument sales;
7. New and used car and truck sales;
8. Outdoor amusement enterprises;
9. Prefabricated house sales;
10. Trailers for hauling, rental and sales;
11. The above enumerated uses shall comply with the following provisions:
 - a. All yards unoccupied with buildings or merchandise or used as traffic ways shall be landscaped with grass and shrubs and maintained in good condition the year around;
 - b. All of the lot used for the parking of vehicles, for the storage and display of merchandise and all driveways used for vehicle ingress and egress shall be paved with a sealed surface pavement and maintained in such a manner that no dust will be

produced by continued use;

- c. All servicing of vehicles and assembly of equipment carried on as an incidental part of the sales operation shall be conducted within a completely enclosed building; and
 - d. Outdoor lighting, when provided, shall have an arrangement of reflectors and an intensity of lighting which will not interfere with adjacent land uses or the use of adjacent streets and shall not be of a flashing or intermittent type.
12. Medical Marijuana Dispensaries and/or Medical Marijuana Grower Facilities in strict accordance with the applicable provisions of Article 6 of Chapter 9 of the Tonkawa Municipal Code 2021, as amended; provided however, no Medical Marijuana Grower Facility shall be permitted in any building or property which shares a common wall with a separate business located in the same building, unless the building or use is owned and operated by the same property owner.

SECTION 12-302A USE PERMITTED UPON APPROVAL OF SITE PLAN.

A Travel Trailer Park may be permitted in a C-4 Open Display Commercial District by the city planning commission upon approval and in strict compliance with a site plan approved pursuant to the site plan review process contained in Section 12-349 of this municipal code and the development is constructed and developed in strict accordance with such approved site plan and consistent with Sections 12-606A and 12-606B.

SECTION 12-303 AREA REGULATION.

A. The area regulations for dwellings shall be the same as the requirements of the R-4 residential district.

B. Buildings shall be provided with a yard area adequate to meet the off-street parking requirements set forth in Section 12-361.

SECTION 12-304 FRONT AND SIDE YARD REGULATIONS.

There are no specific front or side yard requirements for uses other than dwellings.

SECTION 12-305 REAR YARD REGULATIONS.

Where a commercial 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 thirty (30) feet in width. In all other cases no rear yard is required.

SECTION 12-306 HEIGHT REGULATION.

No building shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height except as hereinafter provided in Section 12-353.

SECTION 12-321 GENERAL DESCRIPTION, I-1 RESTRICTED LIGHT INDUSTRIAL DISTRICT.

The industrial district is intended primarily for production and assembly plants that are conducted so the noise, odor, dust, and glare of each operation is completely confined within an enclosed building. These industries may require direct access to rail, air, or street transportation routes; however, the size and volume of the raw materials and finished products involved should not produce the volume of freight generated by the uses of the light and heavy industrial districts. Buildings in this district should be architecturally attractive and surrounded by landscaped yards.

SECTION 12-322 USES PERMITTED IN AN I-1 RESTRICTED LIGHT INDUSTRIAL DISTRICT.

Property and buildings in a I-1 restricted light industrial district shall be used only for the following purposes:

1. Any use, except a residential use, permitted in a C-3 general commercial district, and including sleeping facilities for caretakers and night watchmen employed on the premises;

2. Any of the following uses:

- a. Bakery;
- b. Bottling works;
- c. Book bindery;
- d. Candy manufacturing;
- e. Engraving plant;
- f. Electrical equipment assembly;
- g. Electronic equipment assembly and manufacture;
- h. Food products processing and packing;
- i. Furniture manufacturing;

- j. Instrument and meter manufacturing;
- k. Jewelry and watch manufacturing;
- l. Laboratories experimental;
- m. Laundry and cleaning establishment;
- n. Leather goods fabrication;
- o. Optical goods manufacturing;
- p. Paper products manufacturing; and
- q. Sporting goods manufacturing;
- r. Medical Marijuana Grower Facilities and/or Medical Marijuana Processor Facilities in strict accordance with the applicable provisions of Article 6 of Chapter 9 of the Tonkawa Municipal Code 2021, as amended.

3. All of the uses permitted under this section shall have their primary operations conducted entirely within enclosed buildings, and shall not emit any dust or smoke, or noxious odor or fumes outside of the building housing the operation or produce a noise level at the property line that is greater than the average noise level occurring on the adjacent street.

SECTION 12-322A USE PERMITTED UPON APPROVAL OF SITE PLAN.

A Travel Trailer Park may be permitted in a I-1 Restricted Light Industrial District that has a Mobile Home overlay by the city planning commission upon approval and in strict compliance with a site plan approved pursuant to the site plan review process contained in Section 12-349 of this municipal code and the development is constructed and developed in strict accordance with such approved site plan and consistent with Sections 12-606A and 12-606B.

SECTION 12-323 AREA REGULATIONS.

All yard areas required under this section and other yards and open spaces existing around buildings shall be maintained in a neat condition.

SECTION 12-324 FRONT YARD REGULATIONS.

All buildings shall set back from the street right-of-way line to provide a front yard having not less than twenty-five (25) feet in depth.

SECTION 12-325 SIDE YARD REGULATIONS.

No building shall be located closer than twenty-five (25) feet to a side lot line.

SECTION 12-326 REAR YARD REGULATIONS.

No building shall be located closer than twenty-five (25) feet to the rear lot line.

SECTION 12-327 COVERAGE REGULATIONS.

Main and accessory buildings and off-street parking and loading facilities shall not cover more than eighty percent (80%) of the lot area.

SECTION 12-328 HEIGHT REGULATIONS.

No building or structure shall exceed three and one-half (3 ½) stories or forty-five (45) feet in height, except as hereinafter provided in Section 12-353 of these regulations.

SECTION 12-331 GENERAL DESCRIPTION, I-2 LIGHT INDUSTRIAL DISTRICT.

This industrial district is intended primarily for the conduct of light manufacturing assembling and fabrication and for warehousing, wholesale and services uses. These do not depend primarily on frequent personal visits of customers or clients, but may require good accessibility to major rail, air or street transportation routes.

SECTION 12-332 USES PERMITTED IN AN I-2 LIGHT INDUSTRIAL DISTRICT.

A. Any use, except dwellings, permitted in the C-4 open display commercial district or in the I-1 restricted light industrial district. No dwelling use, except sleeping facilities required by caretakers or night watchmen employed on the premises, shall be permitted in an I-2 light industrial district.

B. Any of the following uses:

1. Building materials sales yard and lumber yard, including the sale of rock, sand, gravel, and the like as an incidental part of main business, but not including a concrete batch plant or transit mix plant;

2. Contractor's equipment storage yard or plant, or rental of equipment commonly used by contractors;

3. Freighting or trucking yard or terminal;
4. Oil field equipment storage yard;
5. Public utility service yard or electrical receiving or transforming state;
6. Sale barn; and
7. Wrecker/Towing/Impoundment Use under the following conditions:
 - a. For purpose of this subsection, "appropriate screen" shall mean an aesthetic barrier with a minimum opaque barrier not less than five (5) feet in height. Such screen or barrier shall be a solid fence, wall or combination thereof, and may include the use of the walls of the building or structure, which shall be of at least an equivalent height and capacity and located on such property to provide for such enclosure.
 - b. A Wrecker/Towing/Impoundment use may be conducted in an I-2 District provided the following terms and conditions are met:
 - (1) All operations, display, storage, material, equipment, and wrecked vehicles not being used for the current day to day operations of the business shall be located behind an appropriate screen so that it cannot be seen from a public street. The appropriate screen shall be kept in good repair at all time.
 - (2) There shall be no storage of wrecked vehicles, parts, or any other material in front of the Wrecker/Towing/Impoundment use, visible from the public street, that is not in conformance with subsection 7.b.1.
 - (3) All state and local laws and regulations pertaining to Wrecker/Towing/Impoundment operations must be always complied with, with such laws and regulations incorporated herein by reference.
 - (4) There shall be no selling of salvage parts

at such business at any time.

C. The following uses when conducted within a completely enclosed building:

1. 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.

2. 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;

3. The manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay, and kilns fired only by electricity or gas;

4. 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;

5. Manufacture of musical instruments, toys, novelties, and rubber and metal stamps;

6. Automobiles assembling, painting, upholstering, rebuilding, reconditioning, body, and fender works, truck repairing and overhauling, tire re-treading or recapping, and battery manufacturing;

7. Blacksmith shop and machine shop, excluding punch presses over twenty (20) tons rated capacity, drop hammers, and automatic screw machines;

8. Foundry casing lightweight nonferrous metal not causing noxious fumes or odors; and

9. 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.

10. Medical Marijuana Grower Facilities and/or Medical Marijuana Processor Facilities in strict accordance with the applicable provisions of Article 6 of Chapter 9 of the Tonkawa

Municipal Code 2021, as amended.

D. Buildings, structures and uses accessory and customarily incidental to any of the above uses.

E. The uses permitted under this section shall be conducted in such a manner that no noxious odor, fumes, or dust will be emitted beyond the property line of the lot on which the use is located.

Note: Subsection B7 was added by Ordinance No. 2004-07 approved by the City Council on November 2, 2004.

SECTION 12-333 AREA REGULATIONS.

Buildings shall be provided with a yard area adequate to meet the off-street parking requirements set forth in Section 12-361.

SECTION 12-334 FRONT AND SIDE YARD REGULATIONS.

There are no specific front or side yard requirements for uses in this district.

SECTION 12-335 REAR YARD REGULATIONS.

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 thirty (30) feet in width or of adequate area and with to provide for maneuver of service vehicles, whichever is the greater. In all other cases no rear yard is required.

SECTION 12-336 HEIGHT REGULATIONS.

No building shall exceed three and one-half (3 ½) stories of forty-five (45) feet in height, except as hereinafter provided in Section 12-353.

SECTION 12-341 GENERAL DESCRIPTION, I-3 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 these regulations. The intensity of uses permitted in this district makes it desirable that they be located down-wind and separated from residential and commercial uses wherever possible.

SECTION 12-342 USES PERMITTED IN AN I-3 HEAVY INDUSTRIAL DISTRICT.

Property and buildings in an I-3 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 these regulations, 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 council. The commission may require approval of the city-county health department, the state fire Marshall and other state and county regulating agencies and may attach to the approval specific restrictions designed to protect the public welfare:

- a. Acid manufacture;
- b. Cement, lime, gypsum, or plaster of paris manufacture;
- c. Explosives, manufacture or wholesale storage;
- d. Gas manufacture;
- e. Petroleum or its products, refining of;
- f. Wholesale or bulk storage of gasoline, propane or butane, or other petroleum products;

4. Property and buildings in an I-3 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:

- a. Automobile salvage or junk yard;
- b. Building materials salvage yard;
- c. Junk or salvage yard of any kind;
- d. Scrap metal storage yard;

5. Medical Marijuana Grower Facilities and/or Medical Marijuana Processor Facilities in strict accordance with the applicable provisions of Article 6 of Chapter 9 of the Tonkawa Municipal Code 2021, as amended.

SECTION 12-343 AREA REGULATIONS.

Buildings shall be provided with a yard area adequate to meet the off-street parking requirements set forth in Section 12-361.

SECTION 12-344 FRONT AND SIDE YARD REGULATIONS.

There are no specific front or side yard requirements for uses in this district.

SECTION 12-345 REAR YARD REGULATIONS.

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 thirty (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.

SECTION 12-346 HEIGHT REGULATIONS.

Where a lot adjoins a dwelling district, the building shall not exceed forty-five (45) feet, unless it is set back one foot from all front and side yard lines for each foot of additional height above forty-five (45) feet.

SECTION 12-347 GENERAL DESCRIPTION; AGRICULTURAL DISTRICT

This district is created to provide for the use of certain areas for farm use such as dairying, the raising of livestock and poultry, the raising of crops by public, recreational and benevolent establishments. It is intended that agricultural activities conducted in this district shall not be determined to be urban land use and not to be located in close proximity to residential, commercial, or industrial development. The types of uses, area and intensity of use of land which are authorized in this district are designed to encourage and protect agricultural uses until urbanization is warranted and the appropriate change in district classification is made.

SECTION 12-348 USES PERMITTED IN AN A-G AGRICULTURAL DISTRICT

Property and buildings in an agricultural district shall be used only for the following purposes:

1. Agricultural crops and the raising of livestock, poultry, and dairying.
2. Single family residences - pre-existing and future.
3. Medical Marijuana Grower Facilities in strict accordance with the applicable provisions of Article 6 of Chapter 9 of the Tonkawa Municipal Code 2021, as amended.

SECTION 12-348A PUBLIC INSTITUTIONAL (PI) DISTRICT.

A. Description. The Public Institutional (PI) District is intended to offer protection of property held and used for the benefit of the general public, and where property is acquired and held for the special benefit of the inhabitants of the city, and to exercise the right of regulation over public properties in a manner consistent with the laws and general policies of the state.

B. Permitted Uses. Property and buildings in a Public Institutional (PI) District shall be used only for the following purposes:

1. Government: Government offices; municipal facilities and activities;
2. Public Education: Public elementary and secondary schools; public libraries and information centers;
3. Intensive Community Recreation: Outdoor public participant sports park or playground (with night lighting); indoor public recreation facilities;
4. Low Impact Institutional: Private elementary and secondary schools; private libraries and information centers; church, chapel, synagogue, or other place of worship; convent, monastery, religion school;
5. Moderate Impact Institutional: Public or private junior college, technical institute, professional school; vocational schools; job training and vocational rehabilitation services; nursing and similar care facilities (for more than 5 residents);
6. High Impact Institutional: College or university; hospitals;
7. Indoor Cultural: Art gallery; museum; planetarium; aquarium; indoor cultural facilities;
8. Outdoor Cultural: Arboreta, botanical, and zoological gardens; outdoor cultural facilities;
9. Surface Passenger Transportation: Local bus line operation office; local airport transportation service office; taxicab operation office; intercity/interstate bus line office; charter

bus service office; school bus company office; bus terminal operation;

10. Aircraft Transportation: Aircraft transportation facilities and airfield services;

11. Communication Services: Telephone exchange buildings and relay stations without garaging, maintenance, or storage facilities; telegraph services; radio broadcasting station; television broadcasting or translator stations; communication services;

12. Communication Towers: Telephone/telegraph transmission microwave tower; communication towers; radio/television towers;

13. Restricted Light Utility: Pipelines for substations other than natural gas or water; electricity regulating substation; natural gas transmission facilities/pressure control station; water storage facility/ pressure control station; sewage pressure control station; and

14. General Light Utility and Public Protection: Garbage and refuse collecting and transporting service facility, excluding disposal; telephone company service facility with garaging, maintenance, and storage; electric company service facility with garaging, maintenance, and storage; gas company service facility with garaging, maintenance, and storage; utility services.

15. General Light Utility and Public Protection: Ambulance service; police station; fire station;

16. Heavy Utility: Electricity generating plant; water purification plant; sewage treatment plant, sludge drying beds; resource recovery operation for processing waste materials for use in energy production.

C. Area, Height, Setback, or other Requirements. There are no area, height, setback, or other requirements specifically prescribed for the Public Institutional (PI) District.

Section 12-349 SITE PLAN REVIEW.

A. PURPOSE. By reason of potential adverse effect on public service, community appearance, environment, welfare, and to neighboring land uses, Site Plan Review and approval shall be required of development. For the purpose of assuring proper accessibility, circulation, functional relationships of use, and compatibility with adjoining and nearby development, no Building or Occupancy Permit shall be issued, nor use commenced, except in accordance with a Site Plan submitted and approved by the City.

B. INTENT. The Site Plan Review process recognizes that the developments to which it is made applicable, even though generally suitable for location in a particular district or on a particular site, are, because of their nature, size, complexity, or other indicators of probable impact, capable of adversely affecting the purposes for which these regulations are established, unless careful consideration has been given to critical design elements. Therefore, it is the intent of this process to ensure that all elements are reviewed for compatibility with the provisions of these regulations. A Site Plan, much like a preliminary plat of subdivision, is intended to serve as a working document for the developer and the City. It shall provide sufficiently detailed information to allow an informed decision concerning the overall acceptability of the proposed development.

C. APPLICABILITY. Site Plan Review shall be required, as a precondition to the issuance of a Building or Occupancy Permit, in the following instance:

The development or establishment of any commercial or industrial use.

D. RESERVED.

E. DESIGN STANDARDS. The following design standards shall apply to any development requiring Site Plan Review:

1. Access. All developments requiring Site Plan Review shall have adequate and safe vehicular access to adjacent streets. All entrance and exit driveways to public streets shall be located with due consideration for traffic flow so as to afford minimum conflict to traffic on public streets. All such entrances and exits shall be so located and designed so as to comply with the Traffic Control Policies of the City and in the case of State Highways, with the Oklahoma State Highway Commission's Driveway Regulations for Oklahoma Highways.

2. Drainage. Proper surface drainage shall be provided so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system and will, so far as practicable, avoid flooding, erosion, and detrimental depositing of silt, gravel, or stone. Surface water shall be removed from all roofs, canopies and paved areas and disposed of in an appropriate drainage system. Surface water in all paved areas shall be disposed of in a manner approved by the City Manager or his designee.

3. Landscaping. Landscaping shall be included as an integral part of the development to provide a quality of life and amenities in keeping with the natural physical surroundings of the City. All developments shall be landscaped with trees, ornamental shrubs and green areas as approved by the Planning Commission.

4. Lighting. All lighting in parking areas, as part of signs and advertising or special lighting, shall be so arranged to avoid unreasonable reflection, glare, or radiation onto operators of motor vehicles, pedestrians, and neighboring land uses or properties. Outdoor lighting when provided, shall have an arrangement of reflectors and an intensity which will not interfere with adjacent land uses or the use of adjacent streets. No flickering, moving, or flashing lights which would interfere with vehicular traffic shall be permitted.

5. Parking. The location, width and layout of interior drives shall be appropriate for the proposed interior circulation. The location and layout of accessory off-street parking and loading spaces shall provide for efficient circulation and the safety of pedestrians and vehicles. The location of parking areas shall not detract from the design of proposed buildings and structures or from the appearance of the existing neighboring buildings, structures, and landscape. Provisions shall be made for access by police, fire, and emergency vehicles. The Applicant shall follow all requirements for parking made by the Planning Commission.

6. Relation of proposed structures to environment. Proposed structures on the site shall be related in style and design and shall also relate visually to the terrain and existing buildings and roads in the vicinity. The achievement of such harmonious relationship may include the enclosure of space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, terrain features or other buildings. Proposed structures shall be so sited as to minimize any adverse impact upon the surrounding area, and particularly upon nearby residences, by reason of:

- a. Building location, height, bulk, and shadows;
- b. Location, intensity, direction, and time usage of outdoor lighting;
- c. Likelihood of nuisances;
- d. Other similar considerations.

Appropriate screening shall be required to minimize any such adverse impact.

7. Screening. Development and maintenance of plantings, fences, and walls shall be provided as an aesthetic barrier against traffic, noise, heat, glare, and dust for the protection and conservation of property. Whenever any lot located in any commercial zone is to be developed or occupied by commercial uses(s) and it abuts a lot located in any residential zone or a lot developed residentially, the lot shall be screened by the development with a minimum 75% opaque barrier not less than 5 feet in height along the entire lot line. Said screening or barrier shall be dense landscaping, earthen berm, solid lumber or masonry fence, wall, or combination thereof. Solid lumber fencing shall be treated or painted in earth tone colors. More extensive screening maybe required by the Planning Commission and City Council in instances where the above-described screening does not adequately protect adjacent properties from unsightly or distracting activity. The screening shall be maintained in good condition. Prescribed screening need not be provided along a lot line if a building, fence, wall or dense landscaping of at least equivalent height, capacity, and maintenance exists immediately abutting on the opposite side of said lot line. In addition, the Planning Commission and the City Council may require that existing landscaping and vegetation on the site which serves a partial or full screening be retained in order to satisfy the requirements of this Section.

8. Special Features. Outside storage areas, service and machinery installations, service areas, truck loading areas, utility buildings, and structures, and similar accessory areas and structures shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent any adverse effect upon the environment or nearby property.

9. Waste disposal. All containers for the disposal of wastes can be required to be located on a concrete pad and maybe required to be screened to the extent that the container cannot be viewed by the public and as approved by the Planning

Commission.

10. Public Rights-of-Way, Streets and Easements. Each Site Plan shall provide for the appropriate dedication and improvement of needed rights-of-way and easements as are necessary to adequately serve the proposed development and occupancy, and the minimum design standards of the City.

F. RESERVED.

G. SITE PLAN PREPARATION.

1. If required by the City Manager, Site Plans or any portion thereof involving Public Engineering improvements shall be certified by a Professional Engineer registered in the State of Oklahoma.

2. If required by the City Manager, the Site Plan shall include a Boundary Survey completed and certified by a land surveyor licensed by the State of Oklahoma.

3. Site Plans shall be prepared to a scale as required by the City Manager.

5. Site Plans shall be submitted in one (1) clearly legible blue or black line copies and shall also include any supportive maps or data as may be required.

6. The Site Plan must, at the time of submittal, be accompanied by the completed application form. The filing fee for Site Plan Review shall be twenty-five dollars (\$25.00). An application for the approval of a Site Plan may be processed simultaneously with and contingent upon, the approval of, an application for a zoning amendment.

H. CONTENTS OF THE SITE PLAN.

1. All Site Plans shall contain the following information:

a. Location of the tract, with references to names of adjoining streets, streams, bodies of water, railroads, subdivisions, or other landmarks sufficient to clearly identify the location of the property.

b. The name, address and telephone of the owner or developer, north arrow, date, scale of drawing, and number of sheets.

c. Boundary dimensions and references as indicated by

survey.

- d. Existing topography, with a maximum contour interval of two (2) feet, if required by the City Manager.
- e. All existing and proposed streets, pedestrian circulation systems, utilities, and easements, indicating their name, type and dimensions and the location of all private utility service lines and connections to public utilities.
- f. Zoning of all adjacent properties.
- g. The delineation of any flood hazard areas and drainage features as defined by the Federal Insurance Administration.
- h. Location, type, and dimensions of vehicular entrances to the site.
- i. All off-street parking and loading areas in accordance with off-street parking regulations as specified in this Code.
- j. The proposed location, use, number of floors, height, and gross floor area for each building; any outside display areas; signs and lighting. Elevation drawings shall be submitted for all signs and buildings.
- k. Location, type, size, and height of fencing, retaining walls, screening, plantings, or landscaping. Elevation drawings shall be submitted for all screen planting and fencing.
- l. Provisions for the adequate disposition of natural storm water in accordance with the adopted design criteria, standards, and ordinances of the City indicating the location, size, type, and grade of ditches, catch basins and dips, and connections to existing drainage systems and on-site storm water detention systems.
- m. Proposed finished grading by contours of two (2) feet supplemented where necessary by spot elevation if required by the City Manager.

I. SITE PLAN SUBMISSION AND REVIEW. Plans for Development on Property.

- 1. All Site Plans shall be reviewed and approved by the

Planning Commission prior to the issuance of any Building Permit or Occupancy Permit for the property.

2. The Site Plan shall be submitted to the City Manager no later than 10 days prior to the Planning Commission meeting date at which it is to be considered.

3. The City Manager shall review the Site Plan for completeness and compliance with the provisions of these regulations. Any necessary modifications shall be forwarded to the applicant for resubmittal.

4. After review, the City Manager shall provide to the Planning Commission, a written report recommending and listing reasons for the approval or denial of the Site Plan.

5. The Planning Commission shall conduct a public hearing regarding the proposed Site Plan and shall consider:

- a. Whether the proposed Site Plan is consistent with the Land Use Plan.
 - b. Whether the proposed Site Plan harmonizes with the existing and expected development of surrounding areas.
 - c. Whether provisions have been made for proper accessibility, circulation, and functional relationships of land uses.
 - d. Whether the proposed Site Plan is consistent with the purposes and standards of these regulations.
6. The Planning Commission may take the following actions:
- a. Approval. If the Site Plan is recommended for approval, the developer may make application for permits in compliance with the approved Site Plan.
 - b. Conditional approval. The Planning Commission may recommend conditional approval of the Site Plan subject to any necessary amendments.
 - c. Denial. If the Site Plan is recommended for denial, the reasons for such shall be recorded in the minutes of the Planning Commission meeting. The reasons for denial shall refer to specific provisions of these regulations which the Site Plan does not conform.

7. The recommendation of the Planning Commission shall be referred to the City Council for final action.

8. The City Council shall approve, conditionally approve, or deny the Site Plan. In the case of any action other than approval, the City Council shall state the reasons for its action. As a condition of approval, the City Council may require certain on-site and off-site improvements to be installed.

J. PUBLIC NOTICE.

1. After the City Manager receives an application for Site Plan Review, the subject property shall be posted with a notice or notices which shall describe the development being proposed and the time and place in which the application may be viewed by any interested person.

2. Said Notice shall be posted no later than ten (10) days prior to the hearing before the Planning Commission. The subject property shall remain posted until a final decision has been made concerning the application.

Upon approval of the Site Plan, building permits may be issued in accordance with the provisions of the approved Site Plan.

K. AMENDMENTS. Minor changes to the Site Plan may be accomplished administratively through the City Manager so long as substantial compliance is maintained with the approved Site Plan. Proposed changes which could represent a significant departure from the Site Plan, as approved by the Planning Commission or City Council, shall require resubmittal. Major changes to an approved Site Plan which would require resubmittal shall include but not be limited to, an increase in the bulk of any building by more than five percent (5%), and increase in residential density, or an increase in total ground area covered by buildings by more than five percent (5%).

L. OCCUPANCY PERMIT. Prior to the issuance of any Certificate of Occupancy, the applicant shall complete in a manner satisfactory to the City Manager, all improvements required by these regulations and as required by the City Council.

M. EXCEPTIONS. The foregoing Site Plan Procedure shall not apply to:

1. New occupancies of existing structures in the Downtown Business District.

2. Any use permitted on a temporary basis for a period of

not to exceed six (6) months.

3. Attached or unattached additions to existing non-residential buildings or uses; provided however, such additions must not change the character of the use or cause or extend a nuisance or nonconformity and must otherwise conform to the appropriate city ordinances.

N. ADMINISTRATIVE SITE PLAN REVIEW. The following Administrative Site Plan Review procedures shall apply to additions to existing non-residential buildings or uses, when such additions do not change the character of the use, cause or extend a nuisance or nonconformity and otherwise conform to the appropriate city ordinances.

1. There is hereby created an Administrative Site Plan Review Board (hereinafter the "Board") to review applications for Administrative Site Plan Review (hereinafter the "review"). The Board shall be composed of the City Manager, the Chairman of the Planning Commission, or his designee and one member of the City Council.

2. Any Administrative Site Plan Review Applicant (hereinafter the "Applicant") shall request a review with the City Manager. The City Manager may choose, in his sole discretion, to send the Application for consideration and review by the Planning Commission and the City Council or to the Board ("reviewing entity").

3. The City Manager shall determine which design standards (as provided in subsection E), what site plan preparation are required (as provided in subsection G) and which site plan contents are required for this type of Application, together with any such other related matters to expedite the Application. Upon submission of such applicable items in the Application by the Applicant to the City Clerk, the affected property shall be immediately posted with a notice which describes the development being proposed and the time and place of the administrative hearing before the reviewing entity, as designated by the City Manager. The property shall be posted for at least five (5) days prior to the date of the administrative hearing. At the hearing, the reviewing entity shall consider:

- a. Whether the proposed Site Plan is consistent with the Land Use Plan;
- b. Whether the proposed Site Plan harmonizes with the existing and expected development of surrounding areas;

- c. Whether provisions have been made for the proper accessibility, circulation, and functional relationships of land uses;
- d. Whether the proposed Site Plan is consistent with the purposes and standards of these regulations; and
- e. Whether, as a condition of approval, certain on-site and off-site improvements should be installed at the Applicant's sole cost.

The decision of any two members of the Board shall be binding on the Applicant. All Board decisions shall be reduced to writing and forwarded to the Planning Commission for their records. Any person may appear at the administrative hearing and be heard. Any decision appealed shall be heard and decided by the City Council. If no appeal to the decision of the Board is filed with the City Clerk within three (3) days of the Board's decision, such decision shall be binding.

DIVISION 3

PROVISIONS APPLICABLE TO ALL DISTRICTS

SECTION 12-351 CONDITIONS OF MORE RESTRICTED DISTRICT.

Whenever the specific district regulations pertaining to one district permit the uses of a more restricted district, such uses shall be subject to the conditions as set forth in the regulations of the more restricted district unless otherwise specified.

SECTION 12-352 OPEN SPACE.

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.

1. Open caves, cornices, window sills, and belt courses may project into any required yard a distance not to exceed one foot. Open porches may project into a front or rear yard a distance not to exceed five (5) feet;

2. Where the dedicated street right-of-way is less than sixty (60) feet, the depth of the front yard shall be measured starting at a point thirty (30) feet from the center line of the street easement;

3. No dwelling shall be erected on a lot which does not abut

on at least one street for at least thirty-five (35) feet and have a width of at least fifty (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;

4. No minimum lot sizes and open spaces are prescribed for commercial and industrial uses. It is the intent of these regulations 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 enterprise;

5. On any corner lot on which a front and side yard is required, no wall, fence, sign, structure or any plant growth having a height in excess of three (3) feet above the elevation of the lowest point of the crown of adjacent roadway shall be maintained in a triangle formed by measuring from the point in intersection of the front and exterior side lot lines a distance of thirty (30) feet along the front and side lot lines and connecting the points so established to form a sight triangle on the area of the lot adjacent to the street intersection.

SECTION 12-353 HEIGHT.

The regulations herein set forth qualify or supplement, as the case may be, the specific district regulations appearing in Section 12-221 through 12-346 inclusive:

1. 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 (4) feet above the floor does not exceed two-thirds (2.3) 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;

2. Chimneys, elevators, poles, spires, tanks, towers, and other projections not used for human occupancy may extend above the height limit;

3. Churches, schools, hospitals, sanatoriums, and other public and semi-public 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 (2) feet by which the height of such public or semi-public structure exceeds the prescribed height limit.

SECTION 12-354 GROUP HOUSING PROJECT.

In the case of a housing project consisting of a group of two (2) or more buildings to be constructed on a plot of ground of at least two (2) acres not subdivided into the customary streets and lots, and which will not be so subdivided, or where the existing or contemplated street and lot layout make it impracticable to apply the requirements of these regulations to the individual buildings in such housing project, the application of such requirements in a housing project shall be done by the council in a manner that will be in harmony with the character of the neighborhood, will insure a density of land use no higher and a standard of open space at least as high as required by these regulations in the district in which the proposed project is to be located. In no case shall a use or building height or density of population be permitted which is less than the requirements of the district in which the housing project is to be located.

SECTION 12-355 ANIMALS

Animals in any district shall be kept only in accordance with the ordinances of the city.

SECTION 12-356 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 Liquefied Petroleum Gas Administration of the state.

SECTION 12-357 TRAILER COURT REGULATIONS.

Trailer parks shall be constructed in accordance with the requirements of the ordinances of the city relating thereto.

DIVISION 4

OFF-STREET PARKING

SECTION 12-361 OFF-STREET AUTOMOBILE AND VEHICLE PARKING AND LOADING; GENERAL INTENT AND APPLICATION.

A. It is the intent of these requirements that adequate parking and loading facilities be provided off the street for each use of land within the city. Requirements shall apply to all uses in all districts.

B. The area required for off-street parking shall be in addition to the yard areas herein required with the following

exceptions:

1. The front yard required in a C-1 local commercial district or C-2 Commercial Business District may be used for uncovered parking when the area is surfaced with a sealed surface pavement adequate to prevent the occurrence of mud and dust with continued use;

2. Either the front yard, or rear yard or side yards required in a residential district may be used for the uncovered parking area for six (6) or less vehicles associated with a residential use when the area is surfaced with a sealed surface pavement adequate to prevent the occurrence of mud and dust with continued use; and

3. Either the front yard, or rear yard, or side yards required in a residential district may be used for uncovered parking area for more than six (6) vehicles in accordance with the provisions of Subsection G of this section.

C. The entire parking lot shall be located within six hundred (600) feet, exclusive of street and alley widths, of the principal use and shall have direct access to a street or alley.

D. The size of a parking space for one vehicle shall consist of a rectangular area having dimensions of not less than eight (8) feet by twenty-one (21) feet plus adequate area for ingress and egress, all of which shall be located outside the street right-of-way.

E. Off-street parking and loading facilities shall be provided in all districts in accordance with the following schedule:

1. Dwelling. One and one-half (1 1/2) parking spaces for each separate dwelling unit within the structure;

2. Boarding or rooming house or hotel. One parking space for each two (2) guests provided overnight accommodations;

3. Hospitals. One parking space for each (4) patient beds, exclusive of bassinets, plus one parking space for each staff or visiting doctor, plus one parking space for each three (3) employees including nurses, plus adequate area for parking of emergency vehicles;

4. Medical or dental clinics or offices. Four (4) parking spaces per doctor plus one parking space for each two (2) employees;

5. Sanatoriums, convalescent or nursing homes. One parking space for each six (6) patient beds, plus one parking space for each staff or visiting doctor, plus one parking space for each three (3) employees including nurses;

6. Community center, theater, auditorium, church sanctuary. One parking space or each five (5) seats, based on maximum seating capacity;

7. Convention hall, lodge, club, library, museum, place of amusement or recreation.

One parking space for each one hundred (100) square feet of floor area used for assembly or recreation in the building;

8. Office building. One parking space for each three hundred (300) square feet of Gross floor area in the building, exclusive of the area used for storage, utilities and building service area on the first floor; and one parking space for each five hundred (500) square feet of gross floor area, exclusive of the area used for storage, utilities, and building service area for all floors above ground floor;

9. Commercial establishments not otherwise classified. One parking space for each Three hundred (300) square feet of floor space in the building used for retail trade or used by the public whichever is the greater. However, if public off- street parking is available, then this requirement shall be waived upon review by the board of adjustment.

F. Whenever off-street parking lots for more than six (6) vehicles are to be located within or adjacent to a residential district, the following provisions shall apply:

1. No parking shall be permitted within a front yard setback line established ten (10) feet back of the property line;

2. No parking shall be permitted within a corner side yard setback line established ten (10) feet back of the property line;

3. All yards shall be landscaped with grass, shrubs and evergreen ground cover and maintained in good condition the year around;

4. All of the lot used for parking and driveway purposes shall be paved with a sealed surface pavement and maintained in such manner that no mud or dust will be produced by continued use;

5. The intensity of light and arrangement of reflectors shall be such as not to interfere with residential district uses; and

6. No signs 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.

G. Wherever off-street parking lots are located the following provisions shall apply:

On any corner lot on which a front and side yard is required, formed by two (2) intersecting streets no parking shall be permitted, and no wall, fence, sign structure or plant growth having height in excess of three (3) feet above the elevation of the crown of the adjacent roadway surface shall be maintained in a triangle formed by measuring a distance of thirty (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.

DIVISION 5

NON-CONFORMING USES

SECTION 12-371 NON-CONFORMING BUILDING AND STRUCTURES.

A. A non-conforming building or structure existing at the time of adoption of these regulations may be continued and maintained except as otherwise provided in the section.

B. A non-conforming 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 non-conforming 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 and height and off-street parking requirements of the district in which the building or structure is located; and if the enlargement or extension of a building is non-conforming by reason of its location being in the F-flood plain zoning district, such building or structure may be extended and enlarged where such extension or enlargement shall not be subject to flood damage and shall not be used for human occupancy, and such building or structure may be extended and enlarged for human occupancy where such extension or enlargement is made for purpose of providing

modern sanitary improvements, or where such enlargements or extensions do not increase the area covered by the improvements by more than fifty percent (50%) of the area of existing structures. No non-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 the regulations of the district in which it is located.

C. A non-conforming building or structure which is damaged or partially destroyed by fire, flood, wind, earthquake, or other calamity or act of God or the public enemy, to the extent of not more than seventy-five percent (75%) of its value, exclusive of foundations, may be restored and the occupancy or use of such building, structure or part thereof, which existed at the time of such partial destruction, may be continued or resumed, provided that such restoration is started within a period of one year and is diligently prosecuted to completion. In the event such damage or destruction exceeds seventy-five percent (75%) of the value exclusive of foundation of such non-conforming building or structure, no repairs or reconstruction shall be made unless every portion of such building or structure is made to conform to all regulations for new buildings in the district in which it is located; provided, however, that any building or structure that is non-conforming due to off-street parking requirements, and is conforming in every other respect, may be restored regardless of the extent of damage.

D. Any advertising sign billboard, commercial advertising structure, or statuary, which is lawfully existing and maintained at the time these regulations became effective which does not conform with the provisions hereof shall not be structurally altered and all such non-conforming advertising signs, billboards, commercial advertising structures, and statuary, and their supporting members shall be completely removed from the premises not later than three (3) years from the effective date of these regulations.

E. A non-conforming building, structure, or portion thereof, which is or hereafter becomes vacant and remains unoccupied for a continuous period of one year shall not thereafter be occupied except by a use which conforms to these regulations of the district in which it is located.

F. A non-conforming use of a conforming building or structure (i.e., commercial use in a dwelling, etc.) shall not be expanded or extended into any other portion of such conforming building or structure nor changed except to a conforming use. If such a non-conforming 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. A vacant or partially vacant non-conforming building or structure may be occupied by a use for which the building or structure was designed or intended if occupied within a period of one year after the effective date of these regulations.

G. The use of a non-conforming building or structure may be changed to a use of the same or a more restricted district classification; but where the use of a non-forming building or structure is changed to a use of more restricted district classification it thereafter shall not be changed to a use of a less restricted district classification.

H. A non-conforming use of land, where the aggregate value of all permanent buildings or structures is less than One Thousand Dollars (\$1,000), existing at the time of adoption of this ordinance, may be continued for a period of not more than three (3) years there from, provided:

1. The non-confirming use may not be extended or expanded; or
2. If the non-conforming use or any portion thereof is discontinued for a period of one month, 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.

DIVISION 6

ADMINISTRATION

SECTION 12-381 BUILDING PERMITS OR CERTIFICATE OF OCCUPANCY REQUIRED.

A. These regulations shall be enforced by the city planning commission or building inspector appointed by the council of the city. It shall be a violation of these regulations for any person to change or permit the change in the use of land or buildings or structure or to erect, alter, move, or improve any building or structure until a building permit or certificate of occupancy has been obtained.

B. Any person who hereafter constructs, locates, extends, or alters any structure or land without full compliance with the terms in Chapter 7, Title 12, (Sections 12-701 et seq) "Building Regulations in Flood Hazard Areas" shall be aware and is hereby advised that such non-compliance could make such construction, location, extension, alteration or structure

ineligible for available low-cost flood insurance. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 12-382 PROCEDURE FOR AUTHORIZING USES PERMITTED ON REVIEW.

A. USES PERMITTED BY REVIEW. The development and administration of a Zoning Ordinance is based upon the division of the City into Zone Districts within which Districts the use of land and buildings and the bulk and position of buildings and structures in relation to the land are relatively uniform. It is recognized, however, that there are occasions when in addition to the principal permitted uses, other uses, hereinafter referred to as "USES PERMITTED BY REVIEW", because of their unique characteristics and because of the uniqueness of their proposed location, may be allowed after careful consideration of the impact of the particular uses upon the neighborhood and the public facilities thereon.

B. AUTHORIZATION. The City Council may grant a use that is listed under the USES PERMITTED BY REVIEW in a particular zone or as otherwise provided for after recommendation and at least one public hearing by the Planning Commission. The subject property will be required to be posted twenty (20) days prior to the public hearing. In addition, prior to the hearing, a written notice shall be mailed to all owners of real property located within a three hundred (300) foot radius of the exterior boundary of the property proposed for the use by review. The applicant shall, at his own cost, provide the City with a certified list of property owners from an abstractor, together with a copy of any restrictive covenants that are applicable to the tract which is the subject of the use by review. The mailed and posted notices shall contain the:

1. Legal description of the property and the street address or approximate location in the municipality;
2. Present zoning of the property and use by review sought by the applicant; and
3. Date, time, and place of the public hearing.

C. CONDITIONS FOR AUTHORIZATION. No USE PERMITTED BY REVIEW shall be granted by the City Council until the Planning Commission first finds:

1. Surrounding Neighborhood: That the value and qualities of the neighborhood surrounding the USE PERMITTED BY REVIEW are

not substantially injured.

2. Intent of General Description: That the USE PERMITTED BY REVIEW is consistent with the intent and purpose of the particular zone to promote public health, safety, and general welfare.

3. Land Use Plan: That the USE PERMITTED BY REVIEW is in keeping with the Land Use Plan of the City.

D. APPLICATION. An application for a USE PERMITTED BY REVIEW shall be filed with the Zoning Officer. Any evidence as may be necessary to enable the Planning Commission and City Council to properly consider the request should accompany the application. The applicant for a USE PERMITTED BY REVIEW shall pay a fee in the same amount as the re-zoning application fee.

SECTION 12-383 PLANNING COMMISSION RECOMMENDATION REQUIRED; AMENDMENTS; APPLICATION FOR AMENDMENT; NOTICE AND PUBLIC HEARING; PLANNING COMMISSION ACTION; CITY ACTION; PROTESTS TO AMENDMENTS.

A. The regulations, restrictions, prohibitions and limitations imposed, and the districts created may from time to time be amended, supplemented, changed, modified or repealed by ordinance, but no change shall be made until the planning commission, after notice and public hearing, files with the City Council a report and recommendation on the proposed change.

B. The city council may, from time to time, on its own motion, or on petition from a property owner, or on recommendation of the planning commission, amend the regulations and districts herein established. No change in regulations, restrictions or district boundaries shall become effective until after a public hearing held in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least twenty (20) days' notice of the time and place of such hearing shall be published in an official paper or paper of general circulation in the city.

C. An owner or his duly authorized agent or representative may make application for the amendment of the zoning restrictions applicable to his property by filing with the planning commission a written application. The applicant shall pay the fee as set out in this Section 12-111.

D. Parties in interest and citizens shall have an opportunity to be heard at a public hearing before the planning commission on any application, and before any district regulation, restriction, or boundary shall become effective. Upon receipt

of an application, the planning commission shall set a date for public hearing not less than twenty (20) days nor more than sixty (60) days from the date of filing. At least fifteen (15) days' notice of the date, time and place of the hearing shall be published in a newspaper of general circulation in the city. The notice shall include a map of the area to be affected which indicates street names or numbers, streams, or other significant landmarks in the area.

E. Except as authorized in subsection F of this section, in addition to the notice requirements provided for in subsection A hereinabove, a notice of a public hearing on any proposed zoning change, except by a municipality acting pursuant to subsection C of this section, shall be given twenty (20) days prior to the hearing by mailing written notices by the secretary of the planning commission, to all the owners of real property within a three hundred (300) feet radius of the exterior boundary of the territory contained in the application. The application submitted by the applicant shall contain a certified abstractor's, registered professional engineer's or registered land surveyor's list of the names of all property owners within such area; no application shall be accepted without such list. The notice shall contain the following:

1. Legal description of the property and the street address or approximate location of the municipality;
2. Present zoning of the property and the zoning sought by the applicant; and
3. Date, time, and place of the public hearing.

Additional notice may also be given by posting the notice of the hearing on the affected property at least twenty (20) days before the date of the hearing.

F. If the planning commission or the city proposes reclassification in order to revise its comprehensive plan or official map or to identify areas which require specific land use development due to topography, geography, or other distinguishing features, including but not limited to flood plains, drainage, historic preservation, and blighted areas, the planning commission or City Council shall require, in addition to the notice requirements provided for in subsection E hereinabove, a sign to be posted on designated properties within the area affected by the proposed zoning reclassification. The sign and the lettering thereon shall be of sufficient size so as to be clearly visible and legible from the public street or streets toward which it faces. The notice shall state:

1. The date, time, and place of the public hearing;
2. Who will conduct the public hearing;
3. The desired zoning classification;
4. The proposed use of the property; and
5. Other information as may be necessary to provide adequate and timely public notice.

G. In addition to the notices required by Subsection D & E hereinabove, if the zoning change requested permits the use of treatment facilities, multiple family facilities, transitional living facilities, halfway houses and any housing or facility that may be used for medical or non-medical detoxification as these terms are defined pursuant to Section 3-403 of Title 43A of the Oklahoma Statutes, the entity proposing the change in district regulation, restriction, or boundary shall mail a written notice within thirty (30) days of the hearing to all real property owners within one-quarter of a mile where the area to be affected is located and shall be responsible for all costs incurred in mailing this notice. For purposes of this subsection, "entity" means any individual, corporation, company, firm, partnership, association, trust, state agency, government instrumentality or agency, institution, county, incorporated municipality or municipal authority or trust in which any governmental entity is a beneficiary, venture, or other legal entity however organized.

H. After notice and public hearing, the planning commission shall vote to:

1. Recommend to the City Council that the application be approved as submitted, or as amended, or be approved subject to modification; or
2. Recommend to the City Council that the application be denied.

I. An application recommended for approval, or approval subject to modification, shall be transmitted to the city with the report and recommendation of the planning commission within fifteen (15) days from the date of planning commission action.

J. An application recommended for denial shall not be considered further unless the applicant, within fifteen (15) days from the date of the planning commission action, files a written request with the City Council for a hearing. Upon

notice of such request, the planning commission shall forthwith transmit the application and its report and recommendation to the City Council. There shall be no fee charged the applicant for the hearing.

K. The City Council shall consider the recommendation of the Planning Commission on each application regularly transmitted. The City Council shall approve the application as submitted and recommended by the planning commission, or approve the application subject to modification, or deny the application, or return the application to the city planning commission for further study.

L. Protests against the proposed changes in regulations, restrictions and district boundaries in the city shall be filed at least three (3) days before the date of the public hearing before the City Council. If protests are filed by:

1. The owners of twenty percent (20%) or more of the area of the lots included in a proposed change; or

2. The owners of fifty percent (50%) or more of the area of the lots within a three hundred (300) foot radius of the exterior boundary of the territory included in a proposed change;

then the proposed change or amendment shall not become effective except by the favorable vote of three-fifths (3/5) of all the members of the City Council.

SECTION 12-384 CLASSIFICATION OF NEW ADDITION.

A. All new additions and annexations of land to the city shall be in an R-1 residential zone unless otherwise classified by the city council, for a period of time not to exceed one year from the effective date of the ordinance annexing the addition.

B. Within this one-year period of time the city council shall instruct the city planning commission to study and make recommendations concerning the use of land within the annexation to promote the general welfare and in accordance with the comprehensive city plan, and upon receipt of such recommendations the city council shall, after public hearings as required by law, establish the district classification of the annexation; provided, however, that this shall not be construed as preventing the city council from holding public hearings prior to annexation and establishing the district classification at the time of the annexation.

C.

SECTION 12-385 CLASSIFICATION OF UNDERSIGNED USES.

For all uses not covered in the ordinance, it shall be the duty of the city planning commission or building inspector to classify such use and designate the zoning district in which such use may be located.

SECTION 12-386 PENALTY.

Any person who violates any provision of this chapter is guilty of an offense and upon conviction shall be punished as provided in Section 1-108 of this code.

ARTICLE 4

SUBDIVISION REGULATIONS

SECTION 12-401 INFORMATION TO BE FURNISHED.

The following information shall be submitted for a subdivision:

1. Name of proposed subdivisions;
2. Name and address of property owner, sub-divider, and engineer or surveyor platting the tract and laying out the boundaries. Engineer's seal to be duly fixed;
3. Date, scale (Written and graphic) and north point;
4. Boundary lines showing azimuths or interior angles from accepted, center lines of existing streets, section lines or established divisional lines, and names of adjacent subdivisions;
5. Name, location, purpose and dimensions of all easements, reserves, right-of-way existing or proposed on or adjacent to the tract whether public or private;
6. Ground elevation with contours at vertical intervals not exceeding two (2) feet. Elevations marked on such contours shall be based on datum plans.
7. Location of existing bodies of water, waterway courses, and other such physical features relating thereto;
8. All subdivision proposals shall be consistent with the need to minimize flood damage;
9. All subdivision proposals shall have public utilities

and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

10. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage;

11. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots of five (5) acres (whichever is less);

12. Proposed lot layout, building setback lines, and their approximate dimensions;

13. Any proposed restricts or covenants; and

14. Preliminary plat shall include all land under one ownership contemplated for the entire eventual subdivision.

SECTION 12-402 PLANNING COMMISSION TO REPORT.

Within forty-five (45) days, the planning commission shall transmit to the city council its report as to the effect of such proposed subdivision and the preliminary plat shall be deemed approved, unless the developer is notified to the contrary by some authorized representative of the city.

SECTION 12-403 SPECIFICATIONS FOR FINAL PLAT.

The final plat shall be clearly and legibly drawn to a minimum scale of one (1) inch to one hundred (100) feet on tracing cloth in India ink. The sheets shall be eighteen (18) inches minimum width and on the first sheet of each plat, there shall be a key map showing the location of the subdivision referenced to governmental survey lines and major streets. If more than two (2) sheets are required for the plat, the key map shall show the number of the sheets for each area. The following information shall be shown:

1. The location and description of all section line corners and permanent survey monuments in or near the tract, to at least one of which the subdivision shall be referenced;

2. The location of the boundary lines and dimensions of the tract being subdivided and the boundary lines of adjoining property;

3. The location and dimensions of adjacent rights-of-way, easements, reserves or subdivisions;

4. The location and dimensions of all proposed streets, alleys, and easements, for public service or utilities and names of the proposed streets;

5. The lot and block numbers shall be in a logical sequence with the dimensions shown plainly thereon;

6. The location of all building lines and setback lines;

7. The length of all lines and curve data for survey or resurvey purposes shall be shown in feet and hundredth parts thereof;

8. Date, scale (written and graphic) and north point;

9. The following shall be made and shown as part of the plat:

- a. Owners certificate and dedication;
- b. Engineers certificate of survey, signed, and his seal;
- c. Reference to any separate instruments, filed in the office of the county clerk, including restrictive covenants which directly affect the land being subdivided;
- d. County treasurer's certificate;
- e. Certificate of planning commission approval; and
- f. Certificate of city council approval and acceptance of easements and public land dedication;

10. The title shall include:

- a. Name of subdivision; and
- b. Name of the city, county, and state;

11. Marginal lines encircling the sheets. All lettering, signature and seals shall be within the margin; and

12. The proposed subdivision shall be laid out by a registered professional engineer licensed to practice professional engineering in the state.

SECTION 12-404 STREET PLAN AND RELATION TO ADJOINING STREET SYSTEM.

A. The street plan for proposed subdivisions shall comply with the city's recommendation and approval of the planning commission.

B. All streets shall be platted in such a manner that conform to the applicable zoning regulations.

C. Whenever practicable, there should be a minimum of six hundred (600) feet between intersections involving a highway or major thoroughfare.

D. Subdivisions related to or affecting a state or federal highway shall require the approval of the state highway department.

SECTION 12-405 STREET RIGHT-OF-WAY AND ROADWAY WIDTHS.

A. In no instance shall a street right-of-way be less than fifty (50) feet.

B. All roadways shall be paved, and curb and gutter installed according to specifications and standards approved by the city, and in no instance shall the roadway be less than twenty-six (26) feet from face of curb to face of curb.

SECTION 12-406 SIDEWALKS.

A. Sidewalks may be required in conjunction with any street or highway where deemed essential for public safety.

B. All sidewalks shall be a minimum width of forty-eight (48) inches and a distance of not less than one foot from the property line.

SECTION 12-407 STREET ALIGNMENT.

A. Street alignment should be such as to discourage sharp curves and the resulting traffic hazards, and to permit proper intersections of streets.

B. Street jogs should be avoided. The planning commission may require that streets be connected by a curve or diagonal line in such a manner that a smooth flow of traffic and the elimination of traffic hazards are assured.

C. At all boundaries of a subdivision provisions shall be made to connect with existing and potential streets in adjacent areas.

SECTION 12-408 CUL-DE-SACS AND DEAD-END STREETS.

A. Cul-de-sacs shall be not more than two hundred fifty (250) feet in length and shall terminate in a turn-around with a radius of not less than fifty (50) feet at the property line

and a radius of not less than forty (40) feet at the curb line.

B. In the case of dead-end streets which are stub streets designed to provide connections with adjoining un-subdivided areas, the planning commission may require:

1. Temporary easement for a turn-around of the nature mentioned above;

2. A roadway at least twenty-six (26) feet in width, and not of excessive length to connect the temporary dead-end street, with an existing street; or

3. An appropriate area for a back-around.

C. In all instances, provisions must be made for adequate storm drainage and drainage structures to prevent water from standing in the ends of stub streets of cul-de-sacs.

SECTION 12-409 STREET INTERSECTIONS.

A. Street corners shall have a minimum radius of fifteen (15) feet at the curb line, subject to Subsection D below.

B. In general, streets should be laid out to intersect at right angles, and a curve may be used approaching the intersections to bring this about.

C. No street shall intersect any other street at an angle of less than seventy degrees (70).

D. Street intersections involving major streets and highways shall have a minimum street corner radius of thirty (30) feet at the curb line or its equivalent.

E. All street corner radii shall be shown on the street improvement plans.

SECTION 12-410 STREET GRADES

A. All grades shall conform to the requirements of the city with the following minimum standards observed:

1. Street grades for major streets shall not exceed five percent (5%);

2. Street grades for all other classes of streets and highways shall not exceed eight percent (8%); and

3. When deemed advisable, the planning commission may permit a variation from these grades in order to adjust to topographical conditions.

B. No street surfacing shall have a finish grade of less than four-tenths (.4) of one percent (1%).

SECTION 12-411 ALLEYS

A. All alleys shall have a minimum width of sixteen (16) feet.

B. Abrupt changes in alignment or dead ends shall be avoided.

C. "T" or "L" shaped alleys shall have a radius of not less than ten (10) feet at the point of intersection.

D. All alleys shall be opened and to a grade approved by the planning commission.

SECTION 12-412 STORM DRAINAGE AND FLOOD PLAN.

A. All land development shall be related to the surrounding drainage pattern with provisions made or proper storm drainage facilities.

B. Minimum runoff shall be determined by an accepted formula with conventional runoff factors, using as a minimum of rainfall rate of three and one-half (3 ½) inches per hour.

C. Lands, lakes, ponds, creeks, and similar areas shall be accepted by the public for maintenance only if they are related to and may logically become a part of a recreational area, park or similar public area.

D. The planning commission shall not approve a subdivision located in areas subject to flood or any other impairment to health or safety.

E. If storm water is diverted from its natural course, the following requirements shall be made:

1. A sketch showing the existing waterway and the location of the proposed channel change;

2. Profile of existing water course;

3. The sub-divider shall pay for all necessary storm

drainage improvements; and

4. Approval of all owners of property and property rights to be affected by diversion of water from its natural course.

SECTION 12-413 BLOCKS.

A. Blocks should have the following dimensions:

	Minimum	Maximum
Length	300 feet	1200 feet
Width	240 feet	400 feet

B. The above dimensions shall be subject to adjustment by the planning commission where topography, character of the proposed use or similar conditions justify different lengths or widths.

SECTION 12-414 LOTS.

A. Lot dimensions and setback lines shall conform to zoning ordinances of the city and to the recommendations of the planning commission and approval of the city council.

B. Side lot lines should be right angles or radial to street lines.

SECTION 12-415 ACRE SUBDIVISIONS.

When the proposed subdivision involves lots of one acre or more in area, consideration should be given to any re-subdividing that might take place with proper provision being made for such street extensions as may be necessary.

SECTION 12-416 BUILDING LINE CONTROLS.

The building line for lots fronting on an existing or proposed major street or highway shall not be less than twenty-five (25) feet from the right-of-way.

SECTION 12-417 EASEMENTS AND UTILITIES.

A. Where alleys are not provided or may not be used for that purpose, drive easements not less than sixteen (16) feet in width shall be provided for poles, wires, conduits, storm sewers, sanitary sewers, gas lines, water mains and lines or other such similar purposes.

B. When a subdivision is traversed by a water course, channel, stream, or creek, the sub-divider shall provide an easement sufficient for maintenance, the easement not to be less than twenty-five (25) feet.

SECTION 12-418 PENALTY.

Any person who violates any provision of this chapter is guilty of an offense and upon conviction shall be punished as provided in Section 1-108 of this code. Each day that a violation continues shall be a separate offense.

ARTICLE 5

OIL AND GAS REGULATIONS

SECTION 12-501 OIL AND GAS REGULATIONS ADOPTED.

It is unlawful for any person to drill or dig a well for oil or natural gas, or to produce oil or natural gas within the city. In addition to being an offense and punishable as such, such drilling, digging, or production is also hereby declared to be a public nuisance and subject to abatement as a public nuisance.

SECTION 12-502 PENALTY.

Any violation of the city's oil and gas regulations shall be punishable as provided in Section 1-108 of the city code. Each day of violation shall be a separate offense.

ARTICLE 6

MOBILE HOME REGULATIONS

SECTION 12-601 DEFINITIONS.

For the purpose of this chapter, the following terms shall have the meanings respectively ascribed to them in this section.

1. "Dependent mobile home" means a mobile home which does not have a flush toilet and a bath or shower. For the purposes of regulation under this chapter, a dependent mobile home shall be considered to be the same as a travel trailer, unless otherwise specified;

2. "Free-standing mobile home" means any mobile home or travel trailer not located in a mobile home park or in an approved mobile home subdivision;

3. "Health officer": means the legally designated health authority of the city or his authorized representative;

4. "Independent mobile home": means a mobile home which has a flush toilet and a bath or shower. Unless otherwise indicated in the text of this chapter, the term "mobile home" shall mean an independent mobile home;

5. "Licensee" means any person licensed to operate and maintain a mobile home park under the provisions of this chapter;

6. "Manufactured Home" means a manufactured structure fabricated on or after July 13, 1994 and assembled at the building site with transportation features (tongue and axles) removed and bearing a seal certifying it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards in 1995. Each manufactured home shall comply with the minimum energy conservation standards of the HUD Codes which became effective on July 13, 1994, and October 24, 1994, respectively, and any subsequent amendments.

7. "Mobile Home" means a manufactured, detached, transportable single family dwelling which does not meet the single and two-family structure requirements of the building code, bearing a seal verifying it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards in 1995, but which is originally designed, constructed, and used for long-term occupancy as a complete single-family dwelling, arrives at the site where it is to be occupied as a complete dwelling unit. It contains all conveniences and facilities, including plumbing and electrical connections which can be attached to approved utility systems. To retain mobility, undercarriage and axles remain attached to the unit. Unless otherwise indicated in the text of this chapter, the term "Mobile home" shall refer to an "independent mobile home" as defined in this section;

8. "Mobile home park" means any plot of ground upon which two (2) or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodations;

9. "Mobile home space" means a plot of ground within a mobile home park designed for the accommodation of one mobile home, and not located on a mobile home sales lot;

10. "Mobile home subdivision" means a subdivision designed and intended for residential use where residence is in mobile homes exclusively, and where mobile home lots are sold for occupancy;

11. "Modular Home" means a manufactured structure fabricated off-site meeting the one-and two-family structure requirements of the International Building Code, designed, constructed, and used for long term occupancy as a complete dwelling unit(s), containing two (2) or more sections, set upon a continuous, permanent foundation, and with transportable features removed.

12. "Non-residential mobile trailer" means any vehicle having the basic characteristics of either a mobile home, but which is used for purposes other than residential and is not being offered for sale as indicated by a clearly displayed sign on or near the trailer;

13. "Park" means a mobile home park;

14. "Permittee" means any person to whom a temporary permit is issued to maintain or operate a mobile home park under the provisions of this chapter;

15. "Person" means natural individual, firm, trust, partnership, association or corporation;

16. "Public water system or public sewer system" means any such system built and owned by, or dedicated to and accepted by the city; all other systems are private;

17. "Service building" means a building housing toilet and bathing facilities for men or women, and may also include buildings containing laundry facilities and other facilities;

18. "Subdivision" means mobile home subdivision, unless otherwise indicated;

19. "Travel trailer" or "trailer" means all vehicles and portable structures built on a chassis, designed as a temporary or permanent dwelling for travel, recreational, and vacation use not included in the definition of independent mobile homes. For purposes of regulation under this chapter, a dependent mobile home shall be considered to be the same as a travel trailer, unless otherwise specified. Travel trailers or trailers or recreational vehicles shall not be permitted in a mobile home park. The travel trailer must be capable of being towed or movement under its own power. Wrecked, damaged or dilapidated travel trailers shall not be permitted within the City if the Building Official shall determine if a travel trailer is damaged or dilapidated to a point which makes said travel trailer unfit for human occupancy on either a temporary or permanent basis. At a minimum all travel trailers used for temporary or permanent dwelling purposes shall contain an

operable sink, shower and toilet;

20. "Trailer park" or "travel trailer park" means any plot of ground upon which two (2) or more travel trailers, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodations; and

21. "Travel trailer space" means a plot of ground within a travel trailer park designed for accommodation of one travel trailer.

SECTION 12-602 LICENSE AND TEMPORARY PERMIT.

A. It is unlawful for any person to construct, maintain or operate any mobile home park within the city limits of the city unless he holds a valid license issued annually by the City Clerk with the approval of the health officer of the city, in the name of such person for the specific mobile home park, except that the maintenance or operation of a mobile home, park in existence on the effective date of this chapter may be continued under a temporary permit for such period of time and under such conditions as are here-in-after described.

B. Application shall be made to the planning commission, which, acting jointly with the health officer, shall issue a license upon compliance by the applicant with all pertinent provisions of this and other ordinances and regulations of the city. Every person holding such a license shall notify the health officer in writing within twenty-four (24) hours after having sold, transferred, given away or otherwise disposed of interest in or control of the person succeeding to the ownership or control of such mobile home park.

C. Application for original licenses shall be in writing signed by the applicant and accompanied by an affidavit of the applicant as to the truth of the applications, and shall contain the following:

1. Name and address of the applicant;
2. The interest of the applicant in and the location and legal description of the park;
3. A complete plan of the park showing compliance with all applicable provisions of this chapter and regulations promulgated there under; and

4. Such further information as may be requested by the health officer.

D. Applications for renewals of licenses shall be made in writing by the holder of the license and shall contain the following:

1. Any change in the information submitted since the time the original license was issued or the latest renewal granted; and
2. Other information requested by the health officer.

E. A complete plan, as required by Paragraph 3 of Subsection C of this section for the purpose of obtaining a license to be issued, shall show:

1. The area and dimensions of the tract of land;
2. The number, locations, and size of all mobile home spaces or travel trailer spaces;
3. The location and width of roadways, walkways, buffer strips and recreational areas;
4. The locations of service buildings and other proposed structures;
5. The location and size of utility and treatment facilities; and
6. Plans and specifications of all buildings and other improvements constructed or to be constructed within the park.

F. Whenever the health officer or planning commission finds conditions existing in violation of this chapter, or of any regulation adopted pursuant thereto, he shall give notice in writing to the person to whom the license was issued that, unless such conditions or practices be corrected within a reasonable period of time specified in the notice, the license will be suspended. At the end of such period, not to exceed ninety (90) days, the inspection officer or health officer shall re-inspect such park, and if such conditions or practices have not been corrected, he shall suspend the license and give notice in writing of such suspension to the person to whom the license was issued. Upon receipt of notice of suspension such person shall cease operation of such park except as provided in Subsection E of Section 12-605 of this code.

G. Any person whose permit has been denied, suspended, or who has received notice from the planning commission or health officer that his permit will be suspended unless certain conditions or practices at the park are corrected, may request and shall be granted a hearing on the matter before the city health officer, provided that when no petition for such hearing shall have been filed within ten (10) days following the day on which notice of suspension was served, such license shall be deemed to have been automatically revoked at the expiration of such ten-day period.

H. A temporary permit, upon written request therefore, shall be issued by the health officer upon written approval of the health officer for every mobile home park or travel park in existence upon the effective date of this chapter, permitting the park to be maintained and operated during the period ending one year after the effective date of this chapter without being subject to the provisions of this chapter except such of the provisions as are made expressly applicable to permittees.

I. The term of the temporary permit may be extended, upon written request, for not to exceed one additional period of up to one hundred and eighty (180) days if:

1. The permittees shall have filed application for a license in conformity with this chapter within one year after the effective date of this chapter;

2. The park plans and specifications accompanying the application for license comply with all the provisions of this chapter and all other applicable ordinances and statutes; and

3. The permittee has diligently endeavored to make the existing park conform fully to the plans and specifications submitted with the application but has failed to do so due to circumstances beyond his control.

J. Mobile home parks in existence upon the effective date of this chapter which have concrete pads indicating the location of mobile home spaces need not comply with those sections of this chapter which would require the moving of concrete pads. They must, however, comply with all other requirements in accordance with Subsections H and I above. In addition, any park expansion shall be in full compliance with provisions of this chapter.

SECTION 12-603 LICENSE FEES AND TEMPORARY PERMITS, POSTING

A. The City Clerk shall charge and collect for each mobile home park or travel trailer park an initial license or temporary permit of in such sum as set by the city council by motion or resolution per park. The initial license or temporary permit

shall expire one year from the date of issue, unless renewed upon such conditions as the city council may direct from time to time.

B. The license certificate or temporary permit shall be conspicuously posted in the office of or on the premises of the mobile home park at all times.

SECTION 12-604 INSPECTION OF MOBILE HOME.

A. The health officer is hereby authorized and directed to make inspections to determine the condition of mobile home parks located within the city in order to perform their duty of safeguarding the health and safety of occupants of mobile home parks and of the general public.

B. The health officer shall have the power to inspect the outside premises of private or public property for the purposes of inspecting and investigating conditions in relation to the enforcement of this chapter or of regulations promulgated there under.

C. The health officer shall have the power to inspect any register containing a record of all mobile homes and occupants using the park.

D. It is the duty of every occupant of a park to give the owner thereof or his agent or employee access to any part of the mobile home park or their premises at reasonable times for the purpose of making such repairs or alterations as are necessary to affect compliance with this chapter or with any lawful regulations adopted there under, or with any lawful order issued pursuant to the provisions of this chapter.

SECTION 12-605 NOTICE, HEARINGS AND ORDERS.

A. Whenever the health officer determines violations of this chapter or pertinent laws or ordinances exist, he shall notify the owner or his agent of the alleged violation. The notice shall:

1. Be in writing.
2. Include a statement of the reasons for its issuance;
3. Contain an outline of remedial action, which, if taken, will affect compliance with provisions of this chapter and other pertinent regulations;
4. Allow a reasonable time, not to exceed ninety (90) days, for the performance of any act it requires; and

5. Be served upon the owner or his agent as the case may require. The notice or order shall be deemed as properly served upon owner or agent when a copy thereof has been sent by certified mail to his last known address.

B. Any person affected by any notice issued under this chapter or resulting regulation may request and shall be granted a hearing on the matter before the health officer. Such person shall file with the health officer a written request for such hearing and setting forth briefly the grounds for such request within ten (10) days after the notice was served. When no request for such hearing shall have been filed within ten (10) days following the day on which notice was served, a violation shall be deemed to have been automatically in existence at the expiration of the ten (10) day period. The filing of the request shall not stay the notice in cases of orders issued under this section. The hearing shall be held at the earliest possible time.

C. After the hearing, the health officer shall compile the findings as to compliance with this chapter and pursuant regulations and shall issue an order in writing sustaining, modifying or withdrawing the prior notice which shall be served as provided in this section. Upon failure to comply with such order, the permit of the park shall be revoked. Appeals from decisions of the health officer shall be to the planning commission, and from thence to the city council, and from thence to the board of adjustment and from thence to the district court.

D. Whenever the health officer or planning commission finds that an emergency exists which requires immediate action to protect the public health, the health officer or planning commission may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he may deem necessary to meet the emergency. Notwithstanding any other provisions of this chapter, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but upon petition to the health officer, shall be afforded a hearing as soon as possible.

E. Whenever the planning commission or health officer finds conditions existing in violation of this chapter, or of any regulation adopted pursuant thereto, the health officer or planning commission shall give notice in writing to the person to whom the license was issued, that unless such conditions or practices be corrected within a reasonable period of time specified in the notice, the license will be suspended. At the end of such period, not to exceed ninety (90) days, the health officer shall re-inspect such park, and if such conditions or practices have not been corrected, the health officer shall suspend the license and give notice in writing of such suspension to the person to whom the license was issued. Upon receipt of notice of suspension, such

person shall cease operation of such park except as provided in Subsection B of this section.

SECTION 12-606 FREE-STANDING MOBILE HOMES, LOCATION.

A. Except as otherwise permitted by this Article, no free-standing mobile home shall be permitted in the city's limits unless it is being offered for sale or parked for storage. Those free-standing mobile homes which are non-conforming uses under the provisions of this chapter may continue as non-conforming uses provided that they shall not be stored in front yards or on side yards abutting a street on corner lots.

B. Except for mobile homes within regular commercial mobile sales lots or as otherwise provided by this Article, each such free-standing mobile home offered for sale must be clearly marked as such and shall not be occupied for either living or sleeping purposes. Free-standing mobile homes located within regular commercial mobile home sales lots need be neither individually marked for sale nor removed within one hundred and twenty days (120) if not sold. In the event that storage of a mobile home is permitted, a property owner shall not store, nor permit to be stored, more than one mobile home on a residential lot.

C. No mobile home shall be allowed in any district for residential purposes, except in a park or as otherwise provided in this Chapter.

SECTION 12-606A TRAVEL TRAILER PARKS, LOCATION.

A. Except as otherwise permitted by this Article, no travel trailer shall be permitted in the city's limits unless it is being offered for sale or parked for storage.

B. Except for travel trailers within regular commercial travel trailer sales lots or as otherwise provided by this Article, each such travel trailer offered for sale must be clearly marked as such and shall not be occupied for either living or sleeping purposes. Travel trailers located within regular commercial travel trailer sales lots need be neither individually marked for sale nor removed within one hundred and twenty days (120) if not sold. In the event that storage of a travel trailer is permitted, a property owner shall not store, nor permit to be stored, more than one travel trailer on a residential lot.

C. No travel trailer shall be allowed in any district for residential purposes, except in a travel trailer park after approval and in strict accordance with an approved use by review hearing as provided by Section 12-382 and/or after approval and in strict accordance with an approved site plan review hearing as

provided by Section 12-349, and as further provided in Section 12-606B hereinbelow, and as provided in each such zoning district where their location is permitted or as otherwise provided in this Chapter. No travel trailer park less than 2400 square feet shall be permitted in the City limits.

SECTION 12-606B ISSUANCE OF PERMIT; MINIMUM GUIDELINES FOR TRAVEL TRAILER PARKS; GRANDFATHER CLAUSE; VIOLATIONS; SUSPENSION AND/OR REVOCATION OF PERMIT

A. Permit. Any owner or person in lawful possession and control of any real property authorized under this municipal code to operate a Travel Trailer Park shall make application, and at all time hold a valid annual permit allowing the operation of such Travel Trailer Park subject to the provisions of the municipal code.

1. Issuance of Permit. Application shall be made to the City Manager who shall authorize the City Clerk to issue a permit upon compliance by the applicant with all pertinent provisions of these and other Regulations of the City of Tonkawa.
2. Application for Permit.
 - a. Name and address of the applicant (i.e., developer).
 - b. The interest of the applicant in and the location and legal description of the park.
 - c. Site Plan of the Park, which site plan shall contain at a minimum:
 - (1) The area and dimensions of the tract of land.
 - (2) The number, locations, and size of all travel trailer spaces to the nearest one (1) foot.
 - (3) The location and width of access drives, walkways, buffer strips, and recreational areas.
 - (4) The location and dimensions of all on-street and off-street parking space.
 - (5) Compliance with all the provisions of these regulations.
 - (6) Such further information as may be requested by Building Official or the City Manager.
3. City Council Required. The City Council must approve the site plan. Such approval shall be shown on the plan by the signature of the Mayor. Such approved plan shall be

filed as a permanent record with the City of Tonkawa. The permit shall be issued for an annual term (January 1 through December 31). Permits shall require the payment of an annual fee of One Hundred Dollars (\$100.00), and without proration of the fee.

4. Application for Renewal of Permit. A request for the renewal of a permit shall be submitted and approved in the same manner as the original permit as provided in the previous subsection 4, if one or more of the following changes to the approved plan are proposed:
 - a. The park is to be enlarged.
 - b. The alignment of any road is changed, or additional roads are proposed.
 - c. The water distribution system or the sanitary sewer system is expanded.
 - d. New spaces are proposed to be added.
5. Applications for a building permit shall be made in writing by the holder of the permit and shall contain the following:
 - a. Any change in the information submitted since the time the original permit was issued or the latest renewal granted.
 - b. Other information requested by the City Manager.

6. Applications shall be made to the City Manager, in writing, within twenty-four (24) hours after having sold, transferred, given away or otherwise disposed of, interest in or control of, any such park. Such notice shall include the name and address of the person succeeding to the ownership or control of such park.

B. Minimum Guidelines for Travel Trailer Parks:

1. Minimum Square feet; Pads; Spacing: Travel Trailer Parks shall be a minimum of twenty-four thousand (24000) square feet containing not more than one travel trailer lot for each twenty-four hundred (2400) square feet of space provided. Each travel trailer lot shall contain a hard surfaced (Pad), of a size not less than fourteen (14) feet by forty (40) feet for the travel trailer which shall be no closer than ten (10) feet from the access corridor.

Spacing shall be such that no travel trailer shall be closer than twenty (20) feet between travel trailer units.

2. Off Street Vehicle Space. Each travel trailer lot shall have a minimum of one-off street vehicle Parking Space of two hundred (200) square feet in area no closer than ten (10) feet from the access corridor and shall be paved with a surface maintained in a manner that no dust or rutting will result from continued use.

3. Connection to Utilities. The proposed site shall provide a connection for each Travel trailer pad to City water, electricity, and sewer except as provided in this municipal code.

4. Time Constraints. No travel trailer shall occupy a site in a Travel Trailer park more than twelve (12) consecutive months and all travel trailers shall be connected to City utilities unless staying less than twenty-four (24) hours.

5. Park Entrances and Exits. All Travel Trailer park entrances and exits shall be set back from the public street right-of-way a distance of not less than fifty (50) feet to allow movement onto the property without blocking or impeding traffic.

6. Impeding Access. At no time may the driveway or entrance to the occupied Travel Trailer Park be blocked, barricaded, or secured in such a way as to prevent or impede access to the park by public service or emergency vehicles.

7. Trash Concerns. Each Travel Trailer Park shall provide a minimum of one dumpster for every twenty (20) pads and each dumpster shall have adequate maneuvering space to be serviced.

8. LPG. Travel Trailers shall be permitted to use liquefied petroleum gas subject to any other federal, state, or local regulations.

9. Exceptions; Waiver. Notwithstanding any of the requirements of this section, if it be shown to the satisfaction of the Tonkawa Planning Commission, Board of Adjustment and/or City Council, as applicable, that any of the requirements if complied with would cause undue hardship on any applicant for a permit hereunder, and that such requirement or requirements would not be for the best interest and general welfare of the City of Tonkawa and the citizens affected by this section, the Board of Adjustment and/or City Council, as applicable may waive such requirement or requirements in accordance with law.

C. Grandfather Clause. Any owner, who on the effective date of

this ordinance, shall have a lawful use of any real property within the corporate limits of the City of Tonkawa, wherein Travel Trailers are lawfully located and used, such owner may continue such lawful use as a non-conforming use and subject to the other terms and conditions of this code.

D. The Building Official is hereby authorized and directed to make inspections to determine the condition of Travel Trailer Vehicle Parks within the City of Tonkawa, Oklahoma, in order to perform the duty of safeguarding the health and safety of occupants of such parks and of the general public. All other ordinances relating to offenses, nuisance, litter, condition of property and other health and safety provisions contained in this municipal code shall apply to the owner, person in lawful possession and control and each lessee in a Travel Trailer Park.

E. Suspension and/or Revocation of Permit.

1. Whenever violations of pertinent regulations are found to exist, the owner or person in lawful control of the Travel Trailer Park or individual lessee, as applicable and appropriate, shall be notified of such alleged violation. Such notice shall:
 - a. Be in writing;
 - b. Include a statement of the reasons for its issuance;
 - c. Contain an outline of remedial action, which, if taken, will affect compliance with provisions of the sections contained within this ordinance and other pertinent regulations;
 - d. Allow a reasonable time, not to exceed thirty (30) days, for the performance of any act it requires; and
 - e. Be served upon the owner or person in lawful control of the Travel Trailer Park or individual lessee, as the case may require; provided that such notice or order shall be deemed as properly served upon owner or person in lawful control when a copy thereof has been sent by certified mail to his last known address.
2. Any person affected by any notice issued under these sections or resulting regulations, may request and shall be granted a hearing on the matter before the City Council; provided, that, such person shall file with the City Clerk

a written request for such hearing, setting forth briefly the grounds for such request, within ten (10) days after the day the notice was served. The filing of such request shall stay the notice of suspension of the Permit. The hearing shall be held before the City Council. The decision of the City Council shall be final.

3. Any person aggrieved by the decision of the City Council may seek relief in Kay County District Court.

SECTION 12-607 NON-RESIDENTIAL MOBILE TRAILERS.

A. No non-residential mobile trailer shall be permitted in the city unless a license for its operation is issued by the inspection officer or health officer. Such license shall specify the permitted use of the non-residential mobile trailer, the location of such operation and the termination date of the license. No license shall be issued for a use which would violate any city ordinance or state or federal law or regulation.

B. A fee shall be charged for each non-residential mobile trailer license. No governmental or nonprofit agency shall be charged a license fee.

C. Operation of nonresidential trailers by contractors on construction projects for which building permits have been issued or which are otherwise approved by governmental units is permitted during the term of such construction project without issuance of a permit.

D. This section is not to be construed as permitting or authorizing the permanent location of any nonresidential mobile trailer in the city.

SECTION 12-608 LOCATION, SPACE, AND GENERAL LAYOUT OF MOBILE HOME PARKS AND TRAVEL TRAILER PARKS.

A. No travel trailer shall be located in a mobile home park.

B. The mobile home park shall be located on a well-drained site and shall be so located that its drainage will not endanger any water supply. All such mobile home parks shall be in areas free from marshes, swamps, or other potential breeding places for insects or rodents.

C. The minimum area of any park shall be ten (10) acres. However, parks in existence on the effective date of this chapter can continue to operate with less than ten (10) acres in area; but if the park is to be expanded, it must at that time have a minimum area of ten (10) acres and expansion

requirements are as set out for new developments.

D. Intensity of development shall be limited to no more than nine (9) mobile homes per gross acre for a mobile home park. Area used for sewage treatment facilities shall not be included in density computations. Mobile home spaces shall be at least thirty (30) feet wide where pads are closest to driveways.

E. It is unlawful to locate a mobile home or so that any part of such mobile home will obstruct any roadway or walkway in a mobile home park.

F. Every mobile home space shall be clearly defined. Mobile homes and travel trailers shall be parked in such spaces that at the nearest point they shall be at least ten (10) feet from any other mobile home.

G. All mobile home spaces shall abut upon a sealed- surface driveway of not less than twenty (20) feet in width if on-street parking is prohibited and twenty-five (25) feet in width if on-street parking is permitted on one side of the street only. Driveways must have unobstructed access to a public street or highway.

H. In mobile home parks existing at the effective date of this chapter parking on or adjacent to the street within the park is permissible so long as it does not obstruct free movement of traffic. Whether or not a safety hazard exists is a question to be determined by the planning commission, with final appeal to the city council. If, upon final appeal before the city council, it is determined by the city council, that a safety hazard does in fact exist, the mobile home park concerned will be required to comply with the last sentence of this subsection. In new mobile home parks at least two (2) clearly defined parking spaces will be provided for each mobile home space whether on or adjacent to the mobile home space.

I. All driveways and walkways within a park shall have at least four (4) inches of concrete with roadway having curbing and proper drainage.

J. Outside drying spaces or other clothes drying facilities shall be provided in every mobile home park. Mobile home parks shall have at least one hundred (100) linear feet of clothes drying lines or one (1) mechanical clothes drying unit in good condition; mechanical units shall be located in a service building.

K. New mobile home parks should abut and have their major means of ingress and egress on, at least a secondary thoroughfare.

L. All mobile home parks shall have and maintain a buffer planting strip, not less than three (3) feet in width, along all park boundaries not bordering a street. Such strip shall consist of not less than one row of shrubs, spaced not more than eight (8) feet apart which grow to a height of five (5) feet or more after one full growing season and which will eventually grow to a height of not less than twelve (12) feet.

M. In all mobile home parks, at least fifteen percent (15%) of the gross area shall be developed into an acceptable recreation and playground area, and the area shall be adequately enclosed.

SECTION 12-609 RESERVED.

SECTION 12-610 SEWAGE DISPOSAL FOR MOBILE HOME PARKS.

A. Waste from showers, bathtub, flush toilets, urinals, lavatories, slop sinks and laundries in service and other buildings within the park shall be discharged into a public sewer and disposal plant, septic tank system or private sewer and lagoon system of such construction and in such manner as approved by the Oklahoma State Health Department and in accordance with all applicable ordinances of the city.

B. Each mobile home space shall be provided with at least a four (4) inch sewer connection at least four (4) inches above the surface of the ground. The sewer connection should be protected by a concrete collar of at least four (4) inches thick and have a minimum outside diameter of twenty-four (24) inches above the surface of the ground. The sewer connection shall be fitted with a standard ferrule and close nipple and provided with a screw cap. Connection between the mobile home's drain and the sewer must be water-tight and self-draining. Mobile homes with fixtures from which back siphonage may occur shall not be connected to the park's water system until defect has been corrected.

C. Reserved.

D. In the event that a public sewer system is or becomes available within three hundred (300) feet of a mobile home park, connection must be made to the public system within one hundred eighty (180) days.

E. Every mobile home occupying a mobile home park space shall tie into the park sewage system and shall dump any accumulated waste into the system. Any other dump of accumulated waste within the city is prohibited.

F. The design of private sewage treatment facilities

shall be based on the maximum capacity of the park. The disposal facilities shall be located where they will not create a nuisance or health hazard to the mobile home park or to the owner or occupants of any adjacent property. The State Health Department must approve the type of treatment proposed and the design of any disposal facilities and sewer systems prior to construction.

G. Sewer connections shall be watertight. Park licensees shall maintain mobile home connections to sewer and water systems in good condition and be responsible that there is no sewage or water leakage on the park premises.

H. The monthly sewage charge shall be based on the maximum mobile home capacity of the park. The park operator shall, by the tenth of each month, notify the City Clerk of the maximum number of mobile home spaces in use at any one time during the previous month. The City Clerk shall then adjust the sewage fee to the actual use of the park. Should the park operator fail to notify the City Clerk of the prior month's actual usage of trailer or mobile home spaces, the sewage fee shall, be levied on the maximum capacity of the park.

SECTION 12-611 WATER SUPPLY FOR MOBILE HOME PARKS.

A. An accessible, adequate, safe and potable supply of water shall be provided in each park, capable of furnishing a minimum of two hundred and fifty (250) gallons per day per mobile home space. Where a public supply of such quality is available within three hundred (300) feet or a new mobile home park within three hundred (300) feet of construction on existing mobile home park, connection shall be made thereto and its supply shall be used exclusively. Where private water supplies must be developed, the health officer must approve the location, construction, and development of both the water well and pipe system and connections. No private source other than a water well shall be used.

B. The water system of the mobile home park shall be connected by pipes to all buildings and all mobile home spaces. Each mobile home shall be provided with a cold water tap at least four (4) inches above the ground. An adequate supply of hot water shall be provided at all times in the service buildings for all bathing, washing, cleansing and laundry facilities.

C. All water piping shall be constructed and maintained in accordance with state and local law. The water piping system shall not be connected with non-portable or questionable water supplies and shall be protected against the hazards of backflow or back-siphonage. All water connections shall be weather tight.

D. Individual water service connections which are provided for direct use by mobile homes shall be of such construction so that they will not be damaged by the parking of such mobile homes. The park system shall be adequate to provide twenty (20) pounds per square inch of pressure at all mobile home or travel trailer connections.

E. Reserved.

F. No well casing, pumps, pumping machinery or suction pipes shall be located in any pit, room or space extending below ground level, nor in any room or space above ground which is walled in or otherwise enclosed unless such rooms, whether above or below ground, have free drainage by gravity to the surface. All floors shall be water-tight sloped from the pump pedestal to the drain, and floors shall extend at least two (2) feet from the wall in all directions. The pedestal shall not be less than twelve (12) inches above the floor. This shall not be construed as prohibiting submersible pumps.

G. All water storage reservoirs shall be water-tight and constructed of impervious material; all overflows and vents of such reservoirs shall be effectively screened. Open reservoirs are prohibited. Manholes shall be constructed with overlapping covers so as to prevent the entrance of contaminated material. Overflow pipes from a reservoir shall not connect to any pipe in which sewage or polluted water may back up.

H. Where drinking fountains are for public use, they shall be of a type and in locations approved by the health officer.

SECTION 12-612 REFUSE DISPOSAL FOR MOBILE HOME PARKS.

A. The storage, collection, and disposal of refuse in the park shall be so managed as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution.

B. All refuse shall be stored in fly-tight, water-tight, rodent-proof containers, which shall be located within one hundred and fifty (150) feet of any mobile home space or travel trailer space. Containers shall be so provided in sufficient numbers and capacity to properly store all refuse.

C. Racks or holders shall be provided for all refuse containers. Such container racks or holders shall be so designed as to prevent containers from being tipped to minimize spillage and container deterioration and to facilitate cleaning around them. Lids for containers shall be permanently connected to racks or holders with chains or other flexible materials.

D. All refuse shall be collected at least once weekly or as otherwise required by the health officer. Where municipal garbage collection is not available from municipal or private agencies, the mobile home park operator shall either employ a private agency or provide this service. All refuse shall be collected and transported in covered vehicles or covered containers.

E. Where municipal or other private disposal service is not available, the mobile home park operator shall dispose of the refuse by burial, or transporting to an approved disposal site, as directed by the health officer. Refuse shall be buried only at locations and by methods approved by the health officer and in accordance with the ordinances of the city.

F. Where municipal refuse disposal service is available it must be used.

SECTION 12-613 INSECT AND RODENT CONTROL

A. Insect and rodent control measures to safeguard public health as required by the planning commission or health officer shall be applied in the mobile home park or travel trailer park.

B. Effective larvicidal solutions may be required by the inspection officer or health officer for fly or mosquito breeding areas which cannot be controlled by other, more permanent measures.

C. The health officer or planning commission may require the park operator to take suitable measures to control other insects and obnoxious weeds.

D. Accumulations of debris which may provide harborage for rodents shall not be permitted in the mobile home park.

E. When rats or other objectionable rodents are known to be in the park, the park operator shall take definite action, as directed by the inspection officer or health officer to exterminate them.

SECTION 12-614 ELECTRICITY; EXTERIOR LIGHTING.

A. An electrical outlet supplying at least sixty (60) amperes shall be provided for each mobile home space. The installation shall comply with all applicable state and local electrical codes and ordinances. Such electrical outlets and extension lines shall be grounded and weatherproofed. Plug receptacles shall also be grounded and weatherproofed. All power supply line shall be underground.

B. Public streets and driveways within mobile home and travel trailer parks shall be lighted with streetlights meeting the current standards of the Illuminating Engineering Society or one-half candlepower, whichever is higher.

SECTION 12-615 PIPING.

All Piping from outside fuel storage tanks or cylinders to mobile homes shall be of acceptable material as determined by the inspection officer and shall be permanently installed and securely fastened in place. All fuel storage tanks or cylinders shall be securely fastened in place and shall not be located inside or beneath the mobile home or less than five (5) feet from any mobile home exit.

SECTION 12-616 PARK AREAS; WATER; FIRES.

A. The mobile home park area shall be subject to the rules and regulations of the city fire prevention authority.

B. Mobile home park areas shall be kept free of litter, rubbish, and other flammable materials.

C. Portable fire extinguishers of a type approved by the fire prevention authority shall be kept in service buildings and at all other locations designated by such fire prevention authority and shall be maintained in good operating condition.

D. Water mains of eight (8) inches or larger shall be provided to the mobile home park with standard fire hydrants located every five hundred (500) feet of each mobile home or building.

E. Where the water supply system does not provide at least six (6) inch water main, there shall be provided a two (2) inch frost protected water riser within three hundred (300) feet of each mobile home or building.

F. Fires shall be made only in stoves, incinerators, and other equipment intended for such purposes.

SECTION 12-617 ALTERATIONS AND ADDITIONS.

A. All plumbing and electrical alterations or repairs in the mobile home park shall be made in accordance with applicable local regulations.

B. Skirting of mobile homes is permissible but areas enclosed by such skirting shall be maintained so as not to provide a harborage for rodents or create a fire hazard.

C. A permit issued by the planning commission shall be required before any construction on a mobile home space or any structural addition or alteration to the exterior of a mobile home shall take place. No construction or addition or alteration to the exterior of a mobile home located in a mobile home park shall be permitted unless of the same type of construction or materials as the mobile home affected. All such construction, additions or alterations shall be in compliance with local and state laws. No permit shall be required for the addition of steps, canopies, awnings or antennas.

D. No structure other than a mobile home shall be permitted on a mobile home space except that one structure of not to exceed one hundred (100) cubic feet to be used for storage on each such space.

SECTION 12-618 REGISTRATION OF OWNERS AND OCCUPANTS.

Each licensee or permittee shall keep a register containing a record of all mobile homeowners and occupants located within the park. The register shall contain the following information:

1. The name and address of the owner or occupant of each mobile home and motor vehicle by which it is towed;

2. The make, model, year and license of each mobile home and motor vehicle;

3. The state, territory or country issuing such license;

4. The date of arrival and of departure of each mobile home;

5. Whether or not each mobile home is a dependent or independent mobile home;

6. Each mobile home or travel trailer shall be identified while in a park space of some clear, legible, and orderly external method identification or numbering system.

SECTION 12-619 WRECKED OR DAMAGED HOMES, TRAILERS.

Wrecked, damaged or dilapidated mobile homes shall not be kept or stored in a mobile home park. The health officer shall determine if a mobile home or travel trailer is damaged or dilapidated to a point which makes the mobile home or travel trailer unfit for human occupancy on either a temporary or permanent basis. Whenever such a determination is made, the mobile home shall be vacated and removed from the premises.

SECTION 12-620 MINIMUM HOUSING REGULATIONS FOR MOBILE HOMES, SPACE REQUIREMENTS.

A. Every mobile home located in either a mobile home park or a mobile home subdivision shall meet the provisions of the housing code of the city except as otherwise provided in this section.

B. Every mobile home shall contain the following minimum gross floor area of habitable space:

1. Three hundred (300) square feet for one or two (2) occupants;

2. Two hundred (200) additional square feet for third occupants; or

3. One hundred fifty (150) square feet additional for each additional occupant thereafter.

C. Habitable space in a mobile home shall have a minimum ceiling height of seven (7) feet over fifty percent (50%) of the floor area; and the floor area where the ceiling height is less than five (5) feet shall not be considered in computing minimum gross floor area.

D. A mobile home shall have a safe and unobstructed primary exit, and an emergency exit located remote from the primary exit.

E. Rooms occupied for sleeping purposes must contain at least sixty (60) square feet of floor space if used by more than one person, and at least forty (40) square feet if used by one person.

F. Dependent mobile homes shall not be required to have a flush toilet or a bath or shower.

G. The housing code shall not apply to travel trailers in so far as floor area, flush toilet, bath or shower, ceiling height is concerned.

SECTION 12-621 MOBILE HOME SUBDIVISIONS.

A. Mobile home subdivisions shall comply with the subdivision and zoning ordinances of the city except as otherwise provided.

B. The minimum size of a mobile home subdivision shall be ten (10) acres.

C. No residence except mobile homes shall be permitted in

a mobile home subdivision.

SECTION 12-622 MINIMUM EFFECTIVE LOTS IN SUBDIVISIONS.

Minimum effective lot widths in a mobile home subdivision shall be fifty (50) feet measured at the front building line and minimum lot areas shall be thirteen thousand two hundred (13,200) square feet, provided that at least ten (10) foot side yard shall be provided on each lot beyond any mobile home and additions thereto, and further provided that in areas not serviced by the public sewer the minimum additional lot area shall be determined by the health officer on the basis of safe and sanitary sewer service. The effective lot width of a mobile home shall be determined for interior lots by measuring at right angles across the lot from one diagonal sideline to the other, and for corner lots the measurement shall be made at right angles from the diagonal having the greatest divergence from perpendicular to the street, through the midpoint of the rear line of the required front yard to the opposite lot line or an extension thereof.

SECTION 12-623 SIDE LINE OF LOTS.

A. Side line of lots in mobile subdivisions need not be at right angles to straight street lines or radial to curved street lines.

B. Regardless of the effective lot width, mobile home subdivision lots must abut a public street for at least twenty-five (25) feet.

SECTION 12-624 GREENBELT PLANTING STRIP.

All mobile home subdivisions shall have a greenbelt planting strip, not less than twenty (20) feet in width, along all subdivision boundaries. Such greenbelt shall be composed of one row of deciduous and/or evergreen trees, spaced not more than forty (40) feet apart, and not less than three (3) rows of shrubs, spaced not more than eight (8) feet apart and which will grow to a height of five (5) feet or more after one full growing season and which shrubs will eventually grow to a height of not less than twelve (12) feet.

SECTION 12-625 SUPERVISION.

The licensee or permittee, or a duly authorized attendant or caretaker, shall be in charge at all times to keep the mobile home park, its facilities and equipment in a clean, orderly, and sanitary condition. The attendant or caretaker shall be answerable, with the licensee or permittee, for the violation of any provision of this chapter to which the licensee or permittee

is subject.

SECTION 12-625A ZONING OVERLAY AREAS; PERMITTED LOCATION OF MOBILE HOMES, MANUFACTURED HOMES AND MODULAR HOMES

A. Mobile homes shall be permitted only in Mobile Home Parks, Trailer Parks, Travel Trailer Parks, Mobile Home Subdivisions and in such other districts and uses as permitted and pursuant to the provisions of the Tonkawa Municipal Code.

B. Modular Homes shall be permitted by right in any appropriate zoning district permitting single-family dwellings.

C. Mobile or Manufactured Homes to be residentially occupied shall be permitted by right only within the following four (4) areas within the corporate limits of the City subject to the following standards and criteria:

1. An area bounded on the north by Irby Avenue, bounded on the west by 7th Street, bounded on the south by Rivera Avenue and bounded on the east by Public Street.

2. An area bounded on the north by N.O.C. Drive, bounded on the west by Summit Street, bounded on the south by Park Avenue, and bounded on the east by the alley easement between the 100 and 200 blocks of South Main Street and 9th Street.

3. An L shaped area bounded on the north by Victory Avenue south along the west side of 5th Street to Walker then west along Walker to 7th Street, then South along the west side of 7th Street to Stone Avenue and bounded on the east by 4th Street.

4. An area bounded on the north by the city limits, bounded on the west by 7th Street, bounded on the south by South Avenue and bounded on the east by Public Street.

D. Criteria and Standards. The following shall be the criteria and standards for Mobile and Manufactured Homes.

1. Setbacks shall be the same as required by ~~in~~ the R-1 Zoning District.

2. Lot Width shall be a minimum of fifty (50) feet.

3. The Single-Wide Mobile or Manufactured Home shall be at least 800 square feet in size.

4. Double-Wide Mobile or Manufactured Home shall be at least 1000 square feet in size.

recommended by the manufacturer or as follows:

- (1) Tie down anchors shall be securely installed in soil providing a stable foundation to withstand a minimum pull of three thousand seven hundred fifty (3,750) pounds for each ten (10) feet of the Mobile or Manufactured Home.
- (2) All ties and connectors shall be of a type approved by the United States Department of Housing and Urban Development (H.U.D.) for anchoring.

d. Skirting. The Mobile or Manufactured Home shall be totally skirted of masonry or concrete skirting on a footing. The skirting shall be secured to the Manufactured Home and to the ground in a manner that will prevent the intrusion of animals and will reduce the hazards of strong winds under said home.

e. The roof of the Mobile or Manufactured Home must feature a gable or hip type construction with at least Class C shingle roofing material and have an appropriate slope to permit adequate drainage.

f. The exterior material must be compatible with at least 50% of the existing homes in the area unless the number of vacant lots in the immediate area exceeds the number of existing homes.

g. In addition, the Mobile or Manufactured Home must comply with the wind safety standard provisions for Wind Zone 1 as set forth in the Federal Manufactured Construction and Safety Standards, latest edition.

h. Heat and Air units shall not be set in the windows but mounted on a cement slab adjoining the home.

i. Structural additions. Structural additions to Mobile or Manufactured Home located on individual lots shall be of quality design and construction, in accordance with the applicable provisions of this subsection.

(1) Carports and patio covers shall be permitted, provided they cover a permanently surfaced parking or improved patio area, and meet the minimum building setback requirements.

(2) Garages shall be permitted, provided they cover a permanently surfaced parking area and are connected to the

streets by a permanently surfaced drive, meet the minimum building setback requirements, and have roof and siding material that is compatible with the primary structure.

(3) Living area additions shall be permitted, provided they meet the minimum building set back requirements, have roof and siding material that are compatible with the primary structure, and comply with the same minimum structural standards as required of the primary structure.

(4) Off street parking shall be provided on permanently surfaced drive as provided herein. Permanently surfaced means surfaced with a sealed surface pavement adequate to prevent the occurrence of mud and dust with continued use. The size of a parking space for one vehicle shall consist of a rectangular area having dimensions of not less than eight (8) feet by twenty-one (21) feet plus adequate area for ingress and egress, all of which shall be located outside the street right-of-way. One and one-half (1 1/2) parking spaces shall be provided for each Mobile or Manufactured Home.

j. Utilities. Utility service shall be provided in a safe and reliable manner in accordance with the following specifications:

1. All plumbing and electrical systems, connections, installations, fixtures, and equipment shall be installed and maintained in full compliance with the applicable provisions of this division and the City Code.

2. An adequate supply of water shall be provided by connection to the city's water distribution system.

3. Sewer connection shall be made to the city's sanitary sewer system.

k. Except as may be herein otherwise provided, all Mobile or Manufactured Homes permitted as provided by this section shall comply with all provisions of the city code.

Note: This section was amended on November 7, 2006, by Ordinance No. 2006-24, and on September 20, 2011.

SECTION 12-626 RELIEF IN COURTS.

No penalty imposed by or pursuant to this chapter shall interfere with the right of the city also to apply to the proper courts of the state for a mandamus, an injunction or

other appropriate action against any person.

SECTION 12-627 PENALTY.

Any person violating the provisions of this chapter shall, upon conviction, be punished as provided in Section 1-108 of this code.

ARTICLE 7

FLOOD DAMAGE PREVENTION

STATUTORY AUTHORIZATION FINDINGS OF FACT STATEMENT OF PURPOSE
AND METHODS

SECTION 12-701 STATUTORY AUTHORIZATION.

The Legislature of the State of Oklahoma has in 82 O.S. §§1601-1618, as amended, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Tonkawa, Oklahoma, does ordain as follows to be effective on and after September 25, 2009.

SECTION 12-702 FINDINGS OF FACT.

1. The flood hazard areas of the City of Tonkawa, Oklahoma, 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.

2. 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 12-703 STATEMENT OF PURPOSE.

It is the purpose of this Article to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;

3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

4. Minimize prolonged business interruptions;

5. Minimize damage to public facilities and utilities such as water, and gas mains, electric, telephone, and sewer lines, streets and bridges located in floodplains;

6. Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and

7. Ensure that potential buyers are notified that property is in a flood area.

SECTION 12-704 METHODS OF REDUCING FLOOD LOSSES.

In order to accomplish its purposes, this section uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety, or property in the times of flood, or in case of excessive increase in flood heights or velocities;

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

3. Control the alteration of natural flood plains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

4. Control filling, grading, dredging, and other development which may increase flood damage;

5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters, or which may increase flood hazards to other lands.

DIVISION 2

DEFINITIONS

SECTION 12-705 DEFINITIONS.

Unless specifically defined below, words, or phrases used

in this Article shall be interpreted to give them the meaning they have in common usage and to give this Article its most reasonable application.

"Accessory Structure" means structures which are on the same parcel of property as the principal structure and the use of which is incidental to the use of the principle structure (such as garages and storage sheds).

"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, 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" means a request for a review of the flood plain administrator's interpretation of this section or a request for a variance.

"Area of shallow flooding" means a designated AO or AH Zone in a community's flood insurance rate map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A, on the Flood Hazard Boundary Map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones, A, AE, AH, AO, or A1-99.

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

"Base Flood Elevation" means the elevation in feet above mean sea level of the base flood or one percent (1%) chance flood.

"Basement" means any area of the building have its floor sub-grade (below ground level) on all sides.

"Board" means the Oklahoma Water Resource Board.

"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 in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.

"Elevated building" means a non-basement building built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, raised above ground level by means of pilings, columns, (posts and piers), or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. Also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

"Existing construction" means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRMA 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 flood plain management ordinance adopted by the City of Tonkawa, Oklahoma.

"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 or partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters;

- b. The unusual and rapid accumulation of runoff of surface waters from any source.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map (FIRM and FBFM).

"Floodplain Administrator" means a person accredited by the Board and designed by the City Council of Tonkawa to administer and implement laws and regulations relating to the management of the floodplains.

"Flood plain or flood-prone area" means any land area susceptible to being inundated by water from any source (See definition of flooding).

"Flood plain 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 flood plain management regulations.

"Flood plain management regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain 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 areas within the City of Tonkawa 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 (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 one foot.

"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 and 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.

"Historical 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 of historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior or;

2. Directly by the Secretary of the Interior in states without approved programs.

"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 of 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 are 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 the initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For flood plain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a flood plain 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 flood plain 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.

"Start of construction" includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvements 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 a 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 property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures 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 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" is a grant of relief to a person from the requirements of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction, or development in a manner otherwise prohibited by this article. (For full requirements see Section 60.6 of the National Flood Insurance Program Regulations.)

"Violations" means the failure of a structure or other developments to be fully compliant with the community's flood plain 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)(10) or (d)(3), 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 flood plains of coastal or riverine areas.

DIVISION 3

GENERAL PROVISIONS

SECTION 12-706 LANDS TO WHICH THIS ORDINANCE APPLIES.

A. The Article shall apply to all areas of special flood hazard with the jurisdiction of the City of Tonkawa.

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

C. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

D. In the interpretation and application of this chapter, all provisions shall be:

1. Considered as minimum requirements;

2. Liberally construed in favor of the governing body;
and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION 12-707 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Kay County, Oklahoma, and Incorporated Areas" dated September 25, 2009, with accompanying Flood Insurance Rate Maps (FIRM) are hereby adopted by reference and declared to be a part of this Article.

SECTION 12-708 ESTABLISHMENT OF DEVELOPMENT PERMIT.

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

SECTION 12-709 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 12-710 ABROGATION AND GREATER RESTRICTIONS.

This Article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these regulations and another set of regulations or ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION 12-711 INTERPRETATION.

In the interpretation and application of this section, 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 12-712 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this section 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 cause. These regulations do not imply to that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. These regulations shall not create liability on the part of the City of Tonkawa, Oklahoma, or any official or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.

DIVISION 4

ADMINISTRATION

SECTION 12-713 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR.

The City Manager is designated by the City Council of the City of Tonkawa to be the Floodplain Administrator to administer and implement the provisions of these regulation and other appropriate sections of 44 C.F.R. (National Flood Insurance Program Regulations) pertaining to floodplain management.

SECTION 12-714 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

- 1) Maintain and hold open for public inspection all records pertaining to the provisions of this Article.
- 2) Review permit application to determine whether proposed building site will be reasonably safe from flooding;
- 3) Review, approve or deny all applications for development permits required by adoption of this Article;
- 4) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state, or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required;
- 5) When 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.
- 6) Notify, in riverine situations, adjacent communities

and the state coordination agency which is the Oklahoma Water Resources Board prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.

7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

8) When base flood elevation data has not been provided in accordance with Section 12-707, 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 Division 5.

9) When a regulatory floodway has not been designated the floodplain administrator must require that no new constructions, substantial improvements, or other developments (including fill) shall be permitted within Zones A1-30 and are on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

10. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first completes all of the provisions required by Section 65.12.

11. Become accredited by the Board in accordance with Title 82 O.S. §§1601-1618, as amended.

12. After a disaster or other type of damage occurrence to structures in the City of Tonkawa determines if the residential & non-residential structures & manufactured homes have been substantially damaged and enforce the substantial improvement requirement.

SECTION 12-715 PERMIT PROCEDURES.

1. Application for a development permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing, and proposed structures, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

A. Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures;

B. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

C. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Division 5, Section 12-718(2);

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

E. Maintain a record of all such information in accordance with Division 4, Section 12-714.1.

2. Approval or denial of a development permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

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

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

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

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

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

F. 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;

G. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

H. The necessity to the facility of a waterfront location, where applicable;

I. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

J. The relationship of the proposed use to the comprehensive plan for that area.

SECTION 12-716 VARIANCE PROCEDURE.

1. The appeal board as established by the City of Tonkawa shall hear and render judgment on requests for variances from the requirements of these regulations.

2. The appeal board or the Tonkawa City Council shall hear and render judgment on an appeal only when it is alleged is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of these regulations.

3. Any person or persons aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.

4. 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.

5. 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 Historical Places, without regard to the procedures set forth in the remainder of these regulations and ordinances.

6. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section 12-715.2 of this article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

7. Upon consideration of the factors noted above and the intent of this section, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of Section 12-703.

8. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood

discharge would result.

9. 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.

10. Prerequisites for granting variances:

A. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

B. 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, or conflict with existing local laws or ordinances.

C. A written notice will be provided to any person granted a variance to build a structure 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.

11. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduction of a functionally dependent use provided that (i) the criteria outlined in Division 4, Section 12-716 (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.

12. Any person seeking a variance shall file a petition with the Floodplain Administrator or the Tonkawa City Council, accompanied by a filing fee of Twenty-five Dollars (\$25.00).

13. A copy of any variance issued shall be sent to the OWRB within fifteen (15) days of issuance.

DIVISION 5

PROVISIONS FOR FLOOD HAZARDS REDUCTION

SECTION 12-717 GENERAL STANDARDS.

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into floodwaters into the system; and,

6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into floodwaters; and

7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

SECTION 12-718 SPECIFIC STANDARDS.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Division 3, Section 12-707, (ii) Division 4, Section 12-714(8), or (iii) Division 5, Section 12-719 (4), the following provisions are required:

1. Residential construction--new construction and substantial improvements of any residential structure shall have the lowest floor (including basement), elevated to or above one foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection as proposed in Article of the Subsection as proposed in Division 4, Section 12-715(1)A., is satisfied.

2. Nonresidential construction--new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level, 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.

3. Enclosures--new construction and substantial improvements, with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood force on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria;

A. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

B. The bottom of all openings shall be no higher than one-foot above grade.

C. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. Manufactured homes.

A. Require that all manufactured homes to be placed within Zone A, shall be installed using methods and practices which minimize flood danger. For the purpose 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.

B. Require that manufactured homes are placed or substantially improved with Zones A1-30, AH, and AE on Tonkawa'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 placed on a permanent foundation so that the bottom of the structural I-Beam is elevated at or above one foot above the base flood elevation and be securely anchored to a foundation system to resist flotation, collapse and lateral movement.

C. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH, and AE on Tonkawa's FIRM that are not subject to the provisions of paragraph 4 of this section have the bottom of the structural I-Beam elevated at or above one foot above the base flood elevation elevated on reinforced piers or other foundation elements of at least equivalent strength that are securely anchored to resist flotation, collapse, and lateral movement support the manufactured home chassis.

5. Recreational Vehicles - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

A. Be on the site for fewer than 180 consecutive days,

B. Be fully licensed and ready for highway use, or

C. Meet the permit requirements of Division 4, Section 12-715 (1), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

6. Accessory Structures

A. Structure is low valued and represents a minimal investment.

B. Structure shall be small and not exceed 600 square feet in size.

C. Structure shall be unfinished on the interior.

D. Structure can be used only for parking and limited storage.

E. Structure shall not be used for human habitation (including work, sleeping, living, cooking, or restroom areas).

F. Service facilities such as electrical and heating equipment must be elevated to or above one foot above the BFE or floodproofing.

G. Structure is constructed and placed on building sites so as to offer the minimum resistance to the flow of floodwaters.

H. Structure is designed to have low flood damage potential, i.e., constructed with flood resistant materials.

I. Structure is firmly anchored to prevent flotation, collapse, and lateral movement.

J. Floodway requirements must be met in the construction of the structure.

K. Openings to relieve hydrostatic pressure during a flood shall be provided below the BFE.

L. Structure is to be located so as not to damage to adjacent and nearby structures.

SECTION 12-719 STANDARDS FOR SUBDIVISION PROPOSALS.

1. All subdivision proposals including manufactured home parks and subdivisions shall be consistent with this Division 1, 12-702, 12-703 and 12-704 of these regulations.

2. All proposals for the development of subdivisions including manufactured home parks and subdivision shall meet development permit requirements of Division 3, Section 12-708; Division 4, Section 12-715; and the provisions of Division 5.

3. Base Flood elevation data shall be generated for subdivision proposals and other proposed development including manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Division 3, Section 12-707 or Division 4, Section 12-714(8) of this Article.

4. All subdivision proposals including manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

5. All subdivision proposals including 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 12-720 STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES).

Located within the areas of special flood hazard established in Division 3, Section 12-707, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply;

1. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified);

2. All new construction and substantial improvements of nonresidential structures;

(a) Have the lowest floor (including basements) elevated above the highest adjacent grade at least as high as the depth number specified in feet on Tonkawa's FIRM (at least two feet if no depth number is specified), or;

(b) Together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

3. Registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Division 4, as proposed in Section 12-715, are satisfied.

4. Require within Zones AH, or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

DIVISION 6

PENALTY

Section 12-821 PENALTIES FOR NONCOMPLIANCE.

No structure or land shall be hereinafter constructed, located, extended, converted, or altered without full compliance with the terms of this article and other applicable regulations. Violation of the provisions of this article 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 any ordinance contained in this article or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 plus court costs and penalty assessments, for each violation, and in addition shall pay all the costs and expenses involved in the case. Nothing herein contained shall prevent the City of Tonkawa officials from taking such other lawful actions as maybe necessary to prevent or remedy any violation.

ARTICLE 8

MISCELLANEOUS

SECTION 12-801 CLOSING OF PUBLIC WAYS OR EASEMENTS BY ORDINANCE

A. Definitions. For purpose of this Section, the following words shall have the following meanings:

1. "Close" shall mean the legislative act of the City Council discontinuing the public use of a public way or easement without affecting title to real property.

2. "Vacate" shall mean the termination, by written instrument, as provided by 11 O.S. §42-106, or judicial act of the Kay County District Court, of private and/or public rights

in a public way, easement, or plat and vesting title in real estate in private ownership.

3. "Public way" shall mean a street, avenue, boulevard, alley, lane or thoroughfare open for public use.

4. "Easement" shall mean rights in real property as set forth in 60 O.S. §49.

B. Application and Fee. Any person, firm or corporation owning any real property in the City who desires to close a public way or easement abutting such real property shall file an application with the City Clerk and pay an application fee of One Hundred Dollars (\$100.00). The application shall include a metes and bounds description of the public way or easement sought to be closed, the reason for such request for closing and whether the applicant intends to seek to vacate the real property.

C. Procedure. Upon receipt of such application and fee, the City Clerk shall send a copy of the application to the City Manager. The City Manager shall make inquiry to his department heads to determine if the streets or any public utility is adversely affected or if there is any reason to amend or oppose the application. If the City Manager approves the application, he shall acknowledge his approval on the application with his signature; if the City Manager has any specific concern about the request, he shall advise the applicant and, if possible, the concerns should be resolved by negotiation. In any event, the City Clerk shall thereafter place a notice of closing of the public way or easement on the agenda of the City Council ("notice"). As a part of that agenda, the City Clerk shall provide for a hearing on the matter before the Tonkawa Planning Commission and a hearing before the City Council. The hearing before the City Council shall be set at least thirty-five (35) days after the date of the approval of the notice. The notice shall contain the date of the hearings, a copy of the application and the ordinance proposing to close the public way or easement. If the City Council approves the notice, copies of the notice and other attachments shall be immediately mailed by the City Clerk to the telephone, cable, natural gas, solid waste companies, any other holder of a city franchise to include any others determined by the City Council to have a special right or privilege granted by ordinance or legislative enactment to use the public way or easement. In addition, any person, firm or corporation owning real property which is adjacent or abutting to the public way or easement sought to be closed shall receive

a copy of the notice and attachments.

D. Hearing. After conducting the hearings set out in subsection C, the City Council by ordinance may close to the public use any public way or easement within the City whenever necessary or expedient. The ordinance shall provide that the City retains the absolute right to reopen the public way or easement without expense to the City until and unless the public way or easement is vacated by the Kay County District Court. The public way or easement may be reopened by ordinance whenever:

1. The City Council deems it necessary; or
2. An application of property owners owning more than one-half in area of the property abutting on the public way or easement previously closed is filed with the City Council.

E. Closing the public way or easement shall not affect the right to maintain, repair, reconstruct, operate or remove utility, public service corporation, or transmission company facilities of service therein, nor shall a closing affect private way existing by operation of law unless released in writing executed by the owners thereof.

ARTICLE 9

FENCE AND WALL REGULATIONS

SECTION 12-901 DEFINITIONS.

FRONT YARD FENCES AND WALLS: A fence or wall located within the required front yard area for all zoning districts, or continuous with or in front of the front wall of the principal building on the site. Front yard fences and walls shall be considered as a structure and subject to these regulations. Fences and walls in areas in Residential Districts may be erected in any front yard, or along the edge of any yard; provided, that, no fence or wall located in front of the building line in any Residential District shall exceed four feet (4') in height. Spiked caps or spears shall not be used on picket fences.

SIDE OR REAR YARD FENCES AND WALLS: A fence or wall located behind the front wall of the principal building on the site. Side or rear yard fences and walls shall be considered as a structure and subject to these regulations. Spiked caps or spears shall not be used on pickets under five and one-half feet (5¹/₂') in height.

SIGHT TRIANGLE: The area of the sight triangle shall be determined

by the characteristics of the street, drive, alley or railroad intersections by which the triangle is formed.

SECTION 12-902 PRELIMINARY REQUIREMENTS.

A. No other wall or fence shall exceed eight (8) feet in height.

B. Fencing shall not cause any obstruction to any public right-of-way or drainage easement, including utility easements (where fencing shall be placed on either the easement line or the property line, depending on the remaining fence placements in the adjacent lots); provided however, the City and all persons, firms and corporation having a right to access and use of any right-of-way or easement, whether created by franchise, ordinance, contract or otherwise issued by the City, may remove any fence blocking access in order to construct, maintain, repair their particular system and will not be liable to the owner for damages or to reconstruct the fence. Walls shall not be place on any right-of-way or public easement.

C. No fencing or walls shall be allowed to obstruct the sight triangle at intersections or corners. On any corner lot on which a front and side yard is required, no wall, fence, sign, structure or plant growth, which obstructs sight view lines at elevations between two (2) feet six (6) inches and six (6) feet above any portion of 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 twenty-five (25) feet along the front and side lot lines and connecting the points so established to form a sight view triangle on the area of the lot adjacent to the street intersection.

D. Only picket, vinyl, split rail, chain link, decorative wrought iron (or galvanized steel, aluminum or similar material having the appearance of), ribbed or corrugated metal panels, stone, brick, stucco or specialty concrete block shall be permitted as material for fences and walls. Metal pieces, garage or other door panels, plywood sheets or other material not commonly used for fencing shall not be permitted. Barbed, chicken wire, hot wire or electric strand(s) fences shall not be allowed in any zoning district. Collar activated, radio, wireless or other electronic pet containment systems are permitted.

E. The architectural design and materials used for the construction of and fences and walls shall harmonize with the main building to which the fence or wall is accessory and shall be identified in the

application for fence or wall permit and shall only be erected as approved by the City.

F. Retaining walls may be allowed to solve drainage or topographical problems and are subject to the terms of this Article.

G. Fences and walls shall not obstruct any public walkway, even if said public walkway is on private property.

H. Fences and walls shall not obstruct any drainage easement, even if said drainage easement is on private property.

I. Metal fences shall be capped on the top edge and level with or below the ground on the bottom.

J. Fences and wall shall be kept in good repair and in a safe condition at all times by the property owner and/or tenant.

SECTION 12-903 SETBACKS AND VIEW RESTRICTIONS,

A. Setbacks: Except as otherwise provided herein, the following setbacks shall apply to fences or wall:

1. Minimum distances to front lot line: In non-residential districts, an eight-foot (8') setback is required if the fence or wall is constructed with opaque or solid material exceeding four feet (4') in height. No setback shall be required for other fences. In Residential Districts, no front yard fence or wall is permitted with a height greater than four feet (4').

2. Minimum distance to side lot line: None.

3. Minimum distance to rear lot line: None.

B. View Restrictions:

1. Fences and walls shall not cause a view obstruction.

2. Hedges or other vegetation used as a barrier or in a manner similar to a fence shall not cause a view obstruction.

SECTION 12-904 RESERVED.

SECTION 12-905

GENERAL STANDARDS AND REGULATIONS.

A. No person shall erect, place, or construct a fence or wall, in whole or in part, without first obtaining a building permit. An application for a permit shall be made by the owner or lessee, or by an agent or either, or by a licensed contractor employed in connection with the proposed work. No person, corporation or other entity shall commence or continue any work for which a building permit is required, without having received such permit and paid the fees required therefore. A person desiring a fence or wall permit shall submit an application therefore to the City Clerk containing the following information:

1. A plot plan legibly drawn to scale, showing the exact size, shape, and dimensions of the fence or wall to be constructed, the exact size, location and composition of the fence or wall to be constructed.

2. Additional information relating to the proposed fence or wall improvement may be required to determine compliance with this Article, including a survey, prepared by a licensed surveyor or engineer registered in the State of Oklahoma, of the boundaries of the lot on which the fence or wall is to be constructed, where the boundaries of the lot are not clearly defined by survey pins and monuments.

3. Any additional information relating to the proposed improvement needed to determine compliance with these regulations.

B. If the application is in accordance with the requirements of the ordinances and laws, the clerk shall issue the permit upon the payment of \$25.00 and the fence or wall shall be constructed exactly as set out in said Application and attachments.

SECTION 12-906

PRE-EXISTING FENCES AND WALLS.

A. Preexisting fences and walls legally constructed prior to August 1, 2017, shall be allowed to remain unless such fence or wall constitutes a traffic hazard, blocks, or restricts the visibility of motorists or pedestrians, or constitutes a hazard to the general health, safety and welfare of the public. The City and all persons, firms and corporation having a right to access) and use any right-of-way or easement, whether created by franchise, ordinance, contract or otherwise issued by the City may remove any

fence blocking access or other use and will not be liable to the owner for damages or to reconstruct the fence.

B. All preexisting fences or walls shall be maintained in good condition and shall not be structurally altered or expanded in any manner which increases the degree of nonconformity with this chapter.

C. A fence or wall which is destroyed or in a state of ruin or decay equal to more than fifty percent (50%) of its value, as determined by the building official, shall be replaced or reconstructed as provided by this Article and shall be permitted as provided herein. A fence or wall which is destroyed or in a state of ruin or decay equal to forty-nine percent (49%) or less of its value, as determined by the building official, may be repaired to its original condition at the option of the owner of the fence or wall in compliance with this Article but shall not be subject to a fence or wall permit.

SECTION 12-907 EXEMPTIONS.

This Article shall neither apply to fences or walls located in the Agricultural Districts nor temporary fencing, to including fencing used for construction project.

SECTION 12-908 VIOLATIONS.

The violation of any section of this Article shall be punishable by a fine of up to one hundred dollars (\$100.00) plus costs and fees. Each day that a violation continues shall constitute a separate offense.

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CHAPTER 13. PUBLIC SAFETY

ARTICLE 1

FIRE PREVENTION

SECTION 13-101 INTERNATIONAL FIRE CODE ADOPTED.

That a certain document is on file in the Office of the City Clerk of the City of Tonkawa, Oklahoma, being marked and designated as the International Fire Code, 2015 Edition, its appendices and annual amendments thereof, as published by the International Code Board, be and is hereby adopted as the Fire Code for the City of Tonkawa, State of Oklahoma, regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said International Fire Code on file in the office of the City Clerk of the City of Tonkawa, Oklahoma, are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 5-102 of this Article. The following sections of the International Fire Code, 2015 Edition are hereby revised:

1. § 100.1, insert the City of Tonkawa, State of Oklahoma.
2. §105.5 is repealed and replaced by the following provision:
 1. A building permit properly issued shall be valid for a period of 180 days from the date of issuance.
 2. A building permit may be extended for a period of thirty (30) days, provided that written application for extension of time is made and

filed with the City Clerk prior to the expiration of the original permit or subsequent extension of time, and justifiable cause as demonstrated by the applicant for extension of time.

3. 1612.3, insert the City of Tonkawa, State of Oklahoma.
4. 1612.3, insert May 1, 2017.
5. 3410.2, insert May 1, 2017.

State Law Reference: Building codes, adoption by cities, 11 O.S. § 14-107; 74 O.S. § 324.8.

SECTION 13-102 FIRE DEPARTMENT TO ENFORCE CODE.

A. The fire prevention code shall be enforced by the fire department of the City, under the supervision of the chief of the fire department. The terms "Bureau of Fire Prevention" and "Chief of the Bureau of Fire Prevention", whenever found in the Fire Prevention Code, shall mean fire department and chief of the fire department, respectively, of this City. Whenever the word "municipality" is used in the Fire Prevention Code, it means this City.

B. The chief of the fire department may detail such members of the fire departments as inspectors as may from time to time be necessary.

SECTION 13-103 LIMITS WITHIN WHICH STORAGE OF FLAMMABLE LIQUIDS IN OUTSIDE ABOVEGROUND TANKS IS PROHIBITED.

A. The limits referred to in the fire prevention code, in which storage of flammable liquids in outside aboveground tanks is prohibited, shall be as provided by ordinance, resolution or motion of the City Council.

B. The limits referred to in the fire prevention code, in which new bulk plants for flammable liquids are prohibited, shall be as provided by ordinance, resolution or motion of the City Council.

SECTION 13-104 LIMITS IN WHICH BULK STORAGE OF LIQUEFIED PETROLEUM GASES IS TO BE RESTRICTED.

A. Except as otherwise provided, the limits referred to in the fire prevention code, in which bulk storage of liquefied

petroleum gases are prohibited, shall be the city limits. Bulk storage shall mean any container or tank with a capacity greater than 100 lbs. and/or any number of containers of whatever size containing in total (aggregate) more than 100 lbs. of liquefied petroleum gases. Provided however, the sale or lease of tanks containing liquefied petroleum gases may occur in properly zoned commercial and industrial properties, but only pursuant to subsection B.

B. Any person, firm, corporation or entity owning, leasing or in possession and control of any real property on which sets any outside display or storage of any cylinder or cylinders containing liquefied petroleum gases, which outside display sets in a location whereby a vehicle could impact such cylinder or cylinders, shall erect suitable barriers to prevent vehicle impact. For purpose of this section the term "suitable barriers" shall mean the installation of a minimum of two (2) four (4) inch steel pipes, cemented at least 30" below the ground and standing at least 30" above the ground and placed so as to prevent impact from vehicles proximately located thereto. Any person, firm, corporation, or entity required to erect such suitable barriers, and who shall fail to erect such barriers in conformance with this section shall be guilty of any offense.

SECTION 13-105 LIMITS IN WHICH STORAGE OF EXPLOSIVES AND BLASTING AGENTS ARE PROHIBITED.

The limits referred to in the fire prevention code, in which storage of explosives and blasting agents is prohibited, shall be the city limits, or as otherwise provided by ordinance, resolution or motion of the City Council.

SECTION 13-106 MODIFICATIONS.

The chief of the fire department, with the approval of the City Council, shall have power to modify any of the provisions of the fire prevention code upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code provided that the spirit of the code is observed, public safety secured, and substantial justice done.

SECTION 13-107 APPEALS.

Whenever the chief of the fire department shall disapprove the application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been

misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief of the fire department to the City Council within thirty (30) days from the date of the decision.

SECTION 13-108 PENALTIES.

A. Any person who violates any of the provisions of the Fire Prevention Code hereby adopted or fails to comply therewith, or who violates or fails to comply with any order made thereunder, or who builds in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who fails to comply with such an order as affirmed or modified by the City Council or by a court of competent jurisdiction, within the time fixed therein, shall severally for every such violation and noncompliance respectively, be guilty of an offense, punishable by a fine of not less than \$100.00 and court costs. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time. When not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.

B. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

SECTION 13-109 LIFE SAFETY CODE ADOPTED.

There is hereby adopted for the purposes of the establishing rules and regulations for the protection of the Public safety from the hazards of fire, smoke, fumes, etc., that certain code known as the National Fire Protection Association Life Safety Code, being particularly the latest edition thereof and the whole thereof, save and except such portions thereof as are hereinafter deleted, modified, or amended. Not less than one copy has been and now is filed in the office of the City Clerk. The code is hereby adopted and incorporated as fully as if set out at length herein.

ARTICLE 2

FIRE SERVICES

SECTION 13-201 FIRE DEPARTMENT.

A. There is a fire department of the city, the head of which is the chief of the fire department, appointed by the City Manager for an indefinite term and removable by the City Manager.

B. It is the duty of the fire department, among others, to extinguish fires; to rescue persons endangered by fire; to resuscitate, and to administer first aid to, persons injured in or about burning structures or elsewhere in case of an emergency; to promote fire prevention; and unless otherwise provided, to enforce all ordinances relating to fires, fire prevention and safety of persons from fire in public and private buildings.

CROSS REFERENCE: See also city fire code, section 13-101 of this code; fireworks regulations, Section 10-324 of this code; hazardous chemicals code, Part 8 of this code; liquefied petroleum gas code, Part 5 of this code.

SECTION 13-202 FIRE CHIEF.

The chief shall be the administrative head of the department, subject to the laws of the state, ordinances of the city, and the rules and regulations adopted in this chapter. The chief shall have the following powers and duties, and he may assign duties to other members of the department:

1. The chief shall be responsible for the general condition and efficient operation of the department, the training of the members, and the performance of all other duties imposed upon him. He shall have supervision and control of the fire department, subject to the supervision and control of the City Manager;

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

3. The chief may maintain a library or file of publications on fire prevention and fire protection and shall make use of it to the best advantage of all members;

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

5. The chief shall see that the citizens are kept informed

on fire hazards in the community and on the activities of the department;

6. The chief shall see that each fire is carefully investigated to determine its cause, and in the case of suspicion of incendiarism or arson, shall notify proper authorities and secure the preservation of all possible evidence for future use in the case;

7. The chief is authorized to enter any building or premises in the city at any reasonable hour for the purpose of making inspections and to serve written notice on persons for any violations that may be found; and

8. The chief shall see that complete records are kept of all fires, inspections, apparatus and equipment, personnel and other information of the department and shall make reports to the City Manager as he may require. The chief shall keep the city informed regarding the fire department and its needs.

SECTION 13-203 DUTIES OF THE ASSISTANT CHIEF.

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

SECTION 13-204 USE OF FIRE EQUIPMENT.

A. The department shall be equipped with such apparatus and other equipment as maybe required from time to time to maintain its efficiency and properly protect life and property from fire.

B. Recommendations of apparatus and equipment needed shall be made by the chief, purchased after approval as other city purchases.

C. All equipment of the department shall be safely and conveniently housed in such places as may be designated by the City Manager.

D. Suitable arrangements and equipment shall be provided for people to turn in alarms and to notify members of the department so that they may promptly respond.

E. No person shall use any fire apparatus for equipment for any private purpose, nor shall any person willfully and without proper authority take away or conceal any article used in any way by the department. No person shall enter any place where fire apparatus is housed or handle any apparatus or

equipment belonging to the department unless accompanied by, or having the special permission of, an officer or authorized member of the department.

SECTION 13-205 AUTHORITY OF FIREFIGHTERS AT FIRES.

The fire chief, assistant fire chiefs or other fire department officers in charge shall have complete charge and control at all fires. Fire orders shall be obeyed. The chief or his officers may prescribe limits in the vicinity of a fire which no persons except those residing or owning property therein shall be permitted to enter except on the order of the officer in command. Police officers may aid in carrying into effect the provisions of this section.

SECTION 13-206 RIGHT OF ENTRY.

The chief of the fire department and his designee may at all reasonable hours enter any building or premises within his jurisdiction for the purpose of making any inspection or investigation which, under the provisions of this chapter and other provisions of this code, he may deem necessary to make.

SECTION 13-207 POWER TO CONTRACT.

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

State Law Reference: Fire service outside city, city powers, 11 O.S. Secs. 29-105 et seq.

SECTION 13-208 CONTRACTS FOR SERVICE.

Any contract entered into by the city, with an individual owner, a firm, private corporation, association, or political subdivision, for outside aid or mutual aid for fire protection, shall provide for the payment by the owner, firm, private corporation, association or political subdivision for such service, equipment or personnel in any amount reached through negotiation by the parties.

SECTION 13-209 AUTHORITY TO ANSWER CALLS.

The fire department is authorized to answer all calls outside the city within a distance of ten (10) miles from the nearest fire station, unless, in the opinion of the fire chief, it is inexpedient to do so on account of another fire in the city, broken apparatus, impassable or dangerous highways, or other physical conditions. Other calls outside the city limits shall be answered whenever deemed advisable by the fire chief or his assistant.

SECTION 13-210 CHARGES FOR CALLS MADE OUTSIDE CITY.

The charges for such calls shall be as specified in the fee schedule.

SECTION 13-211 FIREFIGHTERS SERVING IN REGULAR LINE OF DUTY.

All firefighters attending and serving at fires or doing fire prevention work outside the corporate limits of the city, as herein provided, shall be considered as serving in their regular line of duty as fully as if they were serving within the corporate limits of the city. The firefighters shall be entitled to all the benefits of any fire pension and relief fund in the same manner as if the firefighting or fire prevention work was being done within the corporate limits of the city.

SECTION 13-212 DEPARTMENT CONSIDERED AGENT OF STATE.

The fire department when answering any fire alarm or call or performing any fire prevention services outside the corporate limits of the city shall be considered as an agent of the state and acting solely and alone in a governmental capacity, and the city shall not be liable in damages for any act of commission, omission or negligence while answering or returning from any fire, or reported fire, or doing any fire prevention work under and by virtue of this article.

ARTICLE 3

POLICE SERVICES

SECTION 13-301 POLICE DEPARTMENT CREATED; CHIEF.

There shall be a police department, the head of which is the chief of police, or the police chief, appointed by the City Manager for an indefinite term and removable by the City Manager.

SECTION 13-302 DUTIES.

It is the duty of the police department to apprehend and arrest on view or on warrant and bring to justice violators of the ordinances of the city; to suppress all riots, affrays and unlawful assemblies which may come to their knowledge, and generally to keep the peace; to serve warrants, writs, executions and other processes properly directed and delivered to them; to apprehend and arrest persons violating state laws as provided by law, and to turn them over to proper authorities; and in all respects to perform all duties pertaining to the offices of police officers.

ARTICLE 4

DEPARTMENT OF EMERGENCY MANAGEMENT

SECTION 13-401 EMERGENCY MANAGEMENT DIRECTOR.

1. The Office of Emergency Management Director is hereby created, to be appointed by the City Manager. Such person may be a volunteer or a part or full-time position. Such person shall have the minimum qualifications as provided under Tit. 63, Section 683.11 of the Oklahoma Statutes, or as such section is hereafter amended.

2. The Director of Emergency Management shall be executive head of the Department of Emergency Management and shall be responsible for carrying out the Emergency Management Program of the City of Tonkawa, Oklahoma.

3. The Emergency Management Director shall have the responsibility to:

A. Form an organization to prepare and implement an Emergency Management Program;

B. Form committees to perfect such an organization;

C. Appoint the chairmen of such committees;

D. Cooperate with other governmental emergency management agencies; and

E. Formulate plans, gathers, or assigns a designee to gather information and maintain records for the Emergency Management Department, FEMA and Oklahoma Emergency Management.

4. The Emergency Management Director may be reimbursed for expenses incurred in the performance of his/her duties, provided such expenses are at the direction of, and approved by, the City Manager.

5. In the event of an enemy-caused emergency or emergency resulting from natural causes, the Emergency Management Director, after authorization from the City Manager, shall have the authority to enforce all regulations relating to emergency management, for the purpose of protecting the residents of the City of Tonkawa, Oklahoma.

SECTION 13-402 EMERGENCY MANAGEMENT DEPARTMENT.

1. There is hereby established an Emergency Management Department under the executive branch of government, which shall consist of an Emergency Management Director.

2. The purpose of said Department shall be to be prepared for, and function in the event of, emergencies endangering the lives and property of the people of the City of Tonkawa, Oklahoma, and to perform all functions necessary and incident to the protection of the lives, health, and property of the citizens of said community.

SECTION 13-403 DEFINITIONS.

1. Emergency Management. The term "Emergency Management" shall mean the preparation for, and carrying out of, all emergency functions, other than functions for which primary responsibility is assigned elsewhere by Federal, State or local Law or Ordinance, to protect the public peace, health and safety and to preserve lives and property in the City of Tonkawa, Oklahoma, during any emergency resulting from enemy attack, sabotage or other hostile action, or from any flood, drought, fire, hurricane, earthquake, storm or other catastrophe in or near said community, and involving imminent or actual peril to life and property. These functions include administration, organization, planning, recruiting, training, education, information, welfare service, relief service, police service, warden service, fire service, rescue service, medical service, health service, transportation service, communications service, streets and sewers service, utilities service, general engineering service, plant protection service, supply service, mutual aid, mobile support, evacuation and all other functions necessary or incidental to the preparation for any carrying out of the foregoing functions.

2. Enemy-Caused Emergency. The term "enemy-caused emergency" shall mean any state of emergency caused by actual or impending attack,

sabotage, or other hostile action, anywhere within the United States and involving imminent peril to lives and property in the City of Tonkawa, Oklahoma. Such emergency shall be deemed to exist only when the Mayor shall so declare any public proclamation and such emergency shall be deemed to exist until the aforesaid Mayor shall declare its termination by public proclamation, or until the City Council shall declare its termination by Resolution.

3. Natural Emergency. The term "natural emergency" shall mean any state of emergency caused by any actual or impending flood, drought, fire, hurricane, earthquake, storm or other catastrophe in or near the City of Tonkawa, Oklahoma, and involving imminent peril to lives and property. Such emergency shall be deemed to exist and to be terminated under the same conditions as prescribed for an "enemy-caused emergency".

SECTION 13-404 LIABILITY.

1. Neither the City of Tonkawa, Oklahoma, nor any officer or member of the Emergency Management Organization provided for in this Article, shall be liable for personal injury or property damage sustained by any person appointed or acting as a volunteer Emergency Management worker or member of any agency engaged in Emergency Management activity prior to, or during, either an enemy-caused or a natural emergency.

2. Nor shall the City or any such officer or member be liable for the death or injury of any persons, or damage to property, resulting from such emergency management activity prior to, or during, either an enemy-caused or a natural emergency.

SECTION 13-405 FEDERAL, STATE OR PRIVATE AID MAY BE ACCEPTED.

Whenever the Federal government, the State of Oklahoma, or any person, firm or corporation shall offer to the City of Tonkawa, Oklahoma, any services, equipment, supplies, materials, or funds by way of gift, grant or loan, for purposes of Emergency Management, the City Manager may accept such offer and may authorize the Emergency Management Director to receive the same, subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

ARTICLE 5

UNCLAIMED AND SURPLUS PROPERTY

SECTION 13-501 DELIVERY TO POLICE CHIEF REQUIRED; RECORDS.

A. All personal property which comes into the possession of any police officer, which has been found or stolen or taken off the person or out of the possession of any prisoner or person suspected of or charged with being a criminal, and which is not known to belong to some person laying claim thereto, shall be, by the officer securing possession thereof, delivered into the charge of the police chief. The police chief shall, in a permanent record book kept for that purpose, make a record sufficient to identify the property, with the date and circumstances of the receipt thereof and the name of the person from whom it was taken and the place where it was found. The record shall also disclose the subsequent disposal thereof, giving the date of sale, name and address of the purchaser, and the amount for which it was sold.

B. For the purpose of this chapter, "police chief" means the police chief or his designee.

State Law Reference: Disposition of personal property by police chief, procedures, application to destroy, 11 O.S. Sec. 34-104; Uniform unclaimed property disposition act, 60 O.S. Sec. 655; relating to finders of lost goods, 15 O.S. Secs. 511 et seq.; disposal of stolen or embezzled property coming into the hands of police officers, 22 O.S. Secs. 1321 et seq.; disposal of liquor and gambling equipment seized by police officers, 22 O.S. Secs. 1261 et seq.; alcoholic beverages seized in violation of law, 37 O.S. Sec. 539.

SECTION 13-502 DISPOSITION OF PERSONAL PROPERTY, GENERAL PROCEDURES.

A. The police chief is authorized to sell personal property, other than animals, money, or legal tender of the United States, except as provided in Subsection B of this section, which has come into his possession in any manner if:

1. The owner of the personal property is unknown or has not claimed the property;

2. The property has been in the custody of the police chief for at least thirty (30) days; and

3. The property or any part thereof is no longer needed to be held as evidence or for any other purpose in connection with

any litigation.

Any owner, to recover or claim property, must be able to satisfactorily prove ownership to the City Manager. For the purpose of this chapter, "police chief" means the police chief or his designee.

B. Any property found by a person other than public official which shall be delivered to any police officer for "identification", if not claimed or identified within thirty (30) days, shall, within ten (10) additional days thereafter, if requested by the finder, be returned to him, and a record of such disposal made thereof.

C. The police chief shall file an application in the district court of the county requesting the authority of the court to conduct a sale of such personal property or money or legal tender which has a fair market value of more than its face value. The police chief shall attach to his application a list describing such property or money or legal tender including any identifying numbers and marks, the date the property or money or legal tender came into his possession, and the name of the owner and his address, if known. The court shall set the application for hearing not less than ten (10) days nor more than twenty (20) days after filing of the application.

D. At least ten (10) days prior to the date of the hearing, notice of the hearing shall be sent by certified mail to each owner at his address as listed in the application. The notice shall contain a brief description of the property or money or legal tender of the owner and the place and date of the hearing. The notice shall be posted at the assigned place for the posting of city notices, and at two (2) other public places in the city.

E. If no owner appears and established ownership to the property or money or legal tender at the hearing, the court shall enter an order authorizing the police chief to sell the personal property or money or legal tender for cash to the highest bidder. After the court issues the order, the police chief will transfer the property, listed on the order, to the clerk, who will sell the property at an auction sale, after at least five (5) days' notice of the sale has been published. The police chief shall thereafter make a return of the sale, and the order of the court confirming the sale shall vest title to the property or money or legal tender in the purchaser. The money received from the sale of the personal property or money or legal tender shall be deposited in the city's general fund.

F. All money or legal tender of the United States, except as provided in Subsection B of this section, which has come into the possession of the police chief pursuant to the circumstances provided for in Subsection A of this section, shall be transferred by the police chief to the City Clerk for deposit in the general fund. Prior to any such transfer, the police chief shall file an application in the district court requesting the court to enter an order authorizing him to transfer the money for deposit in the general fund. The application shall describe the money or legal tender, any serial numbers, the date the same came into his possession, and the name of the owner and his address, if known. Upon filing the application which may be joined with an application as described in Subsection B of this section, a hearing shall be set not less than ten (10) days nor more than twenty (20) days from the filing of the application. Notice of the hearing shall be given as provided for in Subsection C of this section. The notice shall state that upon failure of anyone to appear to prove ownership to the money or legal tender, the court shall order the same to be deposited in the general fund. The notice may be combined with a notice to sell personal property as provided for in Subsection B of this section. If no one appears to claim and prove ownership to the money or legal tender at the hearing, the court shall order the same to be transferred to the general fund as provided in this subsection.

B. The provisions of this section shall not apply to any dangerous or deadly weapons, narcotic or poisonous drugs, explosives, or any property of any kind or character, which the possession of is prohibited by law, nor to any property for which a specific procedure is otherwise established by law, ordinance, or proper order. By order of the trial court, any such property filed as an exhibit or held by the municipality shall be destroyed or sold or disposed of, pursuant to the conditions prescribed in such order.

State Law Reference: Similar provisions 11 O.S. Sec. 34-104

SECTION 13-503 SEIZED PROPERTY RELATED TO GAMBLING, REPORT AND DISPOSITION.

A. If any personal property used for the purpose of violating any of the gambling laws of this state, shall be seized by any officer or person with or without a search warrant, such officer or person is hereby required within five (5) days of the seizure to make a written report under oath and file the same with the county clerk, which report shall in detail state

the name of the officer or person making theseizure, the place where seized and an inventory of the property or articles so taken into possession. Within five (5) days after seizing such property, the officer shall deliver the property to the sheriff of the county and take the sheriff's receipt therefore, in duplicate, and the sheriff shall retain the same and all thereof until the same shall be destroyedpursuant to the orders of the court.

B. If computing the time, five (5) days, Sundays and holidays shall be excluded and not counted.

C. A duplicate copy of the receipt shall be filed with the county clerk, who shall keep a record of same. However, the sheriff and his deputies shall be required to make the affidavit and issue the receipt and otherwise comply with the provisions of this section. The sheriff shall be liable on his bond for the safe keeping of all such property so turned over to him under the provisions of this section.

State Law Reference: Similar provisions, 22 O.S. Sec. 1261.

SECTION 13-504 SEIZED PROPERTY RELATED TO ALCOHOLIC BEVERAGES, DISPOSITION.

If city police officers seize:

1. Any apparatus, equipment, vehicle, or instrumentality used for, or intended for use in manufacturing or transportingany alcoholic beverages in violation of the state alcoholic beverage control laws; or

2. Any alcoholic beverages possessed, sold, transported, manufactured, kept, or stored in violation of the state alcoholic beverage control laws, and if the court finds from a preponderance of the evidence that the property seized was lawfully subject to seizure, then the court shall render judgment accordingly and order the property forfeited to thecity in which the seizure of the property took place. Such seized property shall be sold by the City Manager, after giving ten (10) days' notice by one publication in a legal newspaperof the county at least ten (10) days before such sale. Appealfrom such an order may be taken as in civil cases. When such property is sold under the provisions of this section, the proceeds thereof shall be distributed as follows:

a. First, to the payment of the costs of the case in which the order of forfeiture was made and the actual expenses of preserving the property; and

b. Second, the remainder shall be deposited with the city.

State Law Reference: Similar provisions, 37 O.S. Sec 539.

SECTION 13-505 PROPERTY OF DECEASED PERSONS.

The property of a deceased person shall be delivered only to the next of kin of such person or to the legally appointed representative of his estate. If the personal property is claimed by the legally appointed representative of the estate of the deceased, a certified copy of the order of the district court appointing such person shall be deemed sufficient authority to support the claim. If the personal property is claimed by the next of kin, the claimant shall furnish an affidavit to the effect that he is the person entitled to possession of the property; the affidavit shall be deemed sufficient authority to support the claim. If personal property of a deceased person remains unclaimed for a period of ninety (90) days, it shall be disposed of in the appropriate manner provided in this chapter.

SECTION 13-506 EXCHANGE OF UNCLAIMED OR CONFISCATED WEAPONS.

A. Unclaimed or confiscated weapons which have been in the possession of the police department for one hundred twenty (120) days or more may be traded by the police chief, with the approval of the police chief or his designee, for new weapons for use by the police department. The unclaimed or confiscated weapons may only be traded to such gun dealers who have complied with applicable state and federal regulations concerning firearms and, in the opinion of the police chief and the police chief or his designee, are reputable.

B. In trading such unclaimed or confiscated weapons, the police chief or his designee shall advertise for bids for such trade. Such advertisement for bids shall be done in accordance with prevailing and established bid procedure as formulated by the purchasing entity of the city.

C. The value of such unclaimed and confiscated weapons as hereinabove discussed shall in all cases be determined by their fair market value of the new weapons received in such trade.

SECTION 13-507 RECOVERY BY OWNER.

If any property is sold as herein provided, and the owner thereof takes and recovers possession of same from the

purchaser, the amount paid therefore shall be returned to the purchaser, upon verified claim being submitted and approved by the police chief.

ARTICLE 6

AMBULANCE SERVICES AND OTHER EMERGENCY FEES AND CHARGES

SECTION 13-601 SERVICE AUTHORIZED.

The city is authorized to engage in emergency ambulance services via the Tonkawa Ambulance Service of the city ambulance department. The City is authorized to enter into the Agreement with Noble County Ambulance District and Noble County dated December 18, 2012.

SECTION 13-602 ADMINISTRATION.

The fire chief of the city, under the supervision of the City Manager, shall have day to day operational and administrative responsibilities for the ambulance service. Subscription rates, fees, and charges for services, as well as policies of the ambulance service shall be approved by the city council.

SECTION 13-603 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply:

1. "Emergency" means a life-threatening situation which requires that a patient be transported to a medical facility for immediate care;

2. "Medical facility" means an Oklahoma-licensed physician's office or an accredited hospital;

3. "Medically Necessary" means a non-life-threatening situation which requires that a patient be transported to or from a medical facility by ambulance.

4. "No-Cost" means all ambulance services shall be billed to the patient's insurance and the City will accept what payment is received from that insurance and waive any remaining balance on emergency and medically necessary ambulance services.

5. "Non-subscriber" means a person who does not purchase a subscription for emergency ambulance service for himself and those persons residing in his household;

6. "Subscriber" means a person who purchases a subscription to receive no-charge emergency and medically necessary ambulance service for themselves and those persons residing in his household;

7. "Transfer" means a non-life-threatening situation whereby a patient is transported to a medical facility for medical tests or examination, or when a patient is transported from a medical facility to the patient's place of residence.

SECTION 13-604 SERVICES TO BE RENDERED.

A. Emergency ambulance service will be the primary service provided by the ambulance service. Emergency ambulance services will be provided based upon the prevailing "Rules and Guidelines of the Tonkawa Ambulance Service" which are revised and modified as necessary by the City Council.

B. "Medically Necessary Service": Medically necessary ambulance service will be the secondary service provided by the Tonkawa Ambulance Service. Medically necessary ambulance services will be provided when doing so will not compromise the Service's ability to provide emergency services and will be based upon the prevailing "Rules and Guidelines of the Tonkawa Ambulance Service" which are revised and modified as necessary by the City Council.

C. Transfer ambulance service will be the secondary service provided by the ambulance service. Transfer ambulance service will be provided when doing so will not compromise the service's ability to provide emergency ambulance services and based upon the prevailing "Rules and Guidelines of the Tonkawa Ambulance Service" which are reviewed and modified as necessary by the city council.

D. A copy of the latest version of the "Rules and Guidelines of the Tonkawa Ambulance Service" shall be on file in the office of the City Clerk.

SECTION 13-605 CHARGES FOR SERVICES.

A. Subscribers may receive no-charge emergency and medically necessary ambulance service during the period of their subscription. Non-emergency ambulance service will be billed at the prevailing rates for service which the City Council has established.

B. Non-subscribers will be billed for ambulance services at the rates as provided in Chapter 18, Section 13-605.

C. The ambulance service is to be as financially self-supporting as possible. To that end:

1. Each person who receives ambulance service is considered the primary person responsible for the payment of all services rendered. They shall agree to provide all insurance information and sign all necessary documents. Failure to comply will void the subscription and the patient shall be billed 100% of the current charges.

2. Payment in full for service is expected in a timely manner after services are rendered. The city is dedicated to taking all necessary steps to collect all outstanding accounts. The failure to pay an outstanding account for ambulance services shall be considered reasonable grounds to refuse non-emergency transfer ambulance service;

3. Those persons who receive no-charge emergency and medically necessary ambulance services as provided in Sections A and B of Section 13-606 are offered no-charge emergency and medically necessary ambulance services provided that the subscriber is not delinquent in the payment of city electric services. In the event the city disconnects electrical service for non-payment for a period of time in excess of forty-eight (48) hours, then the subscriber shall be considered a non-subscriber and shall be responsible for the payment of any ambulance services provided while the subscriber is delinquent in the payment for electrical services.

D. The City rates for ambulance services shall be established by resolution of the City Council.

SECTION 13-606 SUBSCRIPTIONS.

A. Those persons who are electric customers of the city at occupied, single-family residential service locations in the corporate limits of the city will be assessed a subscriber fee as set by the council as a monthly fee for no-charge emergency and medically necessary ambulance service.

B. Those persons who are year-round electric customers of the city at occupied, single-family residential service locations not within the corporate limits of the city may choose to be assessed at a rate set by the council as a monthly fee for no-charge emergency and medically necessary ambulance services.

C. Those people who reside in group living facilities such as nursing homes and dormitories within the corporate limits of the city and do not receive a monthly electric bill for their individual place of residence may subscribe for no-charge

emergency and medically necessary ambulance services by paying the annual subscription fee in June of each year.

D. Those people who reside outside the corporate limits of the city but within the ambulance service response area may subscribe for no-charge emergency and medically necessary ambulance services by paying the annual subscription fee in June of each year.

SECTION 13-607 COLLECTION OF AMBULANCE FEE.

All ambulance services will be billed to the patient's insurance carrier(s). The City will accept what the insurance pays for emergency and medically necessary ambulance service and waive the remaining balance. Charges for transfer service will not be waived. Payments received from subscribers shall first be applied to any delinquent or current monthly ambulance service fees. All receipts thereafter shall be applied toward the payment of electrical service charges of the subscriber.

Section 13-608 LIFELINE FEES AUTHORIZED.

There shall be an emergency services program hereby authorized to be called Lifeline with the monthly fees and charges for such service as follows:

Standard Lifeline Service	\$29.95
Add Auto Alert Button	\$15.00
Wireless Lifeline Service	\$56.95
GoSafe with 7000L	\$54.95
GoSafe with 7000C	\$64.95

The City Manager is authorized to prepare and distribute information concerning these services to the public. In addition, Lifeline fees and charges are authorized to be collected as an individual charge on the utility bill, subject to the provisions of Chapter 17 of this municipal code.

CHAPTER 14. STREETS, SIDEWALKS AND PUBLIC WORKS

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CHAPTER 14. STREETS, SIDEWALKS AND PUBLIC WORKS

ARTICLE 1

USE AND CONSTRUCTION OF STREETS

SECTION 14-101 TREES AND SHRUBBERY TO BE TRIMMED.

A. The owner of any premises abutting on any street of this City shall trim all trees and shrubbery growing, between the sidewalks and the roadway, of any such street, and all trees and shrubbery growing on any part of the premises adjacent to the sidewalks or any street or alley, in such manner that the boughs or limbs thereof shall not obstruct free and convenient passage and travel along the streets, sidewalks, and alleys. When such premises are occupied by some person other than the owner, such occupant shall trim the trees and shrubbery in the same manner as hereinafter required of the owner. Such trees and shrubbery shall be trimmed so that the lowest branches or foliage shall not be lower than ten (10) feet above the roadway of a street or alley, nor lower than eight (8) feet above the sidewalk.

B. Any owner or occupant who shall fail, refuse or neglect to trim trees and shrubbery as provided in Section A of this section, after receiving five (5) days' notice from the City Manager to do so, shall be guilty of an offense. Every day that the owner or occupant shall fail, refuse or neglect to trim the trees or shrubbery, after the expiration of the five (5) days' notice, shall be a separate offense.

SECTION 14-102 UNLAWFUL TO INJURE TREES AND SHRUBBERY.

It is unlawful for any person to injure any tree or shrubbery on a street or alley in the City; provided that this shall not prohibit the lawful and proper care and removal of such trees and shrubbery.

SECTION 14-103 UNLAWFUL TO OBSTRUCT SIDEWALKS, PARKWAYS, STREETS, AND ALLEYS WITH MERCHANDISE.

It is unlawful for any person, firm, or corporation to place upon or permit to be placed upon the sidewalks, parkways, streets and alleys of the City any goods, wares, articles of merchandise or any other obstruction, and leave the same thereon; or to use the same as a place to carry on a business or trade.

SECTION 14-104 UNLAWFUL TO OBSTRUCT UNDULY SIDEWALKS AND STREETS.

It is unlawful for any person, firm, or corporation 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.

SECTION 14-105 UNLAWFUL TO PLAY ON STREETS.

It is unlawful for any person to play on the main-traveled portion of the streets and alleys of the City, except as may be authorized by ordinance.

SECTION 14-106 WATER FROM FILLING STATIONS AND OTHER BUSINESSES.

It is 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, street, alley or other public way.

SECTION 14-107 OWNER OR OCCUPANT NOT TO PERMIT SIDEWALK OR SIDEWALK AREA TO BECOME A HAZARD.

It is unlawful for the owner or occupant of property abutting upon a sidewalk area to permit the sidewalk or sidewalk area adjacent to the property to become a hazard to persons using the sidewalk, or sidewalk area.

SECTION 14-108 NOTICE; PENALTY.

If any property owner, occupant or agent of such property shall fail or refuse to repair or clean off the sidewalk abutting or adjacent to the property owned or occupied by him within seventy-two (72) hours after notice served on him by any police officer, health officer, or any other agent of the City, the property owner or occupant or agent so failing or refusing after notice so to do, to repair or clean off such sidewalk, shall be deemed guilty of an offense.

SECTION 14-109 NO OBSTRUCTIONS TO INTERFERE WITH DRAINAGE.

It is unlawful for any person, firm, or corporation to obstruct any street, sidewalk, or alley, by placing any approach driveway or other obstruction or substance whatever that will

obstruct or prevent the natural flow of water, into the storm sewers or drains, or dam the same so as to back any water upon the streets, alleys, sidewalks, or gutter.

SECTION 14-110 INJURY; DRIVING OVER CURBING AND CROSSINGS.

Any person who shall willfully or wantonly cut or break or remove, or in any manner displace any curbing, guttering, or who shall recklessly or intentionally, drive any vehicle loaded with asphalt materials, lumber or building materials, or anykind, into or on the curbing, or concrete guttering of anypaved street, shall be guilty of an offense.

SECTION 14-111 OWNER OF VEHICLE RESPONSIBLE FOR DAMAGE TO STREET.

The owner, driver, operator, or mover of any vehicle over any street or alley of the City and specifically vehicles of a load weight in excess of passenger automobiles and light delivery trucks, shall be responsible for all damages which streets or alleys may sustain as a result of the use thereof by such vehicles. This shall not be applicable to deterioration caused by normal vehicular use of such streets and alleys. The amount of such damage may be recovered in an action in thecourt of proper jurisdiction in the name of the City.

SECTION 14-112 WHEN SIDEWALKS MAY BE OBSTRUCTED.

It is unlawful for an owner or occupant of premisesabutting on a sidewalk in the City to store on the sidewalk, goods, wares, and merchandise unless a space of at least six (6) feet in width, is left clear for passage of traffic or pedestrians. Such goods, wares and merchandise may not be stored or displayed on the sidewalk in such a manner that vehicles parking at the curb could be damaged thereby. Such goods, wares and merchandise must be removed by the owner or occupant of the premises at least once during each twenty-four (24) hour period.

SECTION 14-113 INSECTS AND WORMS.

Each owner, agent, or occupant in front of or on whose lots shade trees have been planted or are growing shall use every reasonable precaution to protect the same from insects and worms.

SECTION 14-114 PERMIT TO STRING WIRES.

A. It is unlawful and an offense for any person to trim, cut or otherwise mutilate any shade or ornamental tree on any street, parking, or other public place in the City for the purpose of stringing wires or cables along or across any public places, without first obtaining a permit therefor in writing from the City, which shall be filed with the City Clerk.

B. Whenever any telephone, telegraph, or electric light and power company or any other person with authority to use the streets for such purposes, desires to string any wires or cables along or across any of the street parking, or other public place, such person shall make application to the City. If the Mayor determines that it is necessary for the proper stringing of the wires to trim or cut any such trees, and the same can be done without serious injury to the trees, he shall issue his written permit, stating the nature and extent of such trimming or cutting, which shall be filed with the City Clerk as heretofore provided. All such trimming or cutting shall be done under the direct supervision and control of the Mayor or some competent person designated by him.

SECTION 14-115 PARKING OF TRUCKS, TRAILERS, COMMERCIAL VEHICLES, BUSES, RECREATIONAL VEHICLES ON CITY STREETS

A. No truck, trailer, commercial vehicle, bus, recreational vehicle, or other vehicle having more than two (2) axles shall park on any street or street right-of-way within any residential area at any time, except for the immediate loading or unloading of persons or materials, and only then when not in violation of any other provision of the chapter.

B. No tractor-trailer rigs (semi-trailers) shall be parked or stored on the street, street right-of-way, yard, or driveway within any residential area.

C. No tractors or semi-trailers shall be parked or stored on the street or street right-of-way within any commercial or industrial area, except if parked or stored on driveways or other hard-surfaced areas.

Note: Approved by Ordinance No. 98-2 on April 7, 1998.

ARTICLE 2

EXCAVATING OR CUTTING STREETS AND ALLEYS

SECTION 14-201 NOTIFICATION TO City.

Before beginning any boring, cutting or excavation under, across or through any street or alley, the party about to perform the same shall notify, in writing, the City that such boring, cutting or excavation is intended to be done, the location thereof, and the necessity of such boring, cutting or excavation. Such written notification must be made prior to commencement of any such boring, cutting or excavation.

SECTION 14-202 FEE TO BE PAID TO City.

Any person who shall hereafter bore, cut, or excavate under, across or through the surface of any street or alley in the City shall obtain a permit from the City Clerk, upon payment of the fee set by the City and upon approval of the City Council, prior to the commencement of any such cutting, boring or excavation.

SECTION 14-203 SECURITY BOND.

Prior to commencement of any boring, cutting or excavation of any street or alley the party to perform the same shall post with the City Clerk a good and sufficient surety or indemnity bond, payable to the City in the amount set by the Council. Such bond shall be to protect and save the City harmless from any and all damages caused by any such boring, cutting or excavation.

SECTION 14-204 TO FILL EXCAVATION, APPROVAL BY CITY.

A. After the -installation, replacement or repair of any utility line or other line, the party making such bore, cut or excavation shall fill the bore, cut or excavation and tamp the earth or other fill material as specified by the City, subject to the rules and regulations as may be prescribed by the City Council. The party making any such bore, cut or excavation shall replace any paving, whether asphalt, concrete or a combination, damaged, destroyed or removed in like manner as existed prior to such bore, cut or excavation.

B. The following specifications apply to the fill:

1. A suitable soil stabilizer shall be used as part of

the reconstruction process;

2. All soils treated with the stabilizer and routinely compacted shall attain unconfined compressive strengths greater than the same soils which are untreated and compacted toninety-five percent (95%) of the maximum laboratory dry density;

3. Treated soils should attain a field California Bearing Ratio (CBR) of forty (40) or greater, when used in accordance with manufacturer's instructions;

4. Treated soils shall gain in compressive strength and maintain their size and shape when subjected to damp environments;

5. Treated soils should attain sufficient strength to allow for repaving, removal, or any traffic control devices, and provide for the return to normal traffic on any site where the stabilizer is used within two (2) hours or less of the final compaction lift, when used in accordance with manufacturer's instructions;

6. Treatment of soil will create less than 10 degrees F. exothermic reaction so as to prevent possible damage to pipe or other underground conduits, plant or animal life. The stabilizer shall not pose a threat of thermal injury to workers, nor will it cause the ground to expand after compaction which would prevent immediate repaving;

7. The stabilizer shall be environmentally safe and shall not exceed EPA standards for ingestion or inhalation, or cause hazards to work crews or the environment;

8. The stabilizer will be non-corrosive to underground pipe and other conduits;

9. The ratio of stabilizer to soil shall not be less than twenty-five (25) pounds per cubic yard of soil; and

C. Upon completion of all restoration work the City Manager shall examine the location to determine if such filling, tamping or paving complies with the standards set forth by the rules and regulations of the City Council and endorse upon the permit his acceptance or rejection of the restoration. If such restoration does not comply with the standards set by the City Council, the City may cause properand necessary repairs at the sole cost of party to whom the

permit was issued.

D. It is the City Council's discretion as to the repair and replacement of streets and alleys, either being trenched or bored.

ARTICLE 3

STREET PAVING STANDARDS

SECTION 14-301 STANDARDS ADOPTED, PENALTY.

The city's street paving standards, as set forth in Ordinance 85, and all amendments thereto, are hereby adopted and incorporated herein by reference as the street paving standards of the city, applicable as if fully set out at length herein. A copy of the standards is available in the office of the City Clerk. Any violation of the standards is punishable as provided in Section 1-108 of this code.

ARTICLE 4 - PARADE OR DEMONSTRATION PERMIT

Section 14-401 DEFINITIONS.

Wherever in this Code any regulation or enactment pertains to a parade, group demonstration or picket line, the following definitions shall apply, but shall not be exclusive as to coverage:

Group demonstration means any assembly together or concert of action between two or more persons for the purpose of protesting any matter or making known any position or thought of the group or of attracting attention thereto.

Parade means any parade, march, ceremony, show, exhibition, or procession of any kind in or upon the public streets, sidewalks, parks, or other public places.

Picket line means any persons formed together for the purpose of making known any position or promotion of said persons or on behalf of any organization.

Section 14-402 EXCEPTIONS.

This article shall not apply to:

- (1) Funeral processions.

(2) Students going to and from school classes or participating in educational activities where such activity is under the immediate supervision and direction of proper school authorities.

(3) A governmental agency acting within the scope of its functions.

Section 14-403 POLICE CONTROL OF PARADES, ETC.

No person shall hamper, obstruct, impede, or interfere with any activity regulated by this article or any person participating therein. The police force is authorized to establish lines for separation of the general public from such activity, and it shall be unlawful for any person to violate the provisions of this section or to cross such lines.

Section 14-404 PERMIT REQUIRED.

No parade, picket line or group demonstration is permitted on the sidewalks or streets of the city, parks, or other public places, unless a permit therefor has been issued by the city; provided, however, that nothing in this section shall be construed to prevent the peaceful assembly of any group for orderly expression or communication between those assembled.

Section 14-405 VIOLATION; PROHIBITED LOCATION.

Upon a violation of the terms of a permit under this article by those participating, the chief of police or such officer of the police force as may then be in charge is authorized to then revoke the permit and direct those participating to disburse. No parade, picket line or group demonstration is permitted within any public building or structure.

Section 14-406 PROHIBITED ACTS GENERALLY.

In any parade, picket line or group demonstration, it shall be unlawful for any person to cause, participate in, lead, or encourage any parade, picket line or group demonstration to deviate in any manner from the terms and condition of this article or the specifications provided for in the permit. No person shall interfere with a police officer in the lawfully exercise of such police officer's duty at the parade or other event or with the operation of emergency vehicles or city services and functions or by act or omission, violate any requirement of this article or requirement contained with the permit.

Section 14-407

APPLICATION; ISSUANCE GENERALLY.

The chief of police or, in the chief of police's absence, the next highest-ranking officer of the city police department is authorized to issue permits as required in this article, and in the issuance thereof shall:

(1) Require a written application therefor to be filed 48 hours in advance of such parade, picket line or group demonstration on a form prescribed by said department and shall require the application to be signed by the person filing such application and the applicant shall therein state the proposed site, time, purpose and size of such parade, picket line or group demonstration.

(2) Refuse to issue such permit when the activity or purpose stated in the application would violate any ordinance of the city or statute of the state, or when the activity or purpose would endanger the public health or safety or hinder or prevent the orderly movement of pedestrian or vehicular traffic on the sidewalks or streets of the city.

(3) The payment of a non-refundable application fee of Ten Dollars (\$10.00).

(4) The procurement of a Comprehensive General Liability Insurance in the amount of Five Hundred Thousand Dollars (\$500,000.00) per occurrence protecting against damage to persons or property whenever it is reasonably anticipated that more than 1000 participants involved in such parade.

(5) Require the applicant in writing to agree to reimburse the City for any damages to city property caused due to the parade or event and to indemnify and hold harmless the City from and against liability, claims, damages, losses and expenses, attorneys' fees, arising out of or resulting from the parade or event permitted hereunder.

Section 14-408

PREREQUISITES.

The chief of police or other designated officer in considering the issuance of a permit shall, among other considerations provided, consider and find as a requisite for issuance that:

(1) The activity will not require excessive diversion of police from other necessary duties.

(2) The activity will not interfere with the right of property owners in the area to enjoy peaceful occupancy and use of their property.

(3) The activity can be conducted without unreasonable interference with normal vehicular or pedestrian traffic in the area, will not prevent normal police or fire protection to the public, and will not be likely to cause injury to persons or property or provoke disorderly conduct or create a public disturbance.

Section 14-409 CONTENTS GENERALLY.

(a) A permit under this article may set the starting time and duration of a parade, demonstration or picket line and may set the speed of its travel; the space between persons or vehicles; the portions or areas of the streets and sidewalks to be used; the length of the parade, group or line; and such other requirements as the chief of police or other designated officer may include in the permit for the control of free movement of traffic upon the streets and sidewalks, or for the health, safety and property rights of the participants and the general public. Failure to comply with such requirements, as set forth in the permit, shall be unlawful.

(b) The applicant for a permit shall specify and the permit shall designate the person in charge of the parade, group demonstration or picket line, and such person in charge shall accompany such parade, demonstration, or picket line and shall carry such permit with him at that time.

Section 14-410 NUMBER OF PARTICIPANTS.

Any picket line or group demonstration which is located in any area subject to normally heavy pedestrian or vehicular traffic may be limited in the permit issued to a concentration of not more than six persons participating within any designated area of the street or sidewalk; provided that the officer issuing the permit may specify a larger number in the designated area where, in his judgment, conditions permit a higher concentration. The term "designated area" is defined as the entire width of said street or sidewalk within a distance measured along its length for 100 feet.

Section 14-411 APPEAL.

Any person aggrieved by the denial of a permit, as provided in this article, shall have a right of appeal to the city council, but such appeal notice must be given within five days thereafter and the appeal upon such notice will be heard by the council at its next regular meeting or at any special meeting.

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CHAPTER 15 TRAFFIC AND VEHICLES

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CHAPTER 15 Traffic and Vehicles

ARTICLE 1

GENERAL PROVISIONS

Section 15-101 CITATION OF CHAPTER.

The chapter and all amendments hereto may be cited or referred to as the "Traffic Code, City of Tonkawa", and may so appear upon all official documents, records, or instruments.

Section 15-102 TRAFFIC CODE CONTROLLING.

Except as specifically provided by law as set forth in this chapter, the traffic code shall be controlling and apply to the use of City streets, alleys, thoroughfares, parks parkways, public parking lots, school driveways, streets, parking lots, or any other public right-of-way or municipally owned land, including streets and other ways that form the boundary line of the City, by pedestrians and by vehicles of every kind whether self-propelled or otherwise and whether moving or at rest.

Section 15-103 DEFINITIONS.

As used herein:

1. "Alley" means any narrow highway ordinarily located in the interior portion of platted blocks and ordinarily used for service or delivery purposes at the rear of stores, dwellings, or buildings;

2. "Ambulance" means a motor vehicle constructed, reconstructed, or arranged for the purpose of transporting ill, sick, or injured persons;

3. "Bicycle" means a device propelled by human power upon which any person may ride, having two (2) tandem wheels;

4. "Bus" means every motor vehicle designed for carrying more than ten (10) passengers and used for the transportation of persons, and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation;

5. "Business district" means the territory contiguous to, and including a highway if there are buildings within six hundred (600) feet of the highway in use for businesses or industrial purposes, including but not limited to hotels, banks, or office

buildings, railroad stations, and public buildings which occupy at least three hundred (300) feet of frontage on one side or three hundred (300) feet collectively on both sides of the highway;

6. "Controlled access highway" means every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway;

7. "Commercial vehicles" means every vehicle designed, maintained, or used primarily for the transportation of property;

8. "Center lane" means any clearly marked center lane. If the center lane is not marked and no cars are parked on the roadway, then the center lane is equally distanced between the curbs or traveled portion of the roadway. In the event a vehicle or vehicles are parked on one side of the roadway only, then the center lane is equally distanced from the side of the parked vehicle or vehicles toward the street and curb on the opposite roadway. If vehicles be parked on each side of the roadway, then the center lane is equally distanced from the edges of the parked vehicles;

9. "Cross walk" means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the street measured from the curbs; or in the absence of curbs from the edges of the traversable roadway. "Cross walk" also means any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface;

10. "Double park" means parking or stopping a vehicle on the roadway side of another vehicle already parked adjacent to the edge or curbing of the roadway;

11. "Driver or operator" means a person who drives or is in actual physical control of a vehicle;

12. "Emergency" means an unforeseeable occurrence of temporary duration causing or resulting in an abnormal increase in traffic volume, cessation or stoppage of traffic movement, or creation of conditions hazardous to normal traffic movement, including fire, storm, accident, riot, or spontaneous assembly of large numbers of pedestrians in such a manner as to impeded the flow of traffic;

13. "Emergency vehicle" means vehicles of the fire department, police vehicles and ambulances;

14. "Highway", see street;
15. "Intersection" means:
 - a. The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadway of two (2) streets, which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different streets join at any other angle, may come in conflict; or
 - b. Where a street includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided street by an intersection street, shall be regarded as a separate intersection. In the event such intersecting street also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of such streets shall be regarded as separate intersections;
16. "Laned roadway" means a roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic;
17. "Limited access highway", see controlled access highway;
18. "Loading zone" means a space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or material. A freight curb loading zone is a loading zone for the exclusive use of vehicles during the loading or unloading of freight; a passenger curb loading zone is a loading zone for the exclusive use of vehicles during the loading or unloading of passengers;
19. "Limit lines" means boundaries of parking areas, loading zones and non-traffic areas and lines indicating the proper place for stopping where stops are required;
20. "Motorcycle, motor scooter, and motor bicycle" mean a motor vehicle, other than a tractor, having a seat or saddle for the use of the driver and designed to travel on no more than three (3) wheels in contact with the ground, but excluding a tractor;
21. "Motor vehicle" means every vehicle which is self-propelled;
22. "Official time" shall mean whenever certain hours are named herein, they shall mean Central Standard Time, or Daylight

Savings Time, as may be in current use in the City;

23. "Official traffic control device" means all signs, signals, markings, and devices not inconsistent with this ordinance, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic;

24. "Park or parking" means the standing of a vehicle whether occupied or not, otherwise than temporarily for the purpose of, and while actually engaged in loading or unloading merchandise or passengers, providing such loading and unloading is an authorized place;

25. "Pedestrian" means any person a foot;

26. "Police officer" means every officer of the municipal police department, or any officer authorized to direct or regulate traffic, or to make arrests for violation of traffic regulations;

27. "Private road or roadway" means a way or place in private ownership or leading to property in private ownership and used for vehicular traffic by the owner and those having express or implied permission from the owner;

28. "Public parking lot" means a parking lot or right of way dedicated to the public use or owned by the state or a political subdivision thereof;

29. "Railroad" means a carrier of persons or property upon cars other than streetcars operated upon stationary rails;

30. "Railroad train" means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars;

31. "Residence district" means the territory contiguous to and including a highway not comprising a business district;

32. "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed, and proximity as to give rise to danger of collision unless one grants precedence to the other;

33. "Roadway" means that portion of a street improved, designed, ordinarily used for vehicular travel, exclusive of the shoulders. In the event a street includes two (2) or more separate roadways, the term roadway, as used herein, shall refer to any such roadway, separately, but not to all such roadways,

collectively;

34. "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times, while set apart as a safety zone;

35. "School zone" means all streets or portions of streets immediately adjacent to a school, or school ground, where same is adjacent and for a distance of three hundred (300) feet in each direction;

36. "Sidewalk" means that portion of a street between the curblines or at lateral lines of the roadway and adjacent property lines, intended for the use of pedestrians;

37. "Stand" or "standing" means any stopping of a vehicle whether occupied or not;

38. "Stop", when required, shall mean the complete cessation from movement;

39. "Stop or stopping", when prohibited, means any halting even momentarily of a vehicle whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic signal;

40. "Street or highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is opened to the use of the public for purposes of vehicular travel;

41. "Through street or highway" means a street, or boulevard or highway or portion thereof at the entrances to which:

- a. Vehicular traffic from intersecting streets or highways is required by law to come to a full stop before entering or crossing; and
- b. Stop signs are erected as provided in this part;

42. "Traffic" means pedestrians, ridden or herded animals, vehicles and other conveyances, either singularly or together, while using any highway or street for purpose of travel;

43. "Traffic control devices or signals" mean any device legally authorized and used for the purpose of regulating, warning or guiding traffic;

44. "Urban district" means the territory contiguous to and including any street which is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than one hundred (100) feet for a distance of a quarter mile or more;

45. "U-turn" means a turn by which a vehicle reverses its course of travel on the same street; and

46. "Vehicle" means every device in, upon or by which any person or property is, or may be transported, or drawn, upon a highway or street, except devices moved by human power or used exclusively upon stationary rails or tracks.

State Law Reference: Definitions, state traffic code, 47 O.S. Section 1-101 et seq.

Section 15-104 ADOPTION OF STATE TRAFFIC CODE.

The provisions of the state motor vehicle code, Sections 1-101 et seq. of Title 47 of the Oklahoma Statutes, and the Rules of the Road, Sections 10-101 et seq. of Title 47 of the Oklahoma Statutes, are hereby adopted and incorporated herein by reference, and are enforceable by the City within the City limits as if set out at length herein.

State Law Reference: State rules of the road, 47 O.S. Section 10-101 et seq.; state motor vehicle code, 47 O.S. Section 1-101 et seq.

ARTICLE 2

ENFORCEMENT AND GENERAL PROVISIONS

Section 15-201 ENFORCEMENT OF TRAFFIC LAWS; ESTABLISHMENT OF TRAFFIC CONTROL DIVISIONS.

It is the duty of the officers of the police department or any officers that are assigned by the chief of police to enforce all street traffic laws of this City and all the state vehicle laws applicable to street traffic in this City. Officers of the department shall make arrests for traffic violations, investigate accidents, and cooperate with other officers in the administration of the traffic laws and in developing ways and means to improve traffic conditions, and to carry out those duties specially imposed upon the department by this part and any other traffic ordinances of this City. Officers may issue written notice to appear to any driver of a vehicle involved in an accident when, based on personal investigation, the officer has reasonable

and probable groundsto believe that the person has committed an offense under the provisions of the traffic code in connection with the accident.

Section 15-202 DIRECTION OF TRAFFIC BY HAND OR VOICE.

A. Officers of the police department or any officers designated by the chief of police are hereby authorized to direct traffic by voice, hand, or signal in conformance with traffic laws and ordinances. In the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws and ordinances.

B. Officers of the fire department, when at the scene of a fire, or other emergency, may direct or assist the police in directing traffic in the immediate vicinity.

Section 15-203 DIRECTION OF TRAFFIC BY UNAUTHORIZED PERSONS.

No unauthorized person shall direct or attempt to direct traffic, except in case of emergency where no officer is present.

Section 15-204 OBEDIENCE TO POLICE AND FIRE OFFICIALS.

No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official.

Section 15-205 EMERGENCY AND EXPERIMENTAL REGULATIONS.

A. The City Manager, subject to any directions which the Council may give by motion or resolution, is empowered to adopt regulations necessary to make effective the provisions of the traffic ordinances of this City and to make temporary or experimental regulations to cover emergencies or special conditions. No such temporary or experimental regulation shall remain in effect for more than ninety (90) days.

B. The City Manager may have traffic control devices tested under actual conditions of traffic.

Section 15-206 PUSH CARTS, RIDING ANIMALS, OR DRIVING ANIMAL-DRAWN VEHICLES TO COMPLY WITH CODE.

Every person propelling any pushcart or riding an animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this chapter applicable to the

driver of any vehicle, except those provisions of this chapter which by their very nature can have no application.

State Law Reference: Similar provisions; 47 O.S. Section 11-104.

Section 15-207 USE OF COASTERS, ROLLER SKATES, AND SIMILAR DEVICES RESTRICTED.

No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar device, shall go upon any roadway except while crossing a street on a crosswalk; and when so crossing, such person shall be subject to all of the duties applicable to pedestrians. This Section shall not apply upon any street while set aside as a play street as authorized by ordinances of this City.

Section 15-208 PUBLIC OFFICERS AND EMPLOYEES TO OBEY TRAFFIC REGULATIONS.

The provisions of this chapter shall apply to the driver of any vehicle owned by or used in the service of the United States government, any state, county, City, or governmental unit or agency, as well as to other vehicles. It is unlawful for any such driver to violate any of the provisions of this chapter, except as otherwise permitted by state statute. This chapter shall not apply to the military forces of the United States and organizations of the National Guard when performing any military duty.

State Law Reference: Municipal drivers to obey state rules of the road, 47 O.S. Section 16-103.

Section 15-209 PERSONS WORKING ON STREETS, EXCEPTIONS.

Unless specifically made applicable, the provisions of this chapter, except those relating to reckless driving and driving while intoxicated, shall not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a street, or to persons, motor vehicles, and other equipment while actually engaged in construction, maintenance, or repair of public utilities. All street or highway and public utility operations shall be protected by adequate warning signs, signals, devices, or flag persons. The provisions of this chapter shall apply to any of the persons and vehicles exempted by this Section when traveling to and from such work.

Section 15-210 MAINTENANCE AND CONSTRUCTION ZONES.

A. City personnel or contractors, while repairing or improving the streets of the City, and City personnel and utility companies, when installing, improving, or repairing lines or other utility facilities in the streets, are hereby authorized as necessary, subject to control by the City Council, to close any street or section thereof to traffic during such repair, maintenance, or construction. In exercising this authority, the appropriate personnel, contractor, or utility company shall erect or cause to be erected proper control devices and barricades to warn and notify the public that the street has been closed to traffic.

B. When any street has been closed to traffic under the provisions of Subsection A of this Section and traffic control devices or barricades have been erected, it is unlawful for any person to drive any vehicle through, under, over, or around such traffic control devices or barricades, or otherwise to enter the closed area.

The provision of this subsection shall not apply to persons entering the closed area or zone for the protection of lives or property. Persons having their places of residence or places of business within the closed area may travel, when possible to do so, through the area at their own risk.

C. Whenever construction, repair or maintenance of any street or utility line or facility is being performed under traffic, the City personnel, contractor, or utility company concerned shall erect, or cause to be erected, traffic control devices to warn and guide the public. Every person using the street shall obey all signs, signals, markings, flag persons, or other traffic control devices which are placed to regulate, control, and guide traffic through the construction or maintenance area.

Section 15-211 AUTHORIZED EMERGENCY VEHICLES.

A. The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or ordinance or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this Section, but subject to the conditions stated in this Section.

B. The driver of an authorized emergency vehicle may do any of the following when in pursuit of an actual or suspected violator of the law or ordinance or when responding to but not returning from a fire alarm:

1. Park or stand, irrespective of the provisions of this chapter;

2. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

3. Exceed the maximum speed limits so long as life or property is not endangered; or

4. Disregard regulations governing direction of movement or turning in specific directions.

C. The exemptions granted in this Section to an authorized emergency vehicle shall apply only when the driver of any such vehicle is making use of audible and visual signals as required by law, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

D. The provisions of this Section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

State Law Reference: Emergency vehicle driving rules, 47 O.S. Section 11-106.

Section 15-212 OPERATION OF VEHICLES ON APPROACH OF AUTHORIZED EMERGENCY VEHICLES.

A. Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall yield the right of way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection, and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

B. This Section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

State Law Reference: Authorized emergency vehicles and their equipment, 47 O.S. Section 11-106, 11-405, and 12-218; approach of

emergency vehicles, 47 O.S. Section 11-405.

Section 15-213 FOLLOWING EMERGENCY VEHICLES PROHIBITED.

The driver of any vehicle other than the one on official business shall not follow any police vehicle, ambulance, civil defense vehicle, fire apparatus, or other emergency vehicle traveling in response to an emergency call or request closer than five hundred (500) feet or drive into or park such vehicle within the block where the emergency vehicle has stopped in answer to an emergency call.

State Law Reference: Similar provisions, 47 O.S. Section 11-1108(a).

Section 15-214 CROSSING FIRE HOSE.

No vehicle shall be driven over any unprotected hose of a fire department used at any fire or alarm of fire, without the consent of the fire department official in command.

State Law Reference: Similar provisions 47 O.S. Section 11-1109.

Section 15-215 POSSESSION OF VALID DRIVER'S LICENSE REQUIRED.

A. No person shall operate any motor vehicle on the highways without having in his possession at all times, when operating such motor vehicle, an unrevoked or unsuspended operator's or chauffeur's license as required by the laws of the state, unless such person is specifically exempted from such laws by the provisions thereof. No person charged with violating this Section shall be convicted if he produces incourt an operator's or chauffeur's license issued to him and valid at the time of his arrest.

B. No person shall operate a motor vehicle in any manner in violation of any restriction that may be imposed in a restricted license issued to him.

State Law Reference: Driver's licenses, 47 O.S. Section 6-101.

Section 15-216 OPERATION OF VEHICLE ON INVALID LICENSE PROHIBITED; UNLAWFUL TO COMMIT OTHER UNLAWFUL ACTS WITH DRIVERS LICENSE OR IDENTIFICATION CARD.

A. No person shall operate a motor vehicle when his privilege to do so is canceled, suspended, revoked, or denied.

Any person convicted of violating this Section shall be punished as provided in Section 1-108 of this code. Each act of driving on the streets or highways as prohibited by this Section shall constitute a separate offense.

- B. It is unlawful for any person.
1. To lend one's own license or identification card to any other person or knowingly permit the use thereof by another,
 2. To display or cause or permit to be displayed or to possess a license or identification card issued to oneself which bears altered information concerning the date of birth, expiration date, sex, height, eyecolor, weight or license or card number,
 3. To permit any unlawful use of a license or identification card issued to oneself, or
 4. To add to, delete from, alter, or deface the required information on a driver license or identification card.

Section 15-217 UNLAWFUL TO OPERATE VEHICLE WITHOUT STATE VEHICLE LICENSE.

It is unlawful to operate a vehicle of any kind upon a street of the City without a state vehicle license as may be required by law or to fail to display the state vehicle license as may be required by law.

Section 15-218 PERMITTING UNAUTHORIZED PERSON TO DRIVE PROHIBITED.

No person shall authorize or knowingly permit any vehicle owned by him or under his control to be driven upon any highway by any person who is not authorized under the provisions of the laws of the state to operate such vehicle.

Section 15-219 ACCIDENTS, DUTY TO STOP, LEAVING SCENE OF ACCIDENT.

A. The driver of any vehicle involved in an accident resulting in injury to, or death of, any person shall immediately stop such vehicle at the scene of the accident, or as close thereto as possible and shall then forthwith return to, and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Subsections C and D

hereof. Every such stop shall be made without obstructing traffic more than is necessary.

B. The driver of any vehicle involved in an accident resulting only in damage to a vehicle, which is driven or attended by any person, shall immediately stop such vehicle at the scene of the accident, or as close thereto as possible, and shall forthwith return to, and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Subsection C hereof. Every such stop shall be made without obstructing traffic more than is necessary.

C. The driver of any vehicle involved in an accident shall give his correct name and address and the registration number of the vehicle he is driving; and shall exhibit his operator's or chauffeur's license to the person struck, or the driver, or person injured in the accident reasonable assistance. If the driver does not have any operator's or chauffeur's license in his possession, he shall exhibit other valid evidence of identification to the occupants of a vehicle, or to the person collided with.

D. The driver shall upon request and if available exhibit his operator's or chauffeur's license and his security verification form, to the person struck or the driver or occupant of or person attending any vehicle collided with, and shall render to any person injured in such accident reasonable assistance, including the carrying of the person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

E. Any driver of any vehicle involved in an accident who is cited for any traffic offense where said accident resulted in the immediate death of any person shall submit to drug and alcohol testing as soon as practicable after such accident occurs. The traffic offense violation shall constitute probable cause for purposes of 47 O.S. Section 752 and the procedures found in Section 752 shall be followed to determine the presence of alcohol or controlled dangerous substances within the driver's blood system.

F. Any person failing to stop or to comply with any of the requirements of this Section shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in Section 1-108 of this code.

State Law Reference: Similar provisions, accident reports, 47 O.S. Section 6-303.

Section 15-220 DUTY OF STRIKING UNATTENDED VEHICLES, FIXTURES.

A. The driver of any vehicle which collides with a vehicle which is unattended shall immediately stop, and shall then and there either locate and notify the operator or owner of the vehicle, of the correct name and address of the driver and the owner of the vehicle striking the unattended vehicle, or shall leave in a conspicuous place in or on the vehicle struck a written notice giving the correct name and address of the driver and of the owner of the vehicle doing the striking, and shall provide the same information to an officer having jurisdiction.

B. The driver of any vehicle involved in an accident resulting in damage to fixtures legally upon or adjacent to a street shall take reasonable steps to locate and notify the owner or person in charge of such property, of the fact, and of his name and address, and of the registration number of the vehicle he is driving, and shall exhibit his operator's or chauffeur's license, if the operator's or chauffeur's license is in his possession at that time, and the driver shall make report of such accident when and as required by law.

Section 15-221 REPORTING ACCIDENTS.

The driver of a vehicle which is in any manner involved in an accident resulting in bodily injury to or death of any person or in which it is apparent that damage to one vehicle or to the property is in excess of Three Hundred Dollars (\$300.00) shall, as soon as practicable, report such accident to a police officer or to the police department unless settlement of the collision has been made within six (6) months after the date of the accident. If a driver makes out a written report of the accident in the office of the police department as soon as practicable after the accident, which report is to be forwarded to the State Department of Public Safety in accordance with state law, the driver shall be deemed to be in compliance with this Section.

State Law Reference: Similar provisions, 47 O.S. Section 10-108.

Section 15-222 ISSUANCE OF CITATION TAGS.

A. Police officers are hereby authorized to give notice to persons violating provisions of this article by delivering citation tags to violators or, in cases where vehicles without drivers are parked or stopped in violation of this chapter, by affixing such tags to the vehicles by means of which the violation occurred. Such citation tags, among other things, shall bear

briefly the charge, shall bear the registration number of the vehicle, and shall direct the violator to present the tag at the police station or other designated place within the time as may be specified thereon.

B. Nothing in this Section shall be construed to abridge the power of the police officer to arrest any violator and take him into custody.

C. The chief of police may require that the police officers use citation tags furnished by the City and that such tags are serially numbered and may regulate the use and handling of the citation tags.

Section 15-223 WHEN COPIES OF CITATIONS SHALL BE DEEMED A LAWFUL COMPLAINT.

In the event that form of citation provided herein includes information and is sworn to, then such citation, when filed with the municipal court, shall be deemed to be a lawful complaint for the purpose of prosecution under this chapter.

Section 15-224 FAILURE TO COMPLY WITH TRAFFIC CITATIONS ATTACHED TO PARKED VEHICLE.

If a violator of the restrictions on stopping, standing, or parking under the traffic laws or ordinances does not appear in response to a traffic citation affixed to such motor vehicle within a period of days as specified on the citation, the clerk of the municipal court may send to the owner of the motor vehicle to which the traffic citation was affixed a letter informing him of the violation and warning him that in the event such letter is disregarded for the specified period of days, a warrant of arrest may be issued. On any occasion where two (2) or more such traffic citations have been affixed on the same motor vehicle and the traffic citations have been disregarded, a warrant of arrest may be issued without sending the letter provided in this Section.

Section 15-225 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING.

A. In any prosecution charging a violation of any law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any law or regulation, together with the proof that the defendant named in the complaint was at the time of the parking the registered owner of the vehicle, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who parked or placed the vehicle at the

point where, and for the time during which, the violation occurred.

B. The presumption in Subsection A of this Section shall apply only when the procedure as prescribed in this Section has been followed.

Section 15-226 ILLEGAL CANCELLATION OF TRAFFIC CITATIONS.

It is unlawful for any person to cancel or solicit the cancellation of any traffic citation in any manner other than is provided by this chapter.

Section 15-227 COURT RECORDS; ABSTRACT TO BE SENT TO STATE DEPARTMENT OF PUBLIC SAFETY.

A. The municipal judge shall keep a record of every traffic citation deposited with or presented to the court and shall keep a record of every official action by the court or its traffic violations bureau in reference thereto, including but not limited to a record of every conviction, forfeiture of bail, judgment of acquittal, and the amount of fine or forfeiture.

B. Within ten (10) days after the conviction or forfeiture of bail of a person upon a charge of violating any provision of this chapter or other law regulating the operation of vehicle on highways, the municipal judge or clerk of the court in which the conviction was had or bail was forfeited shall prepare and immediately forward to the State Department of Public Safety a certified abstract of the court's record of the case. An abstract need not be made of any conviction involving the illegal parking or standing of a vehicle.

C. The municipal judge or court clerk shall not make such a report of a conviction involving speeding if the speed limit is not exceeded by more than ten (10) miles per hour.

D. The abstract must be made upon a form furnished by the State Department of Public Safety and shall include the name and address of the party charged, the number of his operator's or chauffeur's license, the registration number of the vehicle involved, the nature of the offense, the date of hearing, the plea, the judgement, whether bail was forfeited, and the amount of the fine or forfeiture.

Section 15-228 INSURANCE OR CERTIFICATE REQUIRED.

A. The owner of a motor vehicle registered in this state and operating the vehicle within the City's boundaries, shall carry in such vehicle at all times a current owner's security

verification form listing the vehicle, or an equivalent form which has been issued by the State Department of Public Safety which shall be produced by any driver thereof upon request for inspection by any law enforcement officer and, in case of collision, the form shall be shown upon request to any person affected by the collision.

B. The following shall not be required to carry an owner's or operator's security verification form or an equivalent form from the department during operation of the vehicle and shall not be required to surrender such form for vehicle registration purposes:

1. Any vehicle owned or leased by the federal or state government, or any agency or political subdivision thereof;

2. Any vehicle bearing the name, symbol or logo of the business, corporation, or utility on the exterior and which is in compliance with the Compulsory Insurance Law according to records of the Department of Public Safety and which reflect a deposit, bond, self-insurance, or fleet policy;

3. Any vehicle authorized for operation, under a permit number issued by the Interstate Commerce Commission, or the Oklahoma Corporation Commission;

4. Any licensed taxicab; and

5. Any vehicle owned by a licensed motor vehicle dealer.

C. For the purpose of this Section, the following terms shall have the meanings respectively ascribed to them in this Section:

1. "Owner's Policy" means an owner's policy of liability insurance which:

a. Shall designate by explicit description or by appropriate reference all vehicle with respect to which coverage is thereby to be granted;

b. Shall insure the person named therein and insure any other person, except as provided in Subparagraph C of this paragraph, using an insured vehicle with the express or implied permission of the named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance, operation or use of such vehicle;

c. May provide for exclusions from coverage in accordance

with existing laws; and

- d. Shall be issued by an authorized carrier providing coverage in accordance with Section 7-204 of Title 47 of the Oklahoma Statutes;

2. "Operator's Policy" means an operator's policy of liability insurance which shall insure the named person against loss from the liability imposed upon him by law for damages arising out of the operation or use by him of any motor vehicle not owned by him, subject to the same limits of liability required in an owner's policy:

- a. A policy or bond meeting the requirements of Section 7-204 of Title 47 of the Oklahoma Statutes;
- b. A deposit of cash or securities having the equivalency of limits required under Section 7-204 of Title 47 of the Oklahoma Statutes as acceptable limits for a policy or bond; or
- c. Self-insurance, pursuant to the provisions of Section 7-503 of Title 47 of the Oklahoma Statutes, having the equivalency of limits required under Section 7-204 of Title 47 of the Oklahoma Statutes as acceptable limits for a policy or bond;

4. "Compulsory Insurance Law" means the law requiring liability insurance in conjunction with the operation of a motor vehicle in this state as found in Article VI, Chapter 7, and Section 7-606 of Title 47 of the Oklahoma Statutes; and

5. "Security verification form" means a form, approved by the State Board for Property and Casualty Rates, verifying the existence of security required by the Compulsory Insurance Law of the State of Oklahoma;

D. Every operator of a motor vehicle registered in this state, shall while operating or using such vehicle within the City's boundaries, carry either an operator's or an owner's security verification form issued by a carrier, providing the operator is not excluded from the coverage thereon; or an equivalent form issued by the Department of Public Safety, reflecting liability coverage.

E. An owner or operator who fails to produce for inspection a valid and current security verification form or equivalent form which has been issued by the department upon request of any peace officer of the department shall be guilty of an offense and

upon conviction shall be subject to a fine as provided in Section 1-108 of this code.

F. Any person producing proof in court that a current security verification form or equivalent form which has been issued by the department reflecting this liability coverage of such person was in force at the time of the alleged offenses shall be entitled to dismissal of such charge. Court costs may be assessed by the City.

G. Upon conviction or bond forfeiture, the court clerk shall forward an abstract to the State Department of Public Safety within ten (10) days reflecting the action taken by the court.

State Law Reference: Similar provisions, 47 O.S. Section 7-601 et seq.

Section 15-229 TEXTING WHILE DRIVING PROHIBITED; DEFINITIONS; EXCEPTION.

A. Definitions. For the purpose of this section:

1. "Cellular telephone" means an analog or digital wireless telephone authorized by the Federal Communications Commission to operate in the frequency bandwidth reserved for cellular telephones;

2. "Compose", "send" or "read" with respect to a text message means the manual entry, sending or retrieval of a text message to communicate with any person or device;

3. "Electronic communication device" means an electronic device that permits the user to manually transmit a communication of written text by means other than through an oral transfer or wire communication. This term does not include a device that is physically or electronically integrated into a motor vehicle or a voice-operated global positioning or navigation system that is affixed to a motor vehicle, or a hands-free device that allows the user to write, send or read a text message without the use of either hand except to activate, deactivate or initiate a feature or function; and

4. "Text message" includes a text-based message, instant message, electronic message, photo, video, or electronic mail.

B. It shall be unlawful for any person to operate a motor

vehicle on any street, alley or highway within the City while using a hand-held electronic communication device to manually compose, send or read an electronic text message while the motor vehicle is in motion.

C. Any person who violates the provisions of subsection B of this section shall, upon conviction, be punished by a fine of Seventy Dollars (\$70.00) and court costs.

D. The provisions of subsection B of this section shall not apply if the person is using the cellular telephone or electronic communication device for the sole purpose of communicating with any of the following regarding an imminent emergency situation:

1. An emergency response operator;
2. A hospital, physician's office or health clinic;
3. A provider of ambulance services;
4. A provider of firefighting services; or
5. A law enforcement agency.

Note: This Section was added by Ordinance No. 2015-03 approved on October 20, 2015.

ARTICLE 3

VEHICLE EQUIPMENT, INSPECTION

Section 15-301 CERTAIN VEHICLES PROHIBITED; VEHICLES INJURIOUS TO STREETS.

No vehicle or object which injures or is likely to injure the surface of a street, shall be driven or moved on any street.

State Law Reference: Required equipment of vehicles, 47 O.S. Section 12-101 et seq.

Section 15-302 OBSTRUCTIVE AND DANGEROUS VEHICLES.

No person shall drive any vehicle in such condition, so constructed, or so loaded, as to cause delay or be likely to cause delay in traffic, or as to constitute a hazard to persons or property, except by permit issued by the chief of police and in accordance with the terms of such permit.

Section 15-303 EQUIPMENT.

Every vehicle operated upon the streets of the City shall be equipped as required by law. It is unlawful to operate a vehicle

upon a street of the City which is not equipped as required by law. It is unlawful to fail to use such equipment in the manner required by law, or to use it in a manner prohibited by law. It is unlawful to operate a vehicle which has equipment prohibited by law upon a street of the City.

State Law Reference: For state law relating to equipment, see 47 O.S. Section 12-201 et seq.

Section 15-304 MUFFLERS, CUT-OUTS.

It is unlawful for any person to operate a motor vehicle which shall not at all times be equipped with a muffler upon the exhaust thereof in good working order and in constant operation to prevent excessive or unusual noise. No muffler cut-out, by-pass or similar muffler elimination device, exhaust or vacuum whistle shall be used on any motor vehicle while operating within the City; however, exhaust whistles may be used on authorized emergency vehicles.

Section 15-305 WIDTH, HEIGHT, LENGTH AND LOAD.

No person shall drive or convey through any street any vehicle the width, height, length, weight, or load of which exceeds that authorized by state law, except in accordance with a permit issued by state authority or by the chief of police.

Cross Reference: See also Section 16-536 of this code on trucks.

State Law Reference: For state law relating to size, weight, and load, see 47 O.S. Section 14-101 et seq.

Section 15-306 INSPECTION OF VEHICLES.

A. No person shall drive or move on any road, street, or highway of this City any motor vehicle, including motorcycles, trailers, semi-trailers, or pole trailers, which are licensed by the Oklahoma Tax Commission and operated on the streets or highways, of this City, or any combination thereof, unless the vehicle is in good working order and adjustment and is in such safe mechanical condition as not to endanger the driver or other occupants.

The provisions of this Section shall not apply to any house trailer, which requires a permit to be moved upon the highways of this state.

B. Any person who violates the provisions of this Section shall upon conviction thereof, be subject to punishment as provided in Section 1-108 of this code.

ARTICLE 4

SPEED REGULATIONS

Section 15-401 SPEED LIMITS GENERALLY, EXCEPTIONS.

A. No vehicle shall be driven at a greater speed than thirty (30) miles per hour in the City except;

1. On designated and numbered state and federal highways, the maximum is as posted;

2. Emergency vehicles being lawfully driven as provided in this code;

3. When a different speed limit is otherwise designated and posted; or

4. When a different speed limit is established and posted as required in this code.

B. City personnel, subject to such direction as the Mayor and Council may give by motion or resolution, may reduce or increase the speed limits provided in this code, and when so provided, appropriate signs shall be placed on such streets or parts of streets indicating the lower or higher speed limit.

State Law Reference: Basic and minimum speed rules, 47 O.S. Section 11-801, 11-804, City powers 47 O.S. Section 22.1.

Section 15-402 SCHOOL ZONES.

No vehicle shall be driven at a greater speed than that posted speed per hour between the hours posted on any street adjacent to any school in a designated school zone on days when school is in session unless a different speed limit or time is otherwise designated and posted.

State Law Reference: Local authority to set speed limits, 47 O.S. Section 15-102, 11-803.

Section 15-403 SPEED NEVER TO EXCEED THAT WHICH IS REASONABLE OR PRUDENT FOR EXISTING CONDITIONS.

A. Any person driving a vehicle on a street, road or alley shall drive the same at a careful and prudent speed not greater than nor less than is reasonable and proper, taking into consideration among other things, the condition of the vehicle,

the traffic, roadway surface or width, the amount of light or darkness, the presence of pedestrians in or near the roadways, obstruction of views and any other condition then existing, and no person shall drive any vehicle upon a highway at a speed greater than will permit him to bring it to a stop within the assured clear distance ahead.

B. The driver of every vehicle shall, consistent with the requirements of subsection A1 of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when driving upon any narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic, or by reason of weather or highway conditions.

C. Any person who shall violate Subsection A or B hereinabove, by act or omission, shall be guilty of any offense.

Section 15-404 MINIMUM SPEED REQUIREMENTS; EXCEPTIONS.

No vehicle shall be driven at such an unreasonable slow speed in relation to the effective maximum speed allowed as to constitute a hazard or to interfere with the normal movement of other traffic except when the slow speed is unavoidable.

Section 15-405 OBEDIENCE TO MAXIMUM AND MINIMUM SPEED LIMITS.

Where official signs and markings give notice of both maximum and minimum speed limits in effect on any street, no vehicle shall be driven at rates in excess of the maximum nor slower than the minimum except as required by an authorized officer or in obedience to posted official signs.

Section 15-406 RECKLESS DRIVING

A. It shall be deemed an offense for any person to drive a motor vehicle in a careless or wanton manner without regard for the safety of persons or property or in violation of the conditions outlined in Section 47 O.S. §11-801.

B. Any person convicted of violating Subsection A of this Section shall be punished by a maximum of Five Hundred Dollars (\$500.00), plus court costs thereof.

ARTICLE 5

DRIVING, OVERTAKING, PASSING

Section 15-501 CHANGING LANES.

A. Whenever any roadway has been divided into two (2) or more clearly marked lanes for traffic, in addition to all other rules consistent with this subsection, a vehicle shall be driven as nearly as practical entirely within a single lane and shall not be moved from the lane until the driver has first ascertained that the movement can be made with safety and has signaled for a change of course.

B. Where streets or roadways do not have marked traffic lanes, vehicles shall nevertheless keep in line or follow a straight course as nearly as practical and shall not weave in and out or turn from side to side unnecessarily. Vehicles shall move to the right or left only as necessary in slowing or stopping adjacent to the curb, in passing slow moving vehicles or making a proper approach for a turn, and this only after the driver has first ascertained that such movement can be made safely and has signaled for a change of course.

C. Upon a roadway which has been divided into three (3) lanes, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn, or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of such allocation.

D. Official signs may be erected directing the slow-moving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway. Drivers of vehicles shall obey the directions of every such sign.

Section 15-502 DRIVING ON RIGHT SIDE OF ROADWAY REQUIRED; EXCEPTIONS.

A. Upon all roadways of sufficient width, a vehicle shall be driven to the right of the center of the roadway, except as follows:

1. When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

2. When the right half of a roadway is closed to traffic while under construction or repair;

3. Upon a roadway divided into three (3) marked lanes for traffic under the rules applicable thereon; and

4. Upon a roadway designated and signposted for one-way traffic.

B. All vehicles shall keep to the right roadway on all streets or highways which are divided into two (2) roadways.

C. Upon all roadways, any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

State Law Reference: Similar provisions, 47 O.S. Section 11-301.

Section 15-503 WHEN OVERTAKING ON THE RIGHT IS PERMITTED.

A. The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

1. When the vehicle overtaken is making or about to make a left turn;

2. Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two (2) or more lines of moving vehicles in each direction; or

3. Upon a one-way street or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and of sufficient width for two (2) or more lines of moving vehicles.

B. The driver of a vehicle may overtake and pass another vehicle upon the right of way only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-traveled portion of the roadway.

Section 15-504 OVERTAKING A VEHICLE ON THE LEFT.

A. The driver of a vehicle overtaking another vehicle

proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street or roadway until safely clear of the overtaking vehicle.

B. Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

Section 15-505 LIMITATIONS ON OVERTAKING ON THE LEFT; EXCEPTIONS.

A. No vehicle shall be driven to the left side of the center of the street or roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit the completion of the overtaking and passing without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every instance the overtaking vehicle must return to the right-hand side of the roadway before coming within one hundred (100) feet of any vehicle approaching from the opposite direction.

B. No vehicle at any time shall be driven to the left side of the roadway under the following conditions:

1. When approaching the crest of a grade, or upon a curve in the street or highway where the driver's view along the street or highway is obstructed; or

2. When approaching within one hundred (100) feet of any bridge, viaduct, or tunnel or when approaching within fifty (50) feet of or traversing any intersection or railroad grade crossing.

Section 15-506 PASSING VEHICLES PROCEEDING IN OPPOSITE DIRECTIONS.

Drivers of vehicles proceeding in opposite directions shall pass each other to the right. Upon roadways having a width from not more than one line of traffic in each direction each driver shall give to the other at least one-half ($\frac{1}{2}$) other main-traveled portion of the roadway as nearly as possible.

Section 15-507 ONE-WAY ROADWAYS AND ROTARY TRAFFIC ISLANDS.

A. City personnel, subject to any directions given by the Council by motion or resolution, may designate any road, street, alley, or highway, or any separate roadway under their jurisdiction for one-way traffic and shall cause appropriate signs giving notice thereof, to be erected.

B. Whenever the City designates any street or alley or part thereof as a one-way street or alley, City personnel shall have placed and maintained signs giving notice thereof; and no such regulation shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

C. Upon those streets and parts of streets and in those alleys and parts of alleys so designated as one-way streets and alleys, vehicular traffic shall move only in the direction indicated when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

D. Upon roadways designated and sign posted for one-way traffic a vehicle shall be driven only in the direction designated.

E. A vehicle passing around a rotary traffic island shall be driven only to the right of such island.

State Law Reference: Similar provisions, 47 O.S. Section 11-308.

Section 15-508 FOLLOWING TOO CLOSELY.

The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

State Law Reference: Similar provisions, 47 O.S. Section 11-310.

Section 15-509 NO PASSING ZONES.

A. The State Department of Transportation, as regards state and federal highways, and the City Manager as regards all other streets, are hereby authorized to determine those portions of any highways where overtaking and passing to the left would be especially hazardous, and may, by appropriate signs or markings on the roadway, indicate the beginning and end of such zones. When such signs or markings are in place and clearly visible to an ordinarily observant person, every driver shall obey the directions thereof.

B. Where signs or markings are in place to define a no-passing zone as set forth in Subsection A of this Section, no driver

shall at any time drive to the left side of the roadway within the no-passing zone or on the left side of any pavement striping designed to mark the no-passing zone throughout its length.

Section 15-510 DRIVING THROUGH FUNERAL OR OTHER PROCESSION PROHIBITED; EXCEPTIONS.

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic control signals or police officers.

State Law Reference: Local powers to regulate processions, 47 O.S. Section 15-102.

Section 15-511 DRIVERS IN A PROCESSION.

Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as close as is practical and safe.

Section 15-512 FUNERAL PROCESSIONS TO BE IDENTIFIED.

A funeral composed of a procession of vehicles shall be identified by headlights or as may be determined and designated by the police department.

Section 15-513 OVERTAKING AND PASSING IN SCHOOL ZONES.

A. No driver of a vehicle shall pass any other vehicle which is in motion and being driven in the same direction in any school zone between the hours posted on all days when schools are in session.

B. Wherever a school zone is located on a multiple lane street which is divided into three (3) or more clearly marked lanes for traffic or where the right half of the roadway has been divided into two (2) or more lanes, or on one-way streets, vehicles shall be allowed to pass slower moving vehicles being driven in the same direction where passing does not involve a change of lane movement.

Section 15-514 OVERTAKING AND PASSING SCHOOL BUS.

A. The driver of a vehicle meeting or overtaking a school bus that is stopped to take on or discharge school children, and on which the red loading signals are in operation, shall stop the vehicle before it reaches the school bus and not proceed until the

loading signals are deactivated and then proceed past such school bus at a speed which is reasonable and with due caution or the safety of such school children and other occupants.

B. The driver of any vehicle when passing a school bus shall use caution for the safety of school children and other occupants of the school bus.

C. Occupants of the school bus shall have the right of way when crossing the roadway immediately upon leaving the school bus.

State Law Reference: Similar provisions, 47 O.S. Section 11-705.

Section 15-515 SCHOOL BUS REQUIREMENTS; LIGHTS; SIGNS; PAINTING.

A. The provisions of Section 15-514 of this code shall be applicable only if the school bus is painted yellow and bears upon the front and rear thereon a plainly visible sign containing the words "SCHOOL BUS" in letters not less than eight (8) inches in height which can be removed or covered when the vehicle is not in use as a school bus.

B. The school bus shall be equipped with four (4) red alternately flashing warning signal lights, two (2) of which shall be located high on the front and two (2) high on the rear of the vehicle. The lights shall be a minimum of four (4) inches in diameter and shall be widely separated.

State Law Reference: Similar provisions, 74 O.S. Section 11-705.

Section 15-516 DRIVING OF VEHICLES ON SIDEWALK PROHIBITED; EXCEPTION.

No person shall drive any vehicle within or upon any sidewalk area except at a permanent or temporary driveway.

Section 15-517 LIMITATIONS ON BACKING VEHICLE.

The driver of a vehicle shall not back the vehicle unless such movement can be made with reasonable safety and without interfering with any other traffic. No vehicle shall be backed into an intersection.

Section 15-518 LIMITATIONS ON USE OF MOTORCYCLES, BICYCLES AND MOTOR SCOOTERS.

A. No driver of a two-wheel or three-wheel motor vehicle or

bicycle shall carry any other person upon or within such vehicle on any street or highway, except as provided in this Section:

1. If any two-wheel or three-wheel motor vehicle with a wheel diameter of twelve (12) inches or greater or any bicycle shall have either a double seating device with double foot rests or a side car attachment providing a separate seat space within such sidecar attachment for each person riding therein so that such person shall be seated entirely within the body of the side car, then it shall be permissible for an operator who has attained the age of sixteen (16) or older to carry a passenger; and

2. A demonstration ride by a licensed dealer or his employee is permissible.

B. No motorcycle or motor scooter shall be ridden upon any sidewalk of the City.

C. No rider of a motorcycle, bicycle, or motor scooter shall hold onto any moving vehicle for the purpose of being propelled.

D. A person operating a motor scooter, motorcycle, motor-driven cycle, or motor bicycle, shall ride only on the permanent and regular seat attached thereto.

E. No driver of a motorcycle or motor scooter shall pass other vehicles in between lanes of traffic traveling in the same direction. Authorized emergency vehicles are excepted from the provisions of this subsection.

F. No person under the age of sixteen (16) shall operate any motorcycle, motor bicycle, or motor scooter within the City between sunset and sunrise.

Section 15-519 REQUIRED MOTORCYCLE EQUIPMENT, HEADGEAR.

A. In addition to all other requirements motorcycles and motor scooters shall be equipped with the following:

1. Handlebars which do not exceed twelve (12) inches in height, measured from the crown or point of attachment;

2. Two (2) mirrors, containing a reflection surface of not less than three (3) inches in diameter, mounted one on each side of the vehicle and positioned so as to enable the operator to clearly view the roadway for a distance of two hundred (200) feet

to the rear of his vehicle;

3. Brakes adequate to control the movement of the vehicle, to stop and hold the vehicle, including two (2) separate means of applying the brakes. One means for applying the brakes shall be to effectively apply brakes to the front wheel, and one means shall be to effectively apply the brakes to the rear wheels. All such vehicles shall be equipped with a stop lamp on the rear of the vehicle which shall display a red or amber light, or any shade of color between red and amber, visible from a distance not less than one hundred (100) feet to the rear in normal sunlight, and which shall be activated upon application of the service brake;

4. A properly operating speedometer capable of registering at least the maximum legal speed limit for that vehicle shall be provided;

5. A fender over each wheel. All fenders shall be of the type provided by the manufacturer;

6. One lighted headlamp capable of showing a white light visible at least three hundred (300) feet in the direction in which the vehicle is proceeding, and one tail lamp mounted on the rear which, when lighted, shall emit a red light plainly visible from at least three hundred (300) feet to the rear. The lights required by this paragraph shall be burning whenever the vehicle is in motion during the period from one-half ($\frac{1}{2}$) hour after sunset to one-half ($\frac{1}{2}$) hour before sunrise and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the streets are not clearly discernible at a distance of at least five hundred (500) feet ahead; and

7. A windshield of sufficient quality, size, and thickness to protect the operator from foreign objects. In lieu of the windshield, the operator shall wear goggles or face shield of material and design to protect him from foreign objects.

B. No person under eighteen (18) years of age shall operate or ride upon any vehicle covered under this Section unless the person is equipped with and wearing on the head a crash helmet of the type and as not to distort the view of the driver. Such headgear shall comply with the regulations issued by the State Department of Public Safety as provided in Section 40-106G of Title 47 of the Oklahoma Statutes.

C. No person may operate a motorcycle or motor scooter with the exhaust system modified so that motor noise is increased greater than that of the original muffler equipment provided by the manufacturers of the vehicle.

Section 15-520 CLINGING TO VEHICLES PROHIBITED.

No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself to any moving vehicle upon a roadway.

Section 15-521 ENTERING AND LEAVING CONTROLLED ACCESS HIGHWAYS.

No person shall drive a vehicle onto or from any controlled-access highway except at entrances and exits established by public authority.

Section 15-522 RECKLESS DRIVING.

Any person who drives any vehicle in a wanton manner without regard for the safety of persons or property is guilty of reckless driving, and upon conviction thereof, shall be fined as provided in Section 1-108 of this code.

State Law Reference: Similar provisions, 47 O.S. Section 11-901.

Section 15-523 CARELESS OR NEGLIGENT DRIVING, STOPPING, OR PARKING.

It is unlawful for any person to drive, use, operate, park, cause to be parked, or stop any vehicle:

- A. In a careless manner;
- B. In a negligent manner;
- C. In such a manner as to endanger life, limb, person, or property; or
- D. In such a manner or condition as to interfere with the lawful movement of traffic or use of the streets.

Section 15-524 FULL TIME AND ATTENTION REQUIRED.

The operator of every motor vehicle while driving upon the streets and highways of the City shall devote full time and attention to such driving.

Section 15-525 REQUIREMENT OF ANY PERSON DRIVING A VEHICLE ON A PUBLIC WAY TO OPERATE SAME IN A CAREFUL AND PRUDENT MANNER.

Any person driving a vehicle on a public road or way shall drive the same in a careful and prudent manner and at a careful and prudent speed not greater than nor less than is reasonable and proper, having due regard to the traffic, surface, and width of the public way and any other conditions then existing.

Section 15-526 SPEED CONTEST PROHIBITED.

A. No person shall engage in, aid, or abet any motor vehicle speed contest or exhibition of speed on any street or highway.

B. No person shall for the purpose of facilitating or aiding or as an incident to any motor vehicle speed contest upon any street or highway, in any manner obstruct or place any barricade or obstruction upon any street or highway.

C. When three (3) or more persons assemble to witness or participate in any unlawful speed contest such assembly is unlawful assembly and any person who participates in such unlawful assembly is guilty of an offense.

Section 15-527 DRIVING THROUGH SAFETY ZONE.

No vehicle shall at any time be driven through or within a safety zone or island.

Section 15-528 STARTING PARKED VEHICLE.

No person shall start a vehicle which is stopped, standing, or parked unless and until such movement can be made with reasonable safety.

Section 15-529 OPENING AND CLOSING VEHICLE DOORS.

No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so; nor shall any person leave a door open on the side of a motor vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

State Law Reference: Similar provision, 47 O.S. Section 11-1105.

Section 15-530 OBSTRUCTIONS TO DRIVER'S VIEW OR DRIVING MECHANISM.

A. No person shall drive a vehicle when it is so loaded, or when there are in the front seat such a number of persons, exceeding three (3), as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

B. No passenger in a vehicle shall ride in such a position as to interfere with the driver's view ahead or to the sides or to interfere with his control over the driving mechanism of the vehicle.

Section 15-531 BOARDING OR ALIGHTING FROM VEHICLES.

No person shall board or alight from any vehicle while such vehicle is in motion.

Section 15-532 UNLAWFUL RIDING.

No person shall ride on any such vehicle upon any portion thereof not designed or intended for the use of passengers. This provision shall not apply to any employee engaged in the necessary discharge of a duty, or to persons riding within truck bodies in space intended for merchandise.

Section 15-533 PRIVATE SERVICE DRIVES.

No vehicles or animal shall be driven through any private service driveway or private service area except for the purpose of obtaining service or merchandise.

Section 15-534 TRUCK ROUTES.

The City Council may prescribe routes through the City for the use of trucks in general, trucks or particular kinds or other vehicles which are not ordinary private passenger vehicles, passing through the City. Appropriate and adequate signs shall be placed along such routes so that drivers of such vehicles may follow the routes. When such signs are so erected and in place, the driver of a truck or other vehicle for which a route has been prescribed, as provided above, while passing through the City, shall keep on such route and shall not deviate therefrom except in case of an emergency. Drivers of such vehicles shall follow such routes so far as practicable also when driving within the City and not merely through the City.

Section 15-535 LOADS ON VEHICLES.

A. No vehicle shall be driven or moved on any highway unless the vehicle is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking, blowing, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substances may be sprinkled on a roadway in cleaning or maintaining the roadway.

B. No person shall operate on any highway any vehicle with any load unless the load and any covering thereon are securely fastened so as to prevent the covering or load from becoming loose, detached or in any manner a hazard to other users of the highway. Any vehicle loaded with sand, cinders, or other loose material susceptible to blowing or escaping by reason of wind shall have the load covered or dampened so as to prevent the blowing or escaping of the load from the vehicle.

Section 15-536 VEHICLE APPROACHING OR ENTERING INTERSECTION.

A. When two (2) vehicles enter or approach an uncontrolled intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right as otherwise stated in this chapter; however, the driver of vehicle on a street which is not a state or federal highway approaching an intersection with a state or federal highway shall stop and yield the right-of-way to a vehicle which has entered the intersection or which is so close thereto as to constitute an immediate hazard.

B. The right-of-way rule declared in Subsection A of this Section is modified at through highways as otherwise stated in this chapter.

State Law Reference: Right of way at intersections, 47 O.S. Section 11-401.

Section 15-537 VEHICLE TURNING LEFT AT INTERSECTIONS.

The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard. After so yielding and having given signal when and as required by this code, the driver may make the left turn and the drivers of all other vehicles approaching the intersection from the opposite direction shall yield the right-of-way to the vehicle making the left turn.

State Law Reference: Similar provisions, 47 O.S. Section 11-402.

Section 15-538 VEHICLE APPROACHING A "YIELD RIGHT-OF-WAY" SIGN.

The driver of a vehicle approaching a "Yield Right-of Way" sign shall slow to a reasonable speed for existing conditions of traffic and visibility, yielding the right-of-way to all vehicles on the intersecting street or highway which have entered the intersection or which are so close as to constitute an immediate hazard.

State Law Reference: Similar provisions, 47 O.S. Section 11-403.

Section 15-539 VEHICLE ENTERING THROUGH HIGHWAY.

Except when directed to proceed by a police officer or a traffic control signal, every driver of a vehicle shall stop as required by this code at the entrance to a through highway and shall yield the right-of-way to other vehicles which have entered the intersection from the through highway, or which are approaching so closely on the through highway as to constitute an immediate hazard.

Section 15-540 VEHICLES FACING STOP, SLOW, WARNING OR CAUTION SIGNAL.

If the two (2) or more vehicles face stop, slow, warning or caution signs or signals at an intersection and are approaching as to enter the intersection at the same time, the following rules shall apply: If each vehicle is required to stop, the vehicle coming from the right shall have the right-of-way. If each vehicle is required to slow, the vehicle coming from the right shall have the right-of-way. If each vehicle is required to take caution, the vehicle coming from the right shall have the right-of-way. If one vehicle is required to slow and the other to take caution, the one required to take caution shall have the right-of-way. In any event, a vehicle which has already entered the intersection shall have the right-of-way over one which has not entered the intersection.

Section 15-541 THROUGH STREETS.

A. City personnel, subject to such direction as the Council may give, may designate any street or part of a street a through

street.

B. Whenever the City designates and describes a through street, the stop sign, or yield sign if deemed more appropriate, shall be placed, and maintained on every street intersecting a through street, or intersecting that portion thereof, unless traffic at such intersection is controlled at all times by traffic control signals.

C. At the intersection of two (2) such through streets or at the intersection of a through street and a heavy traffic street not so designated, stop signs shall be erected at the approaches of either of the streets as may be determined by the City if deemed desirable.

Section 15-542 INTERSECTIONS WHERE STOP OR YIELD REQUIRED.

The City Manager, subject to any directions given by the Council by motion or resolution, is hereby authorized to determine and designate intersections upon other than through streets where particular hazards exist and to determine whether:

1. Vehicles shall stop at one or more entrances to any such stop intersection, in which event he shall cause to be erected a stop sign at every such place a stop is required; or

2. Vehicles shall yield the right-of-way to vehicles on a different street as provided in this part in which event he shall cause to be erected a yield sign at every place where yield is required.

Section 15-543 STOP OR YIELD SIGN CONSTRUCTION AND PLACEMENT.

Every stop or yield sign erected pursuant to this chapter shall bear the word "Stop" or "Yield" in letters not less than eight (8) inches in height for a stop sign and not less than seven (7) inches in height for a yield sign. Every stop or yieldsign shall at night be rendered luminous by steady or flashing internal illumination, by a fixed floodlight projected on the face of the sign, or by efficient reflecting elements on the faceof the sign. Every stop or yield sign shall be located as close as practicable to the nearest line of the crosswalks on the near side of the intersection or if there is not crosswalk, then the sign shall be located at the nearest line of the intersecting roadway.

Section 15-544 VEHICLE ENTERING STOP INTERSECTION.

Except when directed by a police officer or traffic control signal, every driver of a vehicle approaching a stop intersection, indicated by a stop sign, shall stop before entering the crosswalk on the near side of the intersection. In the event there is no crosswalk, the driver shall stop at a clearly marked stop line before entering the intersection. If there is not marked stop line, then the driver shall stop at the point nearest the intersecting road where the driver has a view of approaching traffic on an intersecting roadway before entering the intersection. A driver after having stopped shall yield the right-of-way to any vehicle which has entered the intersection from another highway or road, or which is approaching so close as to constitute immediate hazard; but the driver having so yielded may then proceed the driver of all other vehicles approaching the intersection shall yield the right-of-way to the vehicle so proceeding.

Section 15-545 VEHICLE ENTERING YIELD INTERSECTION.

The driver of a vehicle approaching a yield sign shall, in observance to such sign, slow down to a speed reasonable for the existing condition or shall stop if necessary and shall yield the right-of-way to any pedestrian legally crossing the roadway on which he is driving and to any vehicle in the intersection or approaching on another road so closely as to constitute an immediate hazard. The driver having so yielded may then proceed and the drivers of all other vehicles approaching the intersection shall yield to the vehicle so proceeding. A driver who enters a yield intersection without stopping and has or causes a collision with a pedestrian at a crosswalk or a vehicle in the intersection shall prima facie be considered not to have yielded as required herein. The provisions of this Section shall not release the drivers of other vehicles approaching the intersection at such a distance as not to constitute immediate hazard from the duty to drive with due care to avoid a collision. The driver of a vehicle approaching a yield sign if required for safety to stop shall stop before entering the crosswalk on the near side of the intersection before entering the intersection; if there is no crosswalk, the driver shall stop at a clearly marked stop line, or if there is no stop line, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

Section 15-546 VEHICLE ENTERING HIGHWAY FROM PRIVATE ROAD OR DRIVEWAY.

The driver of a vehicle about to enter, leave or cross a

highway from or into a private road or driveway shall yield the right-of-way to all vehicles approaching on the highway.

State Law Reference: Similar provisions, 47 O.S. Section 11-404.

Section 15-547 VEHICLES ENTERING TRAFFIC FROM PARKING.

Any vehicle attempting to re-enter traffic while parked at the curb shall yield the right-of-way to oncoming traffic in the street approaching from the rear. The parked vehicle shall proceed into the line of traffic only after the driver has given the appropriate signal which indicates his intention of turning from the curb and into the line of traffic. The vehicle shall in no event enter the line of traffic until the driver has ascertained that no hazard exists.

Section 15-548 EMERGING FROM THE ALLEY, DRIVEWAY, OR BUILDING.

The driver of a vehicle emerging from an alley, driveway, or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alley way or driveway and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.

State Law Reference: Similar provisions, 47 O.S. Section 11-704.

Section 15-549 STOP WHEN TRAFFIC OBSTRUCTED.

No driver shall enter an intersection or a marked cross walk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.

Section 15-550 OBEDIENCE TO SIGNAL INDICATING APPROACH OF TRAIN.

A. Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this Section, the driver of such vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

1. A clearly visible electric or mechanical signal device

gives warning of the immediate approach of a railroad train;

2. A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;

3. A railroad train approaching within approximately one thousand five hundred (1,500) feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; or

4. An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

B. No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

Section 15-551 CERTAIN VEHICLES TO STOP AT ALL RAILROAD GRADE CROSSINGS.

A. The driver of any motor vehicle carrying passengers for hire, or of any school bus carrying any school child, or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad, and while so stopped, shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he can do so safely. After stopping as required herein and upon proceeding when it is safe to do so, the driver of any such vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing, and the driver shall not shift gears while crossing the track or tracks.

B. No stop need be made at any such crossing where a police officer or traffic control signal directs traffic to proceed.

Section 15-552 SEAT BELTS AND CHILD PASSENGER RESTRAINTS REQUIRED.

A. Every operator and front seat passenger of a passenger car operated in this City shall wear a properly adjusted and fastened safety belt system, required to be installed in the

motor vehicle when manufactured pursuant to Federal Motor Vehicle Safety Standard 208. For the purposes of this Section, "passenger car" shall mean "automobile" as defined in Section 22.1 of Title 47 of the Oklahoma Statutes, except that "passengercar" shall not include trucks, pick-up trucks, truck-tractors, recreational vehicles, vans, motorcycles or motorized bicycles.

B. Subsection A shall not apply to an operator or passenger of a passenger car in which the operator or passenger possesses a written verification from a physician licensed in this state that he is unable to wear a safety belt system for medical reasons. The issuance of such verification by a physician, in good faith, shall not give rise to, nor shall such physician thereby incur, any liability whatsoever in damages or otherwise, to any person injured by reason of such failure to wear a safety seat belt system. Subsection A shall not apply to an operator of a motor vehicle who is a route carrier of the U.S. Postal Service.

C. Every driver when transporting a child under four (4) years of age in a motor vehicle operated on the roadways, streets, or highways of this City shall provide for the protection of the child by properly using a child passenger restraint system or a properly secured seat belt in the rear seat of the motor vehicle. For purposes of this subsection, "child passenger restraint system: means an infant or child passenger set by the United States Department of Transportation. Children four (4) or five (5) years of age shall be protected by the use of a child passenger restraint system or a seat belt. The provisions of this subsection shall not apply to:

1. A nonresident driver transporting a child in this state;
2. The driver of a school bus, taxicab, moped, motorcycle, or other motor vehicle not required to be equipped with safety belts pursuant to state or federal laws;
3. The driver of an ambulance or emergency vehicle;
4. A driver of a vehicle if all of the seat belts are in use; and
5. The transportation of children who for medical reasons are unable to be placed in such devices.

A law enforcement officer is hereby authorized to stop a vehicle if it appears that the driver of the vehicle has violated the

provision of this Section and to give an oral warning to the driver. The warning shall advise the driver of the possible danger to children resulting from the failure to install or use a child passenger restraint system or seat belts in the motor vehicle. A person who violates the provisions of this subsection shall not be subject to any criminal penalty. A violation of the provisions of this subsection shall not be admissible as evidence in any civil action or proceeding for the damages. If any action brought by or on behalf of an infant for personal injuries or wrongful death sustained in a motor vehicle collision, the failure of any person to have the infant properly restrained in accordance with the provisions of this subsection shall not be used in aggravation or mitigation of damages.

D. No law enforcement officer shall make routine stops of motorists for the purpose of enforcing subsection A of this Section. Any person convicted of violating subsection A of this Section shall be punished by a maximum fine as set by state law or by the City, whichever is greater, and court costs.

ARTICLE 6

TRAFFIC CONTROL DEVICES

Section 15-601 AUTHORITY TO INSTALL TRAFFIC CONTROL DEVICES.

City personnel, subject to any directions given by the Council by motion or resolution, shall have placed and maintained traffic control signs, signals, and devices when and as required under the traffic ordinances of this City to make effective the provisions of such ordinances, and may have placed and maintained such additional traffic control signs, signals, and devices as he may deem necessary to regulate traffic under the traffic ordinances of this City or under state law or to guide or warn traffic.

Cross-Reference: For state law relating to traffic control devices, see 47 O.S. Section 11-201 et seq.

Section 15-602 TRAFFIC CONTROL DEVICES; UNIFORM REQUIREMENTS.

A. All traffic control signs, signals, and devices shall conform to the manual of Uniform Traffic Control Devices approved by the State Department of Public Safety.

B. All signs, signals, and devices required hereunder for a particular purpose shall so far as practicable be uniform as to type and relative location throughout the City. All traffic

control devices erected and not inconsistent with the provisions of state law or this chapter shall be official traffic control devices.

Section 15-603 OBEDIENCE TO OFFICIAL TRAFFIC CONTROL DEVICES.

The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto, placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police office, subject to the exemptions granted the driver of an authorized emergency vehicle in this part.

State Law Reference: Drivers to obey traffic devices, 47 O.S. Section 11-201.

Section 15-604 WHEN OFFICIAL TRAFFIC CONTROL DEVICES REQUIRED FOR ENFORCEMENT PURPOSES.

No provision of this chapter for which official traffic control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently eligible to be seen by an ordinarily observant person. If a particular Section does not state that official traffic control devices are required, such Section shall be effective even though no devices are erected or in place.

Section 15-605 TRAFFIC CONTROL SIGNAL LEGEND.

The display of signal lights, arrows and words shall be deemed to have the following meanings and requires the appropriate response on the part of vehicular traffic and pedestrians:

1. Green alone, "Go":
 - a. Vehicular traffic facing the signal, except when prohibited, may proceed straight through or turn right or left unless an official sign at such place prohibits such turn, but any vehicle and any pedestrian lawfully within the intersection or adjacent crosswalk at the time the signal displays green shall have the right-of-way over such vehicular traffic; and
 - b. Pedestrian traffic, facing a green signal may proceed across the roadway within any marked or unmarked crosswalk unless a "walk" signal indicator is operating;
2. Steady yellow or amber alone, "caution":

- a. The showing of such signal color following green shall constitute a warning that the "red" or "stop" signal will be exhibited immediately thereafter; and
 - b. Vehicles facing the signal shall stop before entering the near side crosswalk or at the limit line, if it is marked, unless the vehicle is so near the limit line when the "caution" signal first flashes that a stop cannot be made in safety, in which event vehicle may proceed cautiously through the intersection and clear the same before the "red" signal flashes;
3. Red alone, "stop":
- a. Vehicular traffic facing the signal stop before entering the crosswalk and shall remain standing until green or "go" is shown alone. Except where official signs are erected prohibiting such turns, vehicles in the right traffic lane, after making a full stop as required, may enter the intersection cautiously and make a right turn, but such vehicles shall yield the right-of-way to any pedestrians or other traffic in the intersection and the turn shall be made so as not to interfere in any way with traffic proceeding on a green signal indication on the cross street; and
 - b. Pedestrians facing the signal shall not enter or cross the roadway when such movement interferes with traffic proceeding on a green signal indication on the cross street, or when the movement cannot be made in safety. No pedestrian facing such signal shall enter the roadway until the green or "go" is shown alone unless authorized to do so, by a pedestrian "walk" signal;
4. Steady red with green arrow:
- a. Vehicular traffic facing such signal when in the proper traffic lane may cautiously enter the intersection only to make the movement indicated by the arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

If the movement indicated by the green arrow is a left turn, the left turn shall be made only on the red with green arrow signal; and

- b. No pedestrian facing such signal shall enter the roadway until the green or "go" is shown alone unless authorized so to do by a pedestrian "walk" signal; and

5. Green arrows alone. Whenever vehicular traffic movements are controlled by green arrows alone and not displayed with any other signal indication, vehicles facing such signals may make the movements indicated by the green arrows and the movements shall be made only when the green arrows are displayed.

State Law Reference: Similar provisions, 47 O.S. Section 11-202.

Section 15-606 PEDESTRIANS; SIGNAL INDICATORS; REGULATIONS:

Special pedestrian control signals exhibiting the words "walk," "wait" or "don't walk" shall regulate pedestrian movement as follows:

1. "Walk." Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles; and

2. "Wait" or "Don't Walk." No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the "walk" signal shall proceed to a sidewalk or safety zone while the "wait" signal is showing.

Section 15-607 FLASHING SIGNALS.

A. Whenever a flashing red or yellow signal is illuminated, it shall require obedience by vehicular traffic as follows:

1. "Flashing Red." When a red light is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign; and

2. "Flashing Yellow." When a yellow light is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection, or pass such signal only with caution.

B. This Section shall not apply at railroad crossings.

State Law Reference: Similar provisions, 47 O.S. Section 11-204.

Section 15-608 PEDESTRIAN-ACTIVATED SCHOOL CROSSING SIGNALS.

Whenever a pedestrian-activated school crossing signal is provided, it requires obedience by vehicular traffic and pedestrians as follows:

1. "Flashing Yellow":
 - a. When a yellow lens is illuminated with rapid intermittent flashes, drivers or operators of vehicles may proceed through the intersection or pass such signal only with caution; and
 - b. Pedestrians shall not proceed in conflict with traffic, but may activate the signal control switch, and shall wait until steady red alone is shown before entering the roadway or intersection controlled by the signal;
2. "Steady yellow alone":
 - a. Vehicular traffic facing the signal is thereby warned that the red of "stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection or pass the signal when the red or "stop" signal is exhibited; and
 - b. No pedestrian shall enter the roadway or intersection on which the signal controls vehicular traffic until steady red alone is shown;
3. "Steady red":
 - a. Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection, and shall remain standing until flashing yellow is shown alone;
 - b. Pedestrians may proceed across the road controlled by the signal, and shall be given the right-of-way by the drivers of all vehicles; and
4. "Steady red and steady yellow combined":

- a. Vehicular traffic facing the signal is thereby warned that the flashing yellow signal will be exhibited immediately thereafter, and that such vehicular traffic shall remain standing until the flashing yellow is shown alone; and
- b. Pedestrians are thereby warned that the flashing yellow signal is about to be shown and shall not enter the signal-controlled roadway or intersection, or in a direction which conflicts with the movement of vehicular traffic; but any pedestrian who has partially completed his crossing shall proceed to the nearest sidewalk or safety island and shall be given the right-of-way by the drivers of all vehicles.

State Law Reference: Similar provisions, 47 O.S. Section 11-203.

Section 15-609 UNAUTHORIZED TRAFFIC CONTROL DEVICES PROHIBITED.

A. No person shall place, maintain, or display upon or in view of any highway any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal.

B. No person shall place or maintain, nor shall any public authority permit upon any highway any traffic sign, signal, or device bearing thereon any commercial advertising.

C. This Section shall not prohibit the erection upon private property adjacent to highways of signs giving useful directional information which are of a type that cannot be mistaken for official signs.

D. Every prohibited sign, signal, marking or device may be removed without notice.

State Law Reference: Similar provisions, 47 O.S. Section 11-206.

Section 15-610 DEFACEMENT OF TRAFFIC CONTROL DEVICES.

A. No person shall without lawful authority attempt to or in fact alter, destroy, deface, molest, interfere, tamper, injury, knock down, remove, or have in his possession any traffic control device or any railroad sign or signal or any inscription, shield or insignia thereon, or any part thereof.

B. This chapter shall not apply to any of the following persons when acting within the scope and duty of their employment:

1. Any officer, agent, independent contractor, employee, servant, or trustee of any governmental agency; or

2. Any officer, agent, independent contractor, employee, servant or trustee of any contractor, public utility, or railroad company.

State Law Reference: Similar provisions, 47 O.S. Section 11-207.

Section 15-611 PLAY STREETS, AUTHORITY TO ESTABLISH.

City personnel, subject to any directions given by the Council, shall have authority to declare any street or part thereof a play street and to have placed appropriate signs or devices in the roadway indicating and helping protect the same.

Section 15-612 PLAY STREETS, RESTRICTION ON USE.

Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area; and then any such driver shall exercise the greatest care in driving upon any such street or portion thereof.

Section 15-613 DESIGNATION OF CROSSWALKS AND SAFETY ZONES.

Authorized City personnel, subject to any directions given by the Council, may:

1. Designate and maintain, by appropriate devices, marks, or lines upon the surface of the roadway and crosswalks at intersections, where in his opinion, there is particular danger to pedestrians crossing the roadway, and at such other places as deemed necessary; and

2. Establish safety zones or islands of such kind and character and at such places as deemed necessary for the protection of pedestrians.

Section 15-614 TRAFFIC LANES.

A. City personnel, subject to any directions given by the

Council may be authorized to have traffic lanes marked upon the roadway of any street where a regular alignment of traffic is necessary.

B. Where such traffic lanes have been marked, it is unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement or otherwise authorized by ordinance.

State Law Reference: Similar provisions, 47 O.S. Section 11-309.

ARTICLE 7

STOPPING, STANDING AND PARKING GENERALLY

Section 15-701 ILLEGAL PARKING DECLARED PUBLIC NUISANCE.

Any vehicle in violation of any regulation contained in this chapter governing, limiting, or prohibiting the parking or standing of a vehicle on any street or public thoroughfare is hereby declared to constitute a public nuisance, and each separate traffic citation issued as authorized herein for such violation shall constitute a separate notice thereof to the owner or operator of such vehicle.

Section 15-702 APPLICATION OF STANDING OR PARKING REGULATIONS.

The provisions of this chapter shall not be applicable when it is necessary for a vehicle to stop to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

Section 15-703 PARKING TIME LIMITS MAY BE ESTABLISHED, SIGNS.

City personnel, subject to directions given by the Council by motion or resolution, may establish parking time limits or prohibit parking on designated streets or parts of streets and have appropriate signs placed on the streets. When the signs are in place, it is unlawful for any person to park a vehicle in violation of the sign. No such time limits shall be effective unless a sign is erected and in place at the time of the alleged violation.

Section 15-704 PARKING MORE THAN FORTY-EIGHT (48) HOURS, DISABLED VEHICLES.

No person shall park any vehicle or trailer on any street for a period of time longer than forty-eight (48) hours. This Section shall not affect parking limits established for shorter periods.

Section 15-705 BRAKES; MOTOR NOT TO BE LEFT RUNNING.

Adequate brakes shall be set on all parked vehicles. No driver of a motor vehicle shall leave the vehicle with the motor running while parked.

Section 15-706 SIGNS OR MARKINGS INDICATING ANGLE PARKING.

City personnel, subject to any direction by the City Council by motion or resolution, shall determine upon what streets and parts of streets angle parking shall be permitted, and shall have such streets marked or signed.

Section 15-707 OBEDIENCE TO ANGLE PARKING SIGNS OR MARKINGS.

On those streets which have been so signed or marked for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

Section 15-708 PARKING IN SPACES MARKED OFF.

In an area where parking spaces have been marked off on the surface of the street, a driver parking a vehicle shall park it within a parking space as thus marked off, and not on or over a line delimiting a space.

Section 15-709 PERMITS FOR LOADING OR UNLOADING AT AN ANGLE TO THE CURB.

A. City Manager is authorized to issue special permits to permit the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of such permit. Such permits may be issued either to the owner or lessee of real property or to the owner of the vehicle and shall grant to such person the privilege as therein stated and authorized herein. The City Manager may revoke such permits at any time.

B. It is unlawful for any permittee or other person to violate any of the special terms or conditions of any such permit.

C.

Section 15-710 HAZARDOUS OR CONGESTED PLACES; STOPPING, STANDING, PARKING.

A. City personnel are hereby authorized to determine and regulate by proper signs the stopping, standing, or parking of vehicles when such stopping, standing, or parking would create an especially hazardous condition or would cause unusual delay to traffic.

B. When official signs are erected at hazardous or congested places, as authorized in Subsection A of this Section, no person shall violate such signs.

Section 15-711 STOPPING, STANDING OR PARKING PROHIBITED IN SPECIFIED PLACES.

A. No person shall stop, stand, or park a vehicle, except in emergencies or when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic control device in any of the following places:

1. On a sidewalk, sidewalk area, or between the sidewalk and the street;
2. In front of a public or private driveway;
3. Within an intersection;
4. Within fifteen (15) feet of a fire hydrant except in a parking space officially marked;
5. On a crosswalk;
6. Within twenty (20) feet of a crosswalk at an intersection;
7. Within thirty (30) feet upon the approach to any flashing beacon, stop sign, or traffic control signal located at the side of a roadway;
8. Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless a different length has been indicated by signs or markings;
9. Within fifty (50) feet of the nearest rail of a railroad crossing;
10. Within twenty (20) feet of the driveway entrance to any

fire station, and on the side of the street opposite the entrance of any fire station within seventy-five (75) feet of the entrance when properly signposted;

11. Alongside or opposite any street excavation or construction when stopping, standing, or parking would obstruct traffic;

12. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

13. Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

14. At any place where official signs prohibit stopping.

B. No person shall move a vehicle not lawfully under his control into any prohibited area or any unlawful distance away from a curb.

State Law Reference: Similar provisions, 47 O.S. Section 11-1003.

Section 15-712 BLOCKING OF INTERSECTION OR CROSSWALK PROHIBITED.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.

Section 15-713 STANDING OR PARKING ON ONE-WAY ROADWAY.

A. If a highway includes two (2) or more separate roadways and traffic is restricted to one direction upon any such roadway, no person shall stand or park a vehicle upon the left-hand side of the one-way roadway unless signs are erected to permit such standing or parking.

B. The City Council may determine when standing or parking may be permitted upon the left-hand side of any such one-way roadway and to erect signs giving notice thereof.

Section 15-714 STANDING OR PARKING ON LEFT SIDE OF ONE-WAY STREETS.

City personnel may have signs erected upon the left-hand side of any one-way street to prohibit the standing or parking of vehicles. When the signs are in place, no person shall stand or park a vehicle in violation of any such sign.

Section 15-715 PARKING ADJACENT TO SCHOOLS.

A. City personnel may have signs erected indicting no parking upon either or both sides of any street adjacent to any school property when such parking would, in his opinion, interfere with traffic or create a hazardous situation.

B. No person shall park a vehicle in violation of any such sign.

Section 15-716 PARKING PROHIBITED AT INTERSECTIONS.

The parking of vehicles at the curb where streets intersect shall be prohibited fifteen (15) feet in advance of the crosswalk on the near side of such intersection.

Section 15-717 PARKING IN ALLEYS, BLOCKING DRIVEWAYS.

No person shall park a vehicle within a street or alley in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for the free movement of vehicular traffic. No person shall stop, stand, or park a vehicle within a street or alley in such position as to block a driveway entrance to any abutting property.

Section 15-718 ENTRY ON PRIVATE PROPERTY; TRESPASS; EVIDENCE; BURDEN OF PROOF.

A. No person shall make an entry with any vehicle upon real property owned or legally occupied by another without the owner's or occupant's consent except where such private property is provided as public parking and the general use of the property is not restricted by signs or proper markings.

B. Where entry is made upon real property owned or legally occupied by another without the owner's or occupant's consent, except on unrestricted public parking, and is complained of by the owner or legal occupant of the premises, the burden is put upon the person making the entry to show that permission for such entry was given.

Section 15-719 PARKING ON MAIN TRAVELED PORTION OR ROADWAY.

A. Upon any street, no person shall stop, park, or leave standing any vehicle, whether attended or unattended upon the paved or main traveled part of the street when it is practical to stop, park, or leave the vehicle off such parts of the street, except that delivery vehicles, either loading or unloading, may park in the center of street, while in the process of loading or unloading and making delivery to or pick up at any local business establishment.

B. This Section shall not apply to the driver of any vehicle which is disabled while on the paved or main traveled portion of a street in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle in such position.

Section 15-720 DOUBLE PARKING PROHIBITED.

A. No vehicle shall be double parked on any street within the City limits, except in compliance with the directions of a police officer, or traffic control device, or except when necessary to avoid conflict with another vehicle.

B. Delivery vehicles, either loading or unloading, may double park in the right-hand lane while in the process of loading or unloading and making delivery to local business establishments; provided that the driver of the delivery vehicle shall keep a lookout for cars and vehicles needing or attempting to move away from the curb and shall move his delivery vehicle as soon as possible to permit the parked vehicles to be moved and further providing that the double parking shall be permitted only so long as both traffic lanes are not blocked.

Section 15-721 TRUCK PARKING PROHIBITED; TRUCKS TRANSPORTING HAZARDOUS MATERIALS PROHIBITED.

A. It is unlawful for any person to park a truck of over one ton capacity, or a trailer over thirty (30) feet in length, for more than three (3) consecutive hours on any street or alley in the City.

B. It is unlawful to park, store or otherwise let stand a truck or other vehicle which is used for the purpose of transporting or delivering flammable and combustible liquids as defined by the Fire Prevention Code and trucks or other vehicles which are used for the transportation and delivery of liquefied petroleum gases in any area within the City. However, the trucks and vehicles restricted in this Section may be temporarily parked at locations otherwise zoned for the purpose of loading and unloading flammable and combustible liquids and liquefied petroleum gases for a period not to exceed one and one-half (1 1/2) hours during any twenty-four (24) hour period.

Section 15-722 PARKING FOR CERTAIN PURPOSES PROHIBITED.

No person shall park a vehicle upon any roadway for the

purpose of:

1. Displaying the vehicle for sale;
2. Displaying advertising or displaying merchandise or other things for sale or selling merchandise or other things; or
3. Washing, cleaning, or repairing the vehicle, except for repairs necessitated for emergency.

Section 15-723 METHOD OF PARKING, STANDING OR PARKING CLOSE TO CURB.

Except as otherwise provided in this chapter, every vehicle stopped or parked upon a roadway where there are adjacent curbs, shall be so stopped or parked with the right-hand wheels of the vehicle parallel to and within eighteen (18) inches of the right-hand curb. Any vehicle stopped or parked upon the left-hand side of a one-way street where there are adjacent curbs shall be parked or stopped with the left-hand wheels parallel to and within eighteen (18) inches of the left-hand curb.

State Law Reference: Parking rules, 47 O.S. Section 11-1004.

Section 15-724 NEGLIGENT PARKING.

No person shall park, cause to be parked, stop, or leave unattended any vehicle as follows:

1. In a careless or negligent manner;
2. In such a manner as to endanger life, limb, person, or property; or
3. In such a manner as to endanger or interfere with the lawful traffic or use of the streets.

Section 15-725 RIGHT-OF-WAY TO PARALLEL PARKING SPACE.

A. The driver of any vehicle intending to occupy a parallel parking space where a backing movement is necessary, and which is being vacated by another vehicle shall stop his vehicle to the rear of the parking space until the vacating vehicle has cleared and entered normal traffic. He then shall be deemed to have the right-of-way to such parking space over any other vehicle attempting to park therein.

B. The first of two (2) or more vehicles to reach the rear boundary of an unoccupied parallel parking space where a backing movement is necessary to occupy, shall be deemed to have the right-of-way to such parking space.

Section 15-726 HANDICAPPED PARKING, ENFORCEMENT OF PUBLIC OR PRIVATE PARKING.

A. It is unlawful for any person to place or park a motor vehicle in any parking space on private property accessible to the public and where the public is invited or public property that is designated and posted as a reserved area for parking of motor vehicles of a physically disabled person unless such person has a physical disability insignia as under the provisions of Section 15-112 of Title 47 of the Oklahoma Statutes, and such insignias are displayed as provided in Section 15-112 of Title 47 of the Oklahoma Statutes or regulations adopted pursuant thereto.

B. Any person who shall violate any of the provisions of this Section shall be guilty of an offense and upon conviction thereof shall be punishable by a fine as provided in Section 1-108 of this code.

State Law Reference: Handicapped insignia, application and display on vehicles, 47 O.S. Section 15-112.

ARTICLE 8

LOADING

Section 15-801 DEFINITIONS.

As used in this chapter:

1. "Freight loading zones" means all curb loading zones authorized and regularly used exclusively for the loading and unloading of merchandise for storage, trade, shipment, or re-sale;

2. "Commercial vehicle" means:

a. A truck designated for delivery purposes with the name of the owner or his business painted on both sides of the vehicle, regularly used during normal business hours for the delivery and handling of merchandise or freight and which bears a regular state commercial license tag;

b. A passenger vehicle used regularly and actually engaged during normal business hours in the delivery and

handling of merchandise or freight, and which bears a special numbered license plate issued by the City at the rear of the vehicle attached to the state license plate together with an identically numbered decal, issued vehicle; and

3. "Passenger loading zone" means all loading zones authorized and used regularly and exclusively for the loading and unloading of passengers except bus stops, taxicab stands, and stands for other passenger common carrier vehicles

Section 15-802 CURB LOADING ZONES, DESIGNATION.

A. The City Manager, subject to any directions given by the Council by motion or resolution, may determine the location of passenger and freight curb loading zones and shall have placed and maintained appropriate signs indicating the zones and stating the hours during which the provisions of this Section are applicable.

B. No person shall stand or park a vehicle in violation of signs erected in accordance with this Section.

C. If any loading zone is established on request of any person, the signs shall not be placed until the applicant pays to the City an amount of money estimated by the City Council to be adequate to reimburse the City for all costs of establishing and signing the same.

Section 15-803 LOADING ZONES TO BE USED ONLY FOR DESIGNATEDPURPOSE.

No curb loading zone authorized and established as a passenger loading zone shall be used as a freight loading zone, and no freight loading zone shall be used as a passenger loading zone except as may be specifically provided by law.

Section 15-804 STOPPING, STANDING OR PARKING IN PASSENGER CURB LOADING ZONE.

No person shall stop, stand, or park a vehicle in a passenger curb loading zone for any purpose or period of time other than for the expeditious loading or unloading of passengers, during the hours when the regulations applicable to such curb loading zones are effective, and then only for a period of not to exceed three (3) minutes.

Section 15-805 STOPPING, STANDING OR PARKING IN COMMERCIAL CURBLOADING ZONE.

A. No person shall stop, stand, or park a vehicle in a commercial curb loading zone for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials during hours when the provisions applicable to such zones are in effect. In no case shall the driver stop for loading and unloading of materials exceed thirty (30) minutes. Vehicles using any commercial loading zone shall be subject to the licensing requirements and regulations provided by this chapter.

B. The driver of a passenger vehicle may stop temporarily at a place marked as a freight curb loading zone for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any commercial vehicle which is waiting to enter the zone.

Section 15-806 DESIGNATION OF PUBLIC CARRIER STOPS AND STANDS.

The City Manager may establish loading zones for common carriers, including but not limited to bus stops, bus stands, taxicab stands and stands or other passenger common carrier motor vehicles, on such public streets in such places and in such number as he shall determine to be of the greatest benefit and convenience to the public. Every such loading zone shall be designated by appropriate signs.

Section 15-807 USE OF BUS AND TAXICAB STANDS RESTRICTED.

No person shall stop, stand, or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated and the appropriate signs are in place. The driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus, or taxicab waiting to enter or about to enter the zone.

Section 15-808 STOPPING, STANDING AND PARKING OF BUSES AND TAXIS.

A. The operator of a bus shall not stand or park such vehicle upon any street at any place other than a bus stand so designated as provided herein.

B. The operator of a bus shall not stop such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage except in a bus stop, stand or loading zone designated as provided herein, except in case of an emergency.

C. The operator of a bus shall enter a bus stop, bus stand, or passenger loading zone on a public street in such a manner that the bus, when stopped to load or unload passengers or baggage, shall be in a position with the right front wheel of such vehicle not further than eighteen (18) inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

D. The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand so designated as provided herein. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.

ARTICLE 9

TURNING MOVEMENTS

Section 15-901 TURNING MARKERS OR INDICATORS.

A. Subject to any directions given by the Council by motion or resolution, the City Manager is authorized to place markers, buttons or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections. The course to be traveled, as so indicated, may conform to or be other than as prescribed by law.

B. When authorized markers, buttons, or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications.

Section 15-902 DESIGNATION OF RESTRICTED TURNS.

The City Manager, subject to City Council direction, is hereby authorized to determine those street intersections at which drivers of vehicles shall not make right, left or U-turns, and shall have proper signs placed at the intersections. The making of the turns may be prohibited between certain hours of any day and permitted at other hours. Where turns are restricted during certain hours pursuant to this Section, the same shall be plainly indicated on the signs, or they may be removed when turns are permitted.

Section 15-903 OBEDIENCE TO NO-TURN SIGNS.

Whenever authorized signs are erected indicating that no right, left or U-turn is permitted, the driver of a vehicle shall not disobey the directions of any such sign.

Section 15-904 U-TURNS.

A. The driver of a vehicle shall not turn the vehicle so as to proceed in the opposite direction upon any street in the City at the following locations:

1. At intersections controlled by traffic control devices or signals unless such turns are specifically authorized;

2. Where a police officer is directing traffic except at the latter's direction; or

3. At any other location where an official "No U-Turn" sign has been placed and is maintained.

B. Manner of making U-turns. A U-turn may be made only when it can be made in safety and without interfering with other traffic. No person shall make a U-turn except in the following manner;

1. By approaching the intersection as closely as practical to the right curb or edge of the roadway, the driver giving and continuing to give a signal for a left turn until the return is completed, proceeding to make the turn across the intersection;

2. In one continuous movement without stopping or backing the vehicle;

3. By yielding the right-of-way at all time to all vehicles until such turn is completed; and

4. Without constituting a hazard to or interfering with any other vehicle.

Section 15-905 LEFT TURNS ACROSS CENTER LINE PROHIBITED, EXCEPTIONS.

It is unlawful and an offense for any person to turn a vehicle across the center line unless the turn is at an intersection at which left hand turns are permitted or into a private road or driveway.

Section 15-906 POSITION AND METHOD OF TURNING.

The driver of a vehicle intending to turn at an intersection

shall do as follows:

1. Right turns. Both the approach for a right turn and the execution of a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway;

2. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, the approach for a left turn shall be made in that portion of the right half of the street nearest the center thereof by passing to the right of the center line where it enters the intersection. After entering the intersection, the left turn shall be made so as to leave the intersection to the right of the center of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection; or

3. Left turns, on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of the vehicle. After entering the intersection, the left turn shall be made so as to leave the intersection, as nearby as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon roadway being entered.

State Law Reference: Similar provisions, 47 O.S. Section 11-601.

Section 15-907 TURNING MOVEMENTS AND REQUIRED SIGNALS.

A. No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in Section 15-905 of this code or turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner hereinafter provided.

B. A signal of intention to turn right or left, slow or stop when required, shall be given continuously during not less than the last one hundred (100) feet traveled by the vehicle before turning or stopping.

C. No person shall stop or suddenly decrease the speed of

a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give the signal.

State Law Reference: Similar provisions, 47 O.S. Section 11-604.

Section 15-908 MEANS OF GIVING TURN SIGNALS.

A. Any stop or turn signal when required herein shall be given either by means of hand or arm, or by a signal lamp or lamps, or mechanical device of a type approved by the Oklahoma Department of Public Safety, except as provided in Subsection B of this Section.

B. A vehicle shall be equipped with, and the required signal given by, signal lamps or devices when:

1. The body or cab of a vehicle or the load of any vehicle projects twenty-four (24) inches or more to the left of the center of the steering wheel;

2. Under any condition where a hand and arm signal would not be visible both to the front and rear of the vehicle; or

3. The rear limit of the body of a vehicle or the load of any vehicle projects fourteen (14) feet or more beyond the center top of the steering post.

Section 15-909 METHOD OF GIVING HAND AND ARM SIGNALS.

All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

1. Left turn - hand and arm extended horizontally;
2. Right turn - hand and arm extended upward; and
3. Stop or decrease speed - hand and arm extended downward with palm to the rear.

ARTICLE 10

PEDESTRIANS

Section 15-1001 PEDESTRIANS SUBJECT TO TRAFFIC CONTROL SIGNALS.

Pedestrians shall be subject to traffic control signals as provided for in this chapter, but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this chapter.

State Law Reference: Pedestrian rights and duties, 47 O.S. Section 11-501 to 11-507.

Section 15-1002 PEDESTRIANS' RIGHT-OF-WAY AT CROSSWALKS.

A. When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way slowing down or stopping, if need be, to so yield to a pedestrian crossing the roadway within a crosswalk when:

1. The pedestrian is upon the half of the roadway upon which the vehicle is traveling; or

2. The pedestrian is approaching so closely from the opposite edge of the roadway as to be in danger.

The provisions of this subsection are not applicable under conditions where pedestrians are required to yield pursuant to this chapter.

B. No pedestrian shall suddenly leave a curb or other place of safety or walk or run into the path of the vehicle which is so close that it is impossible for the driver to yield.

C. Whenever any vehicle is stopped at a marked crosswalk, or any unmarked crosswalk, or at an intersection to permit a pedestrian to cross a roadway, the driver of any other vehicle approaching from the rear shall not overtake to pass such stopped vehicle.

Section 15-1003 PEDESTRIANS TO USE RIGHT HALF OF CROSSWALK.

Pedestrians, when crossing the street at a crosswalk, shall move, whenever practicable, upon the right half of the crosswalk.

Section 15-1004 CROSSING AT RIGHT ANGLES.

No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route

to the opposite curb, except in a crosswalk.

Section 15-1005 WHEN PEDESTRIANS SHALL YIELD.

A. Every pedestrian crossing a roadway at any point other than within a marked or unmarked crosswalk at any intersection shall yield the right-of-way to all vehicles upon the roadway.

B. Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

C. The provisions of this Section are not applicable where pedestrian crossings are prohibited.

Section 15-1006 PEDESTRIANS WALKING ALONG ROADWAYS.

A. Where sidewalks are provided, it is unlawful for any pedestrian to walk along and upon an adjacent roadway.

B. Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practical, walk only on the left side of the roadway, or its shoulder, facing traffic which may approach from the opposite direction, and shall yield to approaching vehicles.

Section 15-1007 PEDESTRIANS PROHIBITED FROM SOLICITING RIDES, BUSINESS OR DONATIONS FROM VEHICLE OCCUPANTS.

A. No person shall stand in a roadway for purpose of soliciting a ride, donations, employment or business from the occupant of any vehicle.

B. No person shall:

1. Stand in any street, roadway or park and stop or attempt to stop and engage any person in any vehicle for the purpose of soliciting contributions or the watching or guarding of any vehicle while parked or about to be parked on a street;

2. Sell or attempt to sell anything to any person in any vehicle;

3. Hand or attempt to hand to any person in any vehicle any circular, advertisement, handbill or any political campaign literature, or any sample, souvenir or gift; or

4. In any other manner, while standing in the street or roadway, attempt to interfere with the normal flow of traffic for any other similar purpose.

Section 15-1008 DRIVERS TO EXERCISE DUE CARE.

Notwithstanding the foregoing provisions of this chapter, every driver shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person on the roadway.

Section 15-1009 CROSSING PROHIBITED.

Between adjacent intersections, at which traffic control signals are in operation, pedestrians shall not cross at any place except in a crosswalk. Pedestrians shall not cross any divided highway having a median in the center thereof, except in a crosswalk.

Section 15-1010 OBEDIENCE OF PEDESTRIANS TO RAILROAD SIGNALS.

No pedestrian shall pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing while such gate or barrier is closed or is being opened or closed.

ARTICLE 11

BICYCLES

Section 15-1101 APPLICATION OF BICYCLE REGULATIONS.

The provisions of this Article shall apply whenever a bicycle is operated upon any street or upon any public way; or upon any path set aside for the exclusive use of bicycles, subject to those exceptions stated in this chapter.

State Law Reference: Similar provisions, 47 O.S. Section 11-1201 et. seq.

Section 15-1102 APPLICATION OF TRAFFIC LAWS TO BICYCLES.

Every person riding a bicycle upon a roadway shall be granted all rights and shall be subject to all the duties applicable to the driver of a vehicle by the laws of this state and the traffic provisions of this code applicable to the driver of a vehicle, except as to special regulations in this chapter and except as to those provisions of laws and ordinances which by their nature are inapplicable to such persons.

Section 15-1103 OBEDIENCE TO TRAFFIC CONTROL DEVICES.

A. Any person operating a bicycle shall obey the

instructions of official traffic control signals, signs and other control devices applicable to vehicles unless otherwise directed by a police officer.

B. Whenever authorized signs are erected indicating no right or left or U-turn is permitted, no person operating a bicycle shall disobey the directions of such sign, except where such person dismounts from the bicycle to make any such turn, in which event, such person shall then obey the regulations applicable to the pedestrians.

Section 15-1104 RIDING ON BICYCLES.

A. No person operating a bicycle shall ride other than astride a permanent and regular seat attached thereto.

B. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

Section 15-1105 RIDING ON ROADWAYS AND BICYCLE PATHS.

A. Every person operating a bicycle upon a roadway shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle proceeding in the same direction.

B. Person riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

C. If usable paths for bicycles are provided adjacent to a roadway, bicycle riders shall use such paths and not use the roadway.

Section 15-1106 SPEED OF BICYCLE.

No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

Section 15-1107 EMERGING FROM ALLEY OR DRIVEWAY.

The operator of a bicycle emerging from an alley or driveway shall, upon approaching a sidewalk or sidewalk area extending across the alley or driveway, yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area. Upon entering the roadway, the bicycle operator shall yield the right-of-way to all vehicles approaching on the roadways.

Section 15-1108 CARRYING ARTICLES.

No person operating a bicycle shall carry any package, bundle, or article which prevents the rider from keeping at least one hand on the handlebars.

Section 15-1109 PARKING.

No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against the building or at the curb in such manner as to afford the least obstruction to pedestrian traffic.

Section 15-1110 RIDING ON SIDEWALKS.

A. No person shall ride a bicycle upon a sidewalk within a business district.

B. The City Council, by motion or resolution, is authorized to have erected signs on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person; and when such signs are in place, no person shall disobey the same.

C. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

Section 15-1111 LAMPS AND EQUIPMENT ON BICYCLES.

A. Bicycles in use at night shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred (500) feet to the front and with a red reflector on the rear of a type which shall be visible from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector.

B. A bicycle shall not be equipped with, nor shall any person use, any siren or whistle.

C. Bicycles shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

ARTICLE 12
(RESERVED)

ARTICLE 13

IMPOUNDMENT OF VEHICLES

Section 15-1301 PURPOSE AND EFFECT OF IMPOUNDMENT PROVISIONS.

The impoundment of vehicles under authority of the provisions of this Article shall be construed as an enforcement procedure for protection of the public peace, safety and welfare, and the safeguarding of property, and shall be used generally for the prevention and removal of traffic hazards, prevention and abatement of public nuisances arising from traffic law violations, protection of the public rights in the use of streets and thoroughfares from obstructions placed and left in derogation of those rights, and for safeguarding and protecting recovered stolen vehicles.

State Law Reference: Grounds for removal of vehicles on highways by state, 47 O.S. Section 955; removal of abandoned vehicles on private property, 47 O.S. Section 954A.

Section 15-1302 PLACE OF IMPOUNDMENT.

Every vehicle that is impounded under the provisions of this Article shall be removed to the nearest garage or place of safekeeping designated by the City and to no other place.

Section 15-1303 DURATION OF IMPOUNDMENT.

A. Except as otherwise provided, any vehicle impounded under the authority of this Article shall be stored and held safely until an order for its release is received from an officer of the traffic violations bureau or other proper police officer.

B. The order of release of an impounded vehicle shall be conditioned upon the payment by the person to whom the release is issued of all impoundment costs and accrued storage charges assessed against the vehicle.

Section 15-1304 POLICE GRANTED AUTHORITY TO IMPOUND VEHICLES.

Members of the police department are hereby authorized within the limits set forth in this chapter to impound vehicles under the circumstances hereinafter enumerated. No impoundment shall be valid unless made under order of an authorized police officer and in strict adherence with the procedures required in this Article.

Section 15-1305 DISABLED VEHICLES.

A disabled vehicle upon a street or highway may be impounded under the following circumstances:

1. If left unattended and improperly parked on street or highway and constitutes a definite hazard or obstruction to the normal movement of traffic; or

2. If the person in charge of the vehicle is physically incapacitated to such extent as to be unable to provide for its custody or removal and the vehicle is so disabled as to constitute an obstruction to traffic or a hazard.

Section 15-1306 VEHICLES ON BRIDGE.

An unattended vehicle left upon any bridge, viaduct or causeway, where the vehicle constitutes an obstruction to traffic or hazard, may be impounded.

Section 15-1307 ARREST AND DETENTION OF DRIVER OF VEHICLE.

Whenever the driver or person in charge of any vehicle is placed under arrest and taken into custody and detained by police under circumstances which leaves or will leave a vehicle unattended on any street or highway, the vehicle may be impounded, unless the driver or person in charge can provide immediately for the vehicle's custody or removal.

Section 15-1308 VEHICLE CONSTITUTES TRAFFIC HAZARD.

A vehicle left unattended upon any street, alley or thoroughfare and so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic shall be impounded.

Section 15-1309 ILLEGAL TRESPASS BY VEHICLE.

A. An unattended vehicle found to be in violation of this code may be impounded when the required complaint has been properly made and filed as provided in this Section.

B. If a violation of the provisions of this code occurs, the owner or legal occupant who complains shall sign a complaint against the person parking the vehicle on the owner's or legal occupant's property, or if the identity of the person parking the vehicle is unknown, then the complaint may be filed against the registered owner of the vehicle. The complaint shall be verified and shall allege that the complaining party is the owner or legal

occupant of the property upon which the vehicle is parked or standing.

C. Upon filing of the complaint by the property owner or legal occupant, and if there appears to be proper cause to believe the provisions of this code have been violated, the police department shall cause the vehicle to be impounded from the property and placed in storage.

Section 15-1310 VEHICLES PARKED OVERTIME.

Any unattended vehicle which has been parked for more than one hour in excess of the time allowed for parking in any place shall be impounded, and any vehicle parked in violation of this code, for more than forty-eight (48) hours, shall be impounded.

Section 15-1311 VEHICLES BLOCKING FIRE EXITS OR HYDRANTS.

Any vehicle illegally parked in such a manner that it blocks a fire escape ladder, device or exit or blocks ready access to a fire hydrant shall be impounded.

Section 15-1312 VEHICLES PARKED IN INTERSECTION.

Any unattended vehicle illegally parked in any street intersection shall be impounded. A disabled vehicle in an intersection with the person in charge of the vehicle being present, shall be moved out of the intersection and to the nearest available legal parking space at the street curbing.

Section 15-1313 STOLEN VEHICLES; RECOVERY BY POLICE.

A. Whenever a stolen vehicle is located by police and the registered owner cannot be found within a reasonable time not exceeding one hour, or cannot be determined from the registration papers or other identifying media in the vehicle or from records or information available from reports of stolen cars, the vehicle may be removed to the nearest authorized place impoundment and the registered owner of the vehicle shall be notified of the location of the place of impoundment as soon as possible by the police department.

B. If the registered owner is identified, located and notified of the recovery of the stolen vehicle, the owner shall be given the right to make his own arrangement for the removal of the vehicle within the period of one hour from the time he is actually notified of its recovery, and if the owner is unable or unwilling to affect the removal within the time specified the

vehicle may be impounded.

Section 15-1314 VEHICLES WITH OUTSTANDING TRAFFIC CITATIONS.

Any vehicle for which two (2) or more citations have been issued, for violation of an ordinance, and have not been presented as required, may be impounded if parked in violation of any provision of this chapter.

ARTICLE 14

PENALTIES

Section 15-1401 OBEDIENCE TO TRAFFIC CODE.

A. It is an offense against the City for any person to do any act forbidden or to fail to perform any act required by this chapter.

B. It is an offense against the City for the parent of any child or for the guardian of any ward to authorize or knowingly permit any such child or ward to violate any of the provisions of this chapter.

C. It is an offense for any person to authorize or knowingly to permit any vehicle registered in his or her name to be driven or to stand or to be parked in violation of any of the provisions of this chapter.

Section 15-1402 PENALTIES, SPECIFIC AND GENERAL.

Except as otherwise provided in this part, any person violating any of the provisions of this part containing the traffic laws of the City, or who performs any unlawful act as defined in this part, or who fails to perform any act required by this part, shall be guilty of an offense and upon conviction thereof shall be fined or punished as provided in Section 1-108 of this code.

CHAPTER 16 TRANSPORTATION

ARTICLE 1

RAILROADS

- Section 16-101 RAILROADS TO IMPROVE STREETS AND ALLEYS
- Section 16-102 SIDEWALKS TO BE CONSTRUCTED BY RAILROADS
- Section 16-103 CLIMBING ON TRAINS
- Section 16-104 SPEED LIMIT FOR TRAINS
- Section 16-105 CROSSING GATES OR SIGNALS
- Section 16-106 TRAINS BLOCKING STREETS
- Section 16-107 UNNECESSARY NOISE PROHIBITED

ARTICLE 2 RESERVED

CHAPTER 16 TRANSPORTATION

ARTICLE 1

RAILROADS

Section 16-101 RAILROADS TO IMPROVE STREETS AND ALLEYS.

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 (2) 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 track or tracks, such company shall improve, gutter, drain, and grade 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. When the tracks of any railroad company cross any street that is being or has been paved, the company shall pave as much of the street as is occupied by its track or tracks and two (2) 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 one hundred (100) feet, measuring from inside rail to inside rail, the railroad company shall grade, gutter, drain, and curb 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. Railroad companies shall keep all such improvements made by them in a good state of repair at all times.

Section 16-102 SIDEWALKS TO BE CONSTRUCTED BY RAILROADS.

Railway companies shall construct sidewalks crossing their rights-of-way, using the same material as is used in adjacent sidewalks insofar as this is practicable under the circumstances. They shall construct sidewalks on both sides of the streets when both sides are used by pedestrians. The company shall keep such sidewalks in a good state of repair at all times.

Section 16-103 CLIMBING ON TRAINS.

It is unlawful for any person to climb upon, hold to, or in any manner attach himself to, any railway train, locomotive, or railway car, while such is in motion within the city, unless such person is acting in line of duty; or to board any train or railroad car, including a passenger, freight, or other car, except with a

proper ticket or the permission of the person in charge of the train or car or in line of duty.

Section 16-104 SPEED LIMIT FOR TRAINS.

A. The maximum speed of railroad locomotives, engines, motorcars or trains of cars within the corporate limits of the city shall be as provided by federal regulation.

B. No engineer, conductor or other person in charge of a railway locomotive, railway engine, railway motorcar or train of cars shall operate and run the same or permit or suffer the same to be operated and run, along any track within the corporate limits of the city at a greater rate of speed than is prescribed and set forth in this Section.

C. Where grade crossings of any railroad tracks are protected by automatic crossing gates with arms or by wig-wag signals within the city, all trains passing through any grade crossings so protected shall not exceed a speed of fifty (50) miles per hour. Such automatic crossing gates or wig-wag signals shall close each and every grade crossing to highway traffic for a period of at least thirty (30) seconds before any train, or part of train, shall occupy the grade crossing.

Section 16-105 CROSSING GATES OR SIGNALS.

Any and all railroad companies which are now operating and which shall hereafter operate, any railroad line or lines within the corporate limits, or through the corporate limits, of the city, are hereby authorized to erect and install automatic crossing gates, with arms, at all railroad grade crossings in the city.

Section 16-106 TRAINS BLOCKING STREETS.

It is unlawful for the directing officer or the operator of any railroad train to direct the operation of or to operate the same in such a manner as to prevent the use of any street for purposes of travel for a period of time longer than five (5) minutes. This provision shall not apply to railroad trains or cars in motion, other than those engaged in switching.

Section 16-107 UNNECESSARY NOISES PROHIBITED.

It is unlawful for any engineer or other person while operating a locomotive within or through the city to cause unnecessary or prolonged blasts with a whistle on the locomotive or to allow or cause any unnecessary noises from such locomotive. Page left intentionally blank

CHAPTER 17. UTILITIES

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CHAPTER 17. UTILITIES

ARTICLE 1

UTILITY SYSTEMS GENERALLY

SECTION 17-101 LEASE OF SYSTEMS.

The City leased its water, electric and sewer systems to the Tonkawa Municipal Authority, (hereinafter "authority") a public trust. The trust has the power to set rates and otherwise to regulate the water, sewer, electric and sanitation systems. The motions and resolutions adopted by the trust replace any ordinances which the City had relating to these matters. For the motions and resolutions passed by the public trust, please refer to the minutes of the Tonkawa Municipal Authority. A copy of the trust indenture relating to the leasing of these systems is on file in the office of the City Clerk.

Ed. Note: See also special ordinances for various ordinances setting rates and governing the utilities.

Ed. Note: Water, sewer and electric systems are leased from the City and regulated by the Authority. The ordinances and indenture grant to the Authority the ability to govern these utilities.

SECTION 17-102 ACCESS TO CITY AND AUTHORITY AGENTS.

A. It is unlawful and an offense for any person to obstruct or deny access to or prevent the reading of water and electric meters in the City by the City or authority, its agents, employees, or officers by parking any vehicle or place any obstruction over or on top of the water meter covers or to permit any vehicle to be parked or located above or on top of the water meters. Each day's continuation of any such violation shall be deemed a separate offense.

B. It is unlawful to make threats of any type to officers, agents, or employees of the City or authority in the performance of their duties or to prevent the officers, agents, or employees from performing their official duties in reading the water meters or by limiting the access to water meters in any other manner not limited to those mentioned above.

SECTION 17-103 RULES ADOPTED, PENALTY.

The rules, regulations or rates of the Tonkawa Municipal Authority, as amended from time to time, are hereby adopted and

incorporated herein by reference. Any violation of the rules, regulations or rates is punishable as provided in Section 1-108 of this code.

ARTICLE 2

BILLINGS AND GENERAL PROVISIONS

SECTION 17-201 UTILITY FEES AND BILLINGS IN GENERAL.

All fees and charge in connection with any customer's use of the sanitary sewer system, the water facility system, the collection and disposal of refuse and garbage, or the electrical service system are billed in accordance with applicable rates set by motion or resolution of the authority. All fees and charges owing for any of these utility services shall be billed monthly. The utility bills submitted under the terms of this section are payable on or before the past due date which is printed on the bill.

SECTION 17-202 UTILITY TAPS AND CONNECTIONS; FEES; UTILITY DEPOSITS; RECONNECTION FEE.

A. The authority shall approve any request for a water tap and connection, a sewer tap to an existing line or a sewer tap, any new line and any electrical service connection. Prior to granting this approval, the customer shall have paid the deposit and connection or charge as applicable and set by motion or resolution. The deposit shall serve as a guarantee for the payment of charges for utility service and other amounts owed in connection with the utility service. It shall be held in trust by the authority. When a customer's utility service is disconnected, the deposit or any part of such amount deposited which remains after all such charges and amounts due the authority have been satisfied, shall be returned to the customer, or to the authority if unclaimed by the customer, after notice as required by law.

B. Deposits shall be required as follows:

Residential Customers:

\$30.00 water deposit if no electric service

Property Owner/Electric and Water Deposit:

\$60.00 with letter of good credit acceptable to the City Manager

\$100.00 without letter of good credit

Non-Property Owner/Electric and Water Deposit:

\$75.00 with letter of good credit acceptable to the City Manager

\$150.00 without letter of good credit

Electric and Water Deposit if applicant left an unpaid bill with the City after termination of service or was ever charged in the municipal court with unauthorized connection or theft of services: \$450.00

Commercial or Industrial Customers

Minimum of 1.5 (one and one half) months average billing (based upon previous 12 months actual billing history or based on structure of similar size or occupancy if no history exists) with a minimum deposit of \$100.00.

A separate deposit shall be required for each service location and shall be made in the name of the occupant of each service location. The use of a "floating" deposit is authorized under the following conditions:

1. Property owners shall make a sufficient number of "floating" deposits to comply with the requirement for a separate deposit for each service location.

2. The use of a "floating" deposit is authorized only for the purpose of allowing owners of multiple properties to receive electric service for short periods of time to allow for the cleaning and/or maintenance needs of the property.

No person, firm, partnership business or corporation shall be permitted to assign, transfer or "sign over" the deposit previously made with the City to any person, firm, partnership business or corporation. A new electric customer shall make his own cash deposit in accordance with this section.

C. Any person making an application for utility service shall make a deposit with his application or meter as set out by the City.

D. The deposit shall be held by the City Clerk, and if at any time the person making the deposit should desire to discontinue the use of utility services, he shall notify the City

Clerk, in writing, and shall accompany his application with all arrears, if any, and in case the application is not accompanied with the charges, then the authority shall deduct from the deposit the amount of utility charges against the meter and the balance, if any shall be returned to the person making the application. The City shall be authorized in the default of the application to pay such bills upon termination of service, to charge the same against any meter deposit provided for, and when the amount of such charge shall exceed the amount of the deposit, the City shall be authorized to discontinue the services until such arrears have been paid in full. Payment in a timely manner is defined as payment by the due date.

E. A fee for reconnection of any city utility service in the amount of Twenty Dollars (\$20.00) shall be paid prior to the reconnection of such service where the service has been turned off or a meter has been disconnected by the City for any reason. The reconnection fee plus payment in full of the outstanding bill and penalties will be charged and collected prior to restoration of service. For each cut-off thereafter, the utility customer shall be required to post an additional \$50.00 deposit prior to the re-establishment of service.

SECTION 17-203 OTHER UTILITY FEES OR CHARGES.

The authority from time to time by motion or resolution has the power to establish rates and charges governing all aspects of the utility services, including monthly service fees, connection fees and charges, and deposits.

SECTION 17-204 APPLICATION FOR SERVICE.

Any person desiring to have premises connected with the electrical distribution system of the City, shall make application to the City which application shall contain the name of the applicant, the lot and block number, the address, the kind of building and the name of the owner or account. When the application has been properly filed and deposit made as set forth, the City shall inspect the premises, and if they conform with the rules and regulations of the City for the distribution of electrical current, the application shall be approved and the installation made. For a new customer, a reasonable time, normally not to exceed three (3) months' time, shall be allowed to determine his service requirements before definitely selecting the appropriate rate schedule. Once selected, a rate adapted to his service may not change to another rate within a twelve (12) month period unless there is a substantial change in the character or conditions of his service.

SECTION 17-205 CONSUMER TO ADVISE OF CORRECT ADDRESS.

Every utility consumer, whether he is the owner or tenant, shall keep the utility department advised as to his correct mailing address. Failure to receive utility bills shall not be a valid excuse for failure to pay same when due.

SECTION 17-206 JOINT BILLING.

The monthly charges to any premises for utility services shall be billed monthly on a single bill or statement to each owner or occupant liable therefor; provide however, that such bill or statement shall separately state the charges for each utility service rendered to the premises.

SECTION 17-207 DUE DATE AND PENALTY FOR PAYMENT.

Utility bills shall be rendered monthly by the City, and all bills shall be due and payable on the 1st of the month ("due date"). If any bill is not paid by the 15th of the month, a penalty of ten percent (10%) of the bill shall be added thereto.

Section 17-208 NOTICE OF INTENTION TO TERMINATE SERVICE.

Utility consumers' bills will be computed at the net rates and shall be payable on or before the date as set out in Section 17-207, each and every month. Bills of all utility customers not paid by 5:00 P.M. on the 15th of each and every month, or in the event that the 15th falls on a weekend or holiday, then on the first business day after the weekend or holiday ("penalty date"), will be classified as delinquent and shall be subject to an additional charge equivalent to ten percent (10%) of the billing (excluding taxes). If any utility bill, or part thereof, shall remain unpaid on the eighth day after the penalty date or if one or more of the enumerated reasons as provided by Section 17-209 permitting termination of utility service is alleged to have occurred, the city shall give written notice of the enumerated reason for termination to the occupant of the premises for which such bill was rendered, who shall be deemed the agent of the owner of the premises for the purpose of notice, by mailing such written notice to the customer at the address provided to the City by the customer, specifying the amount due, with penalties and/or setting out specifically the enumerated reason for termination of utility service, and advising of the utility department's intention to terminate service on a date not less than forty-eight (48) hours (exclusive of Saturday, Sunday and holidays) after the posting or affixing of such notice. Such notice shall also contain a statement to the effect that the owner or occupant may request a hearing before a trust officer or employee within such forty-eight (48) hour period and state the telephone number at city hall where such

officer or employee may be contacted to request such a hearing.

Section 17-209 ENUMERATED REASONS FOR TERMINATION OF UTILITY SERVICE; TERMINATION OF SERVICE; RECONNECTION SERVICE CHARGE.

A. The City may disconnect and terminate service to a utility customer for any of the following reasons:

1. Nonpayment of all or any portion of an undisputed bill or a bill which is no longer disputed or for which the city's dispute process has been completed.

2. Failure to comply with the terms and conditions of a payment agreement as provide for in Section 17-210.

3. Failure to post a deposit as prescribed by City Code.

4. Failure to make application for service.

5. Misrepresentation of identity or facts for the purpose of obtaining service or use of an alias, trade name, business name, relative's name or another person's name as a device to escape payment of an unpaid obligation for city service provided to the utility customer. For purpose of further interpretation of this subsection, the failure of a previous owner or occupant at the premises to pay an unpaid or delinquent account shall not constitute grounds for termination, unless the previous occupant remains an occupant or user of the City service at the premises, and in such event, the service may be properly terminated.

6. Unauthorized use of a city utility accomplished through bypassing of the City's measuring equipment or tampering with wires, meters, pipes or other City equipment.

7. Whenever the City has reason to believe that continued service will create a health or safety hazardous condition on the utility customer's premise that is dangerous to persons or property.

8. Refusal to grant access at reasonable times for the purpose of installation, inspection, maintenance, replacement, or reading of City equipment installed upon the premises of the utility consumer, or obstructed city easement of right-of-way, or maintaining any obstruction that would deny access for these premises.

9. Potential adverse effect of the service required by the

consumer on the service of other utility customers of the City, provided the utility customer has been notified and given a reasonable opportunity to correct the adverse effect.

10. Abandonment of the premises served.

11. Upon request of the utility customer.

12. Causing an injury or threatening to cause an injury to an employee of the City or the family of an employee of the City or the property of the City for the purpose of preventing a City employee from engaging in activities authorized by law or in retaliation for such activities.

13. Violation of federal, state or local laws or regulations through use of the services.

14. Causing damages to City's utility service or related property.

B. If a utility bill remains unpaid, in whole or in part, or such service is subject to disconnection allegedly based on one of the enumerated reasons set out in subsection A hereinabove, after service of the required termination notice and the appropriate time period of such notice has expired, and if:

1. No hearing before a trust officer or employee has been requested; or

2. After such hearing such charges are found to be properly imposed and/or the enumerated reasons found to have occurred;

then the utility service may be terminated.

C. A reconnection fee in the amount of as set by the authority, plus payment in full of the outstanding bill and penalties will be charged and collected prior to restoration of service. For each cut-off thereafter, the utility customer shall be required to post an additional \$50.00 deposit prior to the re-establishment of service.

Section 17-210 PAYMENT ARRANGEMENTS.

The city officer or employee may make payment arrangements with any utility customer who have had continuous utility service with the City for at least one year and who makes a personal visit to city hall before the termination date as set out in Section 17-208. If payment arrangements are desired and approved by the city officer or employee, the utility customer may be required to sign a written agreement acknowledging the owed amount and agreeing

to the payment arrangements. If the utility customer's gross bill, including any subsequent month's service incurred after signing a payment arrangement contract, is not totally paid within the previously agreed upon payment arrangement date, the city may terminate the utility service.

SECTION 17-211 PERSONNEL MAY INSPECT PRIVATE PREMISES.

Authority personnel in the service of the utility systems may enter any private premises served by the water, electricity, sewer or other utility systems at any reasonable time, and inspect the pipes, lines, fixtures and connections on the premises.

SECTION 17-212 RURAL UTILITY USERS.

A. Every person being furnished utility services by the City, outside the corporate City limits of the City, shall be deemed and known as a "rural user."

B. Rural water service will be granted only after a request has been made therefor, in writing, addressed to the City Council of the City. Water extensions outside of the City limits of the City will not be made except on property on which the City has an easement, which has been granted the City or dedicated for public use. Such rural use shall have the prior approval of the City Council of the City; and all such extensions, lines, valves, fittings and connections shall be dedicated to the City for rural water service. All water extensions outside of the City shall be subject to the City plumbing code, and after inspection, shall be accepted by the City Council of the City, before being put in service.

C. In the event the City Council of the City determines by resolution, duly adopted and approved, that there is a water shortage in the City, and that it would be in the best interest of the inhabitants of the City, to disconnect all water connections to rural users, those persons, firms or corporations shall be disconnected from the water system of the City, from and after being given three (3) days written notice thereof by the City Clerk.

SECTION 17-213 CITY'S RIGHTS AND RESPONSIBILITIES.

A. When an application for utility services has been approved, the City shall cause to be installed a meter or tap as appropriate and connect the same with the authority for utility service. The City, at all times, shall have the right to enter upon the premises for the purpose of inspecting, maintaining, (including tree-trimming), reading of meters, and for the purpose of repair or adjustments of meters, lines and wires of the authority. The application and the installation of a meter or tap

on the premises shall constitute a contract and agreement between the City and the persons making the application to pay for utility services applied for at the rate and manner specified by the City. The City does specifically reserve the right to charge and collect the rate and enforce the penalties in the manner herein provided, to change the rates at any time by ordinance or resolution, to temporarily discontinue the service at any time, without notice to the customer when necessary for repairs or some other emergency at the discretion of the City. Unreasonable impediments to the reading of any utility meter shall constitute sufficient grounds for discontinuation of service (following proper notice) until the impediment has been removed by the customer or his agent to the satisfaction of the City.

B. The City will use reasonable diligence to supply steady and continued service at the point of delivery but will not be liable to the customer for any damages occasioned by irregularities or interruptions. The City may, without further notice, discontinue service to any customer when a defective condition of wiring or equipment upon the premises of the customer results, or is likely to result, in danger to life or property, or interfere with proper service. In order to make repairs or changes in the City's facilities for supplying utility service, or some other emergency, the City reserves the right without incurring any liability therefore to suspend service without notice to the customer for such periods as may be reasonably necessary.

SECTION 17-214 CUSTOMER REGULATIONS AND RESPONSIBILITIES.

A. The customer will not sell the utility service purchased from the City to any other person unless the rate schedule under which he is served provides for such a resale. The customer will not be permitted to extend or connect the installation of lines across or under a street, alley or other public space in order to obtain service for adjacent property through one meter or tap unless such adjacent property is a part of the same business, actually continuous except for intervening public space.

B. The customer will be responsible for all damage to, or loss of, the City's property located upon his premises, unless occasioned by causes beyond his control, and shall not permit anyone who is not an agent of the City to remove or tamper with the City's property.

SECTION 17-215 COLLECTION FEE.

Whenever the City or its public trust authority refers an unpaid debt or an unpaid account receivable to a collection agency, including but not limited to an unpaid fee, penalty, interest, or other sum due, or a court penalty, cost, fine or fee in cases in

the municipal court in which the accused has failed to appear or otherwise failed to satisfy a monetary obligation ordered by the court (hereinafter collectively referred to as an "unpaid debt or account"), a collection fee in the amount of thirty-five percent (35%) of the unpaid debt or account shall be assessed and collected.

SECTION 17-216 METHOD FOR REVIEW AND RECALCULATION OF UTILITY RATES.

A. Rates, fees and charges for all utility services shall be based upon an analysis of the actual cost of services to the City for providing each such utility service, to include operation, maintenance, repair, replacement and necessary additions to each such utility system.

B. It is the purpose of this section to assure the recovery of costs from users of the City's utility systems for sustaining and improving the utility services established herein, including the provision of a reasonable profit.

C. As soon as practicable following the receipt and acceptance of each successive year's fiscal audit, the City's financial consultant shall analyze the actual cost of services to the City/Tonkawa Municipal Authority for providing each such utility service. Such written analysis shall include a revised set of rates, fees and charges for all municipal utility services. Such written analysis shall thereafter be submitted to the City Council/Trustees as a part of the annual municipal/authority budget preparation together with a corresponding rate resolution.

D. If any revised rate resolution is approved and immediately thereafter posted, the new rate shall be implemented at the billing immediately following such approval or as soon as practical thereafter.

Section 17-217 AUTOMATED METER READING OPT OUT PROGRAM

There is hereby created the Automated Meter Reading Opt Out Program for the City of Tonkawa, Oklahoma (hereinafter the "Program"). The Program provides for the manual monthly reading of the water, and manual imputing of data into the utility billing system, in lieu of using the automated meter reading system. In order to participate in the Program, the customer must:

1. Be a utility customer of the City have a zero-utility balance;
2. Must remain enrolled in the Program for at least one year from the date of signing up for the Program; and

There shall be a step-up charge of Seventy-Five Dollars (\$75.00) to become a participant in the Program at each particular residential location, which amount shall be paid in full before participation shall be permitted. Thereafter the customer desiring to be in the Program shall pay a monthly fee of Fifteen Dollars (\$15.00), as the cost to provide manual meter reading and manually entering of the data into the utility billing system. Such monthly fee shall be paid as a part of the monthly utility billing. Access to the meter(s) must be provided by the customer to the city's meter reader at all times; failure to provide such access can result in the customer not being permitted to remain in the Program. The charges provided hereinabove are for all city meters to be manually read with data imputed at the service location.

Section 17-218 CHARGE FOR DAMAGED OR DESTROYED AMR WATER METER CAPS AND/OR ANTENNAS

The following charges shall be assessed and paid by any utility customer of the City when and if the cap or antenna for the automated water meter located on the water meter lid serving the customer's residence or business is lost, damaged, or destroyed:

Cap Only	\$30.00
Antenna with Cap	\$150.00

The charge shall be placed on the monthly utility bill of the customer and collected as are all utility charges of the City, and if it involves the antenna with cap charge, upon request of the customer and with the customer signing a payment arrangement agreement, shall be paid over not more than three (3) monthly utility billing cycles.

ARTICLE 3 WATER SERVICE

SECTION 17-301 APPLICATION FOR WATER SERVICE.

When any person desires to connect with the water system of the City, he shall apply to the office of the Utility Superintendent for a written permit, which shall bear the name of the applicant, the location of the property to be served, including the street name, lot and block number, and the class or kind of service for which it is to be used, together with the name of the plumber or contractor who has been employed to do the work.

SECTION 17-302 METERS.

A. All tapping shall be paid for by the consumer, including

all necessary fittings, work and material used in connection therewith. The City will furnish all meters and necessary fittings for installing same together with suitable box for same where necessary, excepting where meter of larger capacity than one inch is required, and in such case the consumer will be required to purchase and install same at his own expense under the supervision of the superintendent. The meter shall be of standard manufacture and of a type approved by the department and shall apply to all present and future users of meters.

B. The City will keep in good repair at its own expense all water meters of its own installation, excepting where meters have been damaged by carelessness or wrongdoing of the user, when same shall be repaired and charged against the consumer.

SECTION 17-303 THEFT OF WATER.

Any person, firm, or corporation who shall by fraud or stealth in any way obtain water service without having first made application to the office of the department in regular form, shall be guilty of an offense, and upon conviction thereof shall be punished accordingly. The amount of water that has been obtained by any person, firm or corporation without such water having been permitted to go through the meter designated and placed for such person, firm, or corporation shall be estimated by the average amount used by such person, firm, or corporation during the past three (3) months that meter operated, and the person, firm or corporation shall pay for same at the rate fixed by authority of the City. In any case where theft is committed, the City shall have the right at the expense of the owner to install a boot and lock for the water meter and pit as a precaution against further theft.

SECTION 17-304 FAILURE OF WATER SUPPLY.

In case the supply of water shall fail, whether from natural causes or accidents of any kind, the City shall not be liable for any damage of any kind by reason of such failure.

SECTION 17-305 CITY LIABILITY.

The City is merely a supplier of water delivered at the curb valve of the consumer's installation, and is not responsible for any damage to apparatus, equipment, or other property of the consumer, either from wear or tear or inherent defects in the installation.

SECTION 17-306 WATER METER LOCATION.

The location of the water meter will be at a location on the

line extension to be designated by the water department of the City.

SECTION 17-307 MAIN VALVES.

All main valves throughout the entire water system are for the exclusive use of the City in making repairs, extensions, and other improvements; and no person, firm, or corporation shall, under any circumstance, use or tamper with them without written consent of the superintendent of the departments. All fire hydrants and public hydrants of all kinds are directly under the control of the City. Any person, firm, or corporation who shall tamper with or secure water from any of these places in any otherway than that for which they are intended shall be guilty of an offense and shall be punished accordingly.

SECTION 17-308 RESERVOIR, PUMPING AND FILTER PLANTS, TANKS AND TOWERS.

It is an offense and unlawful for any party or parties to loiter around, climb upon, or tamper in anyway with the tower and pressure tank or pumping station and filter plant. No party or parties shall loiter about the reservoir or drainage canals, climb upon the dam, hunt, fish, use boats on, or bathe, or wade in the reservoirs or drainage canals; and the reservoirs or drainage canals shall be under the supervision of the City. Any party or parties guilty of such offense shall, upon conviction thereof, be punished accordingly.

SECTION 17-309 REMOVAL BILLS; SPECIAL BILLS.

Bill rendered on vacation of premises or bills rendered to person discontinued service must be paid on presentation.

SECTION 17-310 SERVICE REGULATION.

The authority reserves the right, in cases of emergency, to govern and regulate the use of water to all consumers by resolution or proclamation as they deem proper for the public health and safety.

SECTION 17-311 FLUORIDE.

In order to protect the health and welfare of the citizens of the authority, from and after the effective date of this chapter, the quantity of fluoride in the public water supply shall be controlled in such manner that the amount present in the water served to the public shall be in conformity with the policy, and subsequent changes thereto, established by the State Board of Health.

SECTION 17-312 RESTRICTING THE USE OF WATER DURING AN EMERGENCY.

Water restrictions imposed by Mayor. In case of emergency caused by a shortage of water in the City water system, it shall be the duty of the Mayor to give immediate notice, by publication in a newspaper of general circulation in the City, to the customers of the water system, restricting the use of water obtained from the water system, as the Mayor may designate for so long as such water shortage shall last. Thereafter, and until the Mayor proclaims that the emergency is at an end, it shall be unlawful for any person, corporation or entity, directly or indirectly, to use water obtained from the water system for any purpose or use specifically prohibited by the public notice.

SECTION 17-313 WATER RATES.

The water rates to be charged shall be as set by resolution of the City Council or the Tonkawa Municipal Authority.

SECTION 17-314 MANDATORY WATER CONNECTION.

A. The owners of all houses, building or property used for human occupancy, employment, recreation or other purposes, situated within the corporate limits of the City and abutting on any street, alley or right-of-way in which there is located a public water lines, are hereby required at their own expense, to install suitable facilities therein, and to have such facilities connected directly with the proper public water within sixty (60) days after the date of official notice to do so; provided, that such public water line is within three hundred (300) feet of the property line.

B. Said notice shall be served by a designated agent of the Authority by delivering a true and correct copy to the property owner or leaving the same at his usual place of residence with a member of his family over the age of fifteen (15) years, or if such owner cannot be found, by posting a copy of such notice at the front entrance of the building involved.

C. Any person who shall fail, neglect or refuse to comply with the terms of this section after having been notified to do so as provided herein shall be guilty of an offense. In the event of a continuous violation of this Section by any property owner, the Authority may discontinue the furnishing of water to such property owner, until such time as a proper water connection has been made to the dwelling.

ARTICLE 4

SEWER SERVICE

SECTION 17-401 MANDATORY SEWER CONNECTIONS.

A. The owners of all houses, building or property used for human occupancy, employment, recreation or other purposes, situated within the corporate limits of the City and abutting on any street, alley or right-of-way in which there is located a public sanitary sewer of the Authority, are hereby required at their own expense, to install suitable toilet facilities therein, and to have such facilities connected directly with the proper public sewer within sixty (60) days after the date of official notice to do so; provided, that such public sewer is within threehundred (300) feet of the property line.

B. Said notice shall be served by a designated agent of the Authority by delivering a true and correct copy to the property owner or leaving the same at his usual place of residence with a member of his family over the age of fifteen (15) years, or if such owner cannot be found, by posting a copy of such notice at the front entrance of the building involved.

C. Any person who shall fail, neglect or refuse to comply with the terms of this section after having been notified to do so as provided herein shall be guilty of an offense. In the event of a continuous violation of this Section by any property owner, the Authority may discontinue the furnishing of water to such property owner, until such time as a proper sewer connection has been made to the dwelling.

SECTION 17-402 SANITARY SEWERS, ALTERNATE DISPOSAL.

A. Except as hereinafter provided in this Section, it shall be unlawful for any person to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended to be used for the disposal of sewage within the corporate limits of the City.

B. Where a connection to a public sanitary sewer line is not required under the provisions of 17-507, a private septic tank or cesspool facility for sewage disposal may be constructed and maintained, provided it is constructed and maintained under the rules and regulations of the Health Officer and in compliance with the recommendations and requirements of the Oklahoma State Department of Health. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.

C. In the event geographical, topical, or other terrain

features prevent direct connecting into the public sewage disposal system, no private sewage disposal system will be authorized when a lift station will suffice.

D. Construction of a private sewage disposal system, is prohibited unless and until authorization is granted by the Authority or until the proposed construction has been approved by the Oklahoma State Department of Health.

E. The owner of private septic tanks or cesspools shall operate and maintain the same in a sanitary manner at all times, at no expense to the City, Authority, and no statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the State Health Officer.

F. At such times as a public sewer becomes available to a property served by a septic tank or cesspool, a direct connection shall be made to such public sewer in compliance with Section 17-507, and the septic tank or cesspool shall immediately be abandoned and filled with suitable material.

SECTION 17-403 PENALTIES.

A. It shall be unlawful for any person to maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenances, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

B. Any person found to be violating any provision of this chapter shall be served by the owner with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

C. Any person who shall continue any violation beyond the time limit provided for in this section shall be deemed guilty of a violation thereof, and upon conviction thereof shall be punished as provided in Section 1-108 of this code for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

D. Failure to pay monthly bills for water or sanitary sewer service when due or repeated discharge of prohibited waste to the sanitary sewer shall result in disconnection of any and all services to the water or sanitary sewer lines of the owner.

SECTION 17-404 SEWER RATES.

The sewer rates to be charged shall be as set by resolution of the City Council or the Tonkawa Municipal Authority.

SECTION 17-405 PRETREATMENT ORDINANCE

There is hereby adopted the City of Tonkawa Pretreatment Ordinance regulating discharges into the City's sanitary sewer and placing regulations of certain businesses. Such ordinance was adopted as Ordinance No. 2-2-04 on the 2nd day of June 2002, is attached hereto as Appendix 2 and incorporated and adopted by reference as if fully set out herein.

ARTICLE 5

SOLID WASTE COLLECTION AND DISPOSAL

SECTION 17-501 DEFINITIONS.

For the purpose of this article, the following terms shall have the meanings respectively ascribed to them herein unless the context clearly requires otherwise:

1. "Garbage" means all putrescible waste, except sewage and body wastes, including all meat, vegetable and fruit refuse and carcasses of small animals and fowl from any premises within the city;

2. "Premises" means land, buildings or other structures, vehicles, watercraft or parts thereof, upon or in which refuse is stored;

3. "Refuse" means all solid wastes, including garbage and rubbish;

4. "Rubbish" means tin cans, bottles, papers, tree limbs, leaves, and similar materials from any premises within the city; and

5. "Rubble" means brushwood, cardboard boxes and other bulky earthen, wooden or metal refuse-like materials, longer, larger or heavier than refuse.

SECTION 17-502 REFUSE SERVICE

It is the duty of every person occupying or having control of the occupancy of any premises located on a regularly established city refuse route to notify the city at the beginning of such occupancy and request, accept and use the city refuse service.

Failure of any request shall not prevent nor impair or impede the city from adding the address of such premises to the proper route and providing such service and otherwise enforcing the regulatory measures herein prescribed and collecting the fees or charges to be paid therefore.

SECTION 17-503 ACCUMULATIONS OF GARBAGE AND REFUSE

It is the duty of every person owning, managing, operating, leasing, occupying or renting any premises or any place where refuse accumulates, to provide, and at all times maintain in good order and repair, on the premises, a portable container or containers for refuse. All such containers shall be rodent-proof and be of sufficient capacity and in sufficient numbers to accommodate and securely keep all of the refuse that may accumulate between collections except where approved type bulk containers are in use. All such containers shall be kept clean and free from accumulation of any substance remaining attached to the inside of the container which would attract flies, mosquitoes or any other insects. All refuse shall be transported to, and emptied into, the bulk containers where they are provided.

SECTION 17-504 AUTHORITY RULES ADOPTED BY REFERENCE, PENALTY.

Rules and regulations adopted by the Tonkawa Municipal Authority are hereby adopted and incorporated herein by reference, applicable as if set out in full herein. Any violation of the rules and regulations of the Authority shall be punishable as provided in Section 1-108 of this code.

SECTION 17-505 COLLECTION OF GARBAGE, REFUSE AND RUBBISH.

A. The refuse containers shall be placed at curbside for collection on the regular collection days in a location mutually convenient to the resident and the refuse collector.

B. Commercial and institutional establishments, businesses, factories, manufacturers and similar businesses shall use approved dumpster containers as are necessary for securing, removal and maintenance of sanitary conditions on the premises. Such dumpster must be either one rented from the city or the authority or a dumpster of similar material, construction, design and configuration to allow mechanical loading by the sanitation trucks of the city or authority.

C. Ordinary accumulations of rubbish such as tree limbs, paper boxes and scrap lumber which cannot be conveniently placed in the containers required in this chapter shall be gathered together and baled, tied or stacked in compact bundles, weighing not more than fifty (50) pounds, and placed in a location easily

accessible to the collector.

D. The city or its agents shall collect garbage, trash, debris, rubbish and refuse as provided herein over routes approved by the city when such refuse is placed in proper containers as prescribed by the city.

E. Heavy accumulations such as brush, broken concrete, ashes, sand or gravel, auto frames, dead trees and other bulky, heavy materials shall be disposed of at the expense of the owner or person controlling the premises in the manner directed by the city health officer or as set forth by the rules and regulations of the public works authority.

F. Manure from animals and waste oils from garages considered hazardous or dangerous shall be removed and disposed of at the expense of the person controlling the premises in the manner and by the method directed by the city health officer or as set forth by the rules and regulations of the public works authority.

G. Carcasses of animals such as cows, horses and mules shall be removed and disposed of at the expense of the owner or person in control of the premises in the manner and method directed by the city health officer or as set forth by the rules and regulations of the public works authority.

H. Certain premises with excessive accumulations of refuse, garbage or rubble may be excluded from city service or may be included at special rates. If no city service is provided, the person in charge of the premises shall remove and dispose of the accumulations in the manner and method directed from the city health officer or as set forth by rules and regulations of the public works authority.

I. Interfering with, meddling, pilfering, scattering or junking of any refuse container in any alley or street is prohibited.

J. The city health officer or his agent may make all necessary inspections and investigations of any and all premises to see that the terms of this chapter are complied with.

Cross Reference: See also Part 8 of this code for provisions on sanitation, accumulations on premises.

SECTION 17-506 PERMITS FOR PRIVATE REFUSE COLLECTION, DISPOSAL REQUIRED.

A. It is unlawful for any person who does not possess an

un-revoked permit from the city to engage in the business of refuse collection or refuse disposal for compensation in the city. The city shall issue permits for such applicants in accordance with this section and applicable rules and regulations of the public works authority. Such permits shall be limited to persons having proper equipment meeting state requirements and personnel to collect and dispose of refuse in accordance with the provisions of this chapter. The method of disposal used shall be in accordance with this article.

B. Every person desiring a private refuse collection or disposal permit shall make written application to the city health officer, setting forth the name, the residence address or the business address, a description of the collection or disposal equipment to be used, the place and method of disposal, along with payment of the required annual permit fee. Upon approval of the application, the permit may be issued.

C. Any person whose application for permit is denied may request, and shall be granted, a hearing before the city health officer.

D. A permit issued under this section shall expire on December 31 annually. Permits shall be renewable in the same manner and upon payment of the annual fee as provided for initial applications.

SECTION 17-507 OPEN BURNING.

A. Except pursuant to and in compliance with a permit issued by the Fire Chief, no person shall burn rubbish, refuse, trash or other rubbish within the fire limits of the city.

B. Outside the fire limits, rubbish may be burned only in approved-type incinerators approved by the city and under the supervision of a competent person. The city reserves the right to prohibit any outside burning on certain days or times. Such prohibitions shall become effective upon publication in a newspaper of general circulation in the city.

C. Open burning is prohibited on any street, alley, or other public way or on property of another without the permission of the owner or person in charge of that property.

SECTION 17-508 DISPOSAL.

The disposal of garbage and rubbish shall be by landfill and daily cover, or as otherwise directed by the city or authority. The placing of garbage, rubbish or refuse in any street or alley within the city or the disposal of such refuse at any place within

the city except at the city disposal grounds, or other place designated by the city, is prohibited.

SECTION 17-509 FEES.

Fees shall be established by motion or resolution for the refuse service provided by the city. The charges may be included with the water bill. Rental fees charged for rental of approved dumpsters from the city shall be included on the fee schedule and are in addition to the monthly refuse collection fee. Whenever the refuse from any business or commercial establishment shall exceed the amount upon which the city charge is based for a period exceeding thirty (30) days, to the extent that the fee charged for such collection is no longer fair and reasonable, the City Manager shall recommend to the council that it re-establish the rate charged for such service to that business or commercial establishment.

Cross Reference: See fee schedule for applicable fees.

SECTION 17-510 INSPECTIONS.

It is the duty of the city health officer or his designee to make all necessary inspections and investigations of any and all premises to see that the terms of this chapter and city code are complied with.

SECTION 17-511 PENALTY.

Any violation of this chapter shall be punishable as provided in Section 1-108 of this code. Each day such violation occurs shall be a separate offense.

SECTION 17-512 USE OF ANOTHER'S TRASH CONTAINER

Except as otherwise provided herein, it shall be unlawful for any person to use another person's trash container, whether the container is furnished by the City or the Contractor or by the individual or some other person, without permission of such other person.

ARTICLE 6

ELECTRIC SYSTEM

Section 17-601 ACTS AUTHORIZED.

Any act in this chapter required to be done by the authority shall be done on its behalf by an authorized employee of the electric department.

Section 17-602 CONNECTION TO ELECTRICAL SERVICE, APPLICATION.

Any person desiring to have premises connected with the electrical distribution system of the authority shall make application to the authority. The application shall contain the name of the applicant, the lot and block number, the address, the kind of building and the name of the owner or account. When the application has been properly filed and the deposit made as set forth, the authority shall inspect the premises. If the premises conform with the rules and regulations of the authority for distribution of the electrical current, then the application shall be approved, and the installation made. For a new customer, a reasonable time, normally not to exceed three (3) months' time, shall be allowed to determine his service requirements before definitely selecting the appropriate rate schedule. Once selected, a rate adapted to his service may not change to another rate within a twelve (12) month period unless there is substantial change in the character or conditions of his service.

Section 17-603 - Section 17-606 RESERVED.

Section 17-607 STANDARDS FOR WIRING AND APPARATUS, REFUSAL TO CONNECT.

All electric wiring and apparatus connected, or to be connected to the City's distribution system shall be made, installed, and maintained in accordance with the requirements of the electric code adopted by the City. The City reserves the right to refuse to connect to any wiring or apparatus which does not meet these requirements and the City may, without further notice, discontinue service to any customer when a defective condition of wiring or equipment on the premises of the customer results, or is likely to result, in interference with proper service.

Section 17-608 DISCONTINUATION, RE-CONNECTION.

If at any time a person should desire to discontinue the use of electric service, he shall notify the City in writing and shall accompany his application with all the arrears, if any there be, and in case the application is not accompanied with such charges, then the City shall deduct from any deposit the amount of the electrical charges against the meter, and the balance of the deposit, if any there be, shall be returned to the person making the application. The City shall be authorized in the default of the application to pay such bills as rendered each thirty (30) days, to charge the same against any meter deposit provided for, and when the amount of such charge shall exceed the amount of the deposit, the City shall be authorized to discontinue the services until such arrears have been paid in full. Customers' bills will be subject to penalties, disconnection and other procedures as

generally provided in this chapter. The City shall charge and collect a service charge from each customer for re-connection of electrical service after disconnection for failure to make payment of monthly bills.

Section 17-609 RATES AND CHARGES; REFUSE TO CONNECT

A. The City or authority shall charge and collect such rates and charges for use of the electric system as is set by motion or resolution.

B. The City reserves the right to refuse to connect any electric user to the electric system of the City by underground connection, but only in the event that the Electric Superintendent reasonably believes that such connection or installation will adversely affect the overall electric system, that such connection would be unsafe, or any other reason based on sound electric theory or principles.

Section 17-610 Residential and Commercial Distributed Generation Customer's Rate.

Wind, Solar and/or other Grid-Connected Non-Utility Owned Electric Generation Producing Electric Customers (hereinafter referred to as "Residential and Commercial Distributed Generation Customers" or "customers") Residential and Commercial Distributed Generation Customers shall pay shall pay a customer charge of \$58.00 per month and the usage rate per month based on actual metered consumption of \$0.07 per kilowatt hour (kWh) for the first 1200 kWh used, after which use the per kilowatt hour (kWh) charge shall be the same per kilowatt hour (kWh) charge as provided for all other users in such similar class of customer, which per kilowatt hour (kWh) charge shall be used to calculate the rate as provided in this code. All customers shall ensure there any back feed of electricity into the City's system is safe and constructed and operated in accordance with all state and local electrical codes and agree that the City has the right to inspect the customer's system to ensure such connection standard. The City will not use or pay for any electricity generated or received from a customer's generation system. Any customer who shall construct, install, operate and/or use, or permit the construction, installation, operation and/or use of a distributed generation service at such customer's residence or business, shall notify the City of such fact by making a personal visit to city hall at least ten (10) business days prior to the date of such construction, installation, operation and/or use of the distributed generation system. During such personal visit, said customer's rate shall be adjusted to the rate provided herein and a date and time for inspection of the facilities at the

customer's home or business shall be set, and continued from time to time as required, to ensure that the installation is approved for use by the City, prior to its actual use by the customer. If the system is in compliance with the provisions of the municipal code and building codes adopted thereby, then the City Clerk shall issue a permit authorizing the installation and use of the system. Any customer who shall violate any provision of this section, by act or omission, shall be guilty of an offense and shall be subject to a fine of Two Hundred Dollars (\$200.00), court costs and all applicable fees and state assessments, with each such day of continued violation deemed an additional offense.

Section 17-611 DISTRIBUTED GENERATION RULES AND REGULATIONS

A. IN GENERAL. This section provides for the rules and regulations concerning customer-owned, grid-connected non-utility owned electric generating systems (hereinafter referred to as "Generation systems ") which may be connected for parallel operation with the electrical system of the City of Tonkawa and the Tonkawa Municipal Authority (hereinafter for purpose of convenience only referred to as the "City").

1. Generation systems will be permitted to interconnect to the City's electric distribution system at the service level voltage only after a determination by the City that such interconnection will not interfere with the operation of the distribution or transmission system and that such interconnection ensures the safety of City employees and customers.

2. The City will not compensate, reimburse, refund, credit, or pay for any generation created by the Generation systems and sent back into the distribution system of the City.

3. All agreements under the original connection agreement between the Customer and the City shall remain in effect including, but not limited to paying for electricity used and the penalties assessed for payment failure.

B. Interconnection Requirements

1. Customer has elected to operate, at its own expense, a Generation system. Generation systems shall be limited in size to not more than five (5) kW per customer aggregated for a combined total of fifty-three (53) Kw at the service interconnection point. The generation system is intended to offset either all or part of the customer's electrical requirements.

2. Customer's Generation system shall supply alternating current power, 60 Hertz, at a voltage and phase of the City's established secondary or primary distribution system.
3. If the Customer's Generation system full output capacity is larger than ten percent (10%) of the substation, feeder, or distribution line tap minimum load at the point of interconnection, additional studies and equipment may be required to provide proper line protection and voltage regulation. The Customer is responsible for the cost of any studies and/or upgrades required to allow safe interconnection of the Customer-owned generation.
4. Generation systems which produces frequencies that result in interference or generates distorted wave forms into the 60 Hertz City electric system which adversely affects the operation of City's electric system shall be corrected at the expense of the Customer.
5. Any costs or expenses incurred by the City due to modifications made to the City's existing electrical system as a result of the interconnection of Customer's Generation system shall be paid by the Customer.
6. Customer shall be the owner of the renewable attributes of the electricity that is generated, to include any and all credits, certificates, benefits, environmental attributes, emission reductions, offsets, and allowances, however entitled, attributable to the generation of electricity from the Customer-owned renewable generation and its displacement of conventional energy generation.
7. City may require Customer to interrupt or reduce deliveries when necessary in order to construct, install, maintain, repair, replace, remove, investigate, or inspect any of its equipment or part of its system.
8. Customer shall comply with all the latest applicable National Electric Code (NEC) requirements, NESC requirements, State of Oklahoma requirements, building codes, and shall obtain electrical permits for the equipment installation. Installation shall comply with local site permitting requirements.
9. The meter and transformer or transformer pole serving the Generation systems shall be labeled to indicate potential electric current back feed, and label shall be maintained by the Customer.

10. Customer shall provide space for metering equipment and meter base per City's requirements.

11. Customer's over-current device at the service panel shall be marked to indicate the type of back feed power source. Markings shall be maintained by the Customer.

12. Customer assumes full responsibility for all maintenance of generators, inverters, and associated equipment including protective equipment. Customer shall keep record of maintenance activities and provide such records to the City upon request.

13. Customer's Generation systems shall comply with NEC Articles 690 and 705 and applicable and current Institute of Electrical and Electronics Engineers (IEEE) standards including Standard 1547 "Interconnection Distributed Resources with Electric Power Systems" and any future updates or revisions for parallel operation with the City's electric system, in particular: a) Power output control system shall automatically disconnect from the City's source upon loss of voltage and not reconnect until City's voltage has been restored for at least five (5) minutes continuously, b) Power output control system shall automatically initiate a disconnect from the City's power source with six (6) cycles (0.1 second) if Customer's voltage falls below 50% of nominal on any phase, c) Power output control system shall automatically initiate a disconnect from the City's power source within two (2) seconds if Customer's voltage falls below 88% of nominal or rises above 120% of nominal on any phase.

14. Customer shall provide a written description of how the protection devices will achieve compliance with the requirements of this section as part of the building permit application.

15. Customer shall furnish and install on Customer's side of meter a UL-approved safety disconnect switch, or transfer switch, which shall be capable of fully disconnecting the Customer's generating facility from the City's electric system. The disconnect switch shall be located adjacent to the City's meter and shall be of the visible break type in a metal enclosure which can be secured in the "Off" position with a padlock. The switch shall be accessible to City personnel at all times.

16. For systems up to five (5) Kw, the Customer shall, at its own expense, maintain in force general liability insurance in the amount of \$1,000,000.00, which insurance will protect against third party claims of property damage or injury to persons, including

death, without any exclusion for liabilities related to the interconnection.

17. For purposes of gathering research data, City may at its expense install and operate additional metering and data-gathering devices on the Generation systems.

C. Specifications and System Diagram

1. Customer shall supply specifications for the proposed Generation system as part of the building permit process.

2. Customer shall supply a system diagram for use of City in determining the safety and functionality of a grid-connected generator that will be kept in City files.

3. Customer shall supply a certificate of completion from a qualified professional engineer or electrician that the Generation system meets all the requirements of this section.

4. All customers will sign a statement that they will adhere to the provisions of this section during the construction, installation and operation of my Generation system.

CHAPTER 18. FEE SCHEDULE

SECTION 18-101 FEES

For the purposes of providing a clear and concise listing of the fees and charges authorized by the provisions of this code, a schedule of fees and charges, or fee schedule, is hereby set forth in this appendix. The heading gives the title of the appropriate chapters and articles, as applicable. Actual cost for research fees include cost of labor or any fees expended by the city. The fees herein may be amended by motion or resolution of the council. Current copy is on file with the City Clerk.

DESCRIPTION OF FEE

ADMINISTRATION AND GOVERNMENT

CITY RECORDS

Code Section

2-309	Photocopying (per page)	\$ 0.10
2-310	Mechanical reproduction fee	Actual cost to city
2-311	Search fee for commercial purposes	Actual cost to city
2-312	Prepayment required when estimated cost exceeds	\$25.00
	Accident Report; arrest report, offense report; incident report	\$3.00/page \$7.00 per tape

ALCOHOLIC BEVERAGES

3-102	Certificate of compliance with zoning, Fire, health and safety codes	\$50.00
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ANIMALS

General Provisions

4-108	Annual license fee for kennel or cattery permitted	
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4-122	Animal over 6 months of age,	
	annual tax	\$5.00
	Tag replacement fee	\$0.50

4-133	Impounding and keeping animal or fowl:	
	1. Impound fee	\$10.00
	2. Per day fee and care	\$2.00

Dogs not vaccinated against rabies, pay deposit as set by city to be refunded upon proof of vaccination.

1.	Impound fee (non-refundable)	\$25.00
2.	Per day fee and care	\$5.00

Dogs not vaccinated against rabies, pay deposit as set by city to be refunded upon proof of vaccination

	Requesting impoundment or disposal (per animal)	\$25.00
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4-134	Redeeming animals:	
	1. Impoundment fee	\$25.00
	2. Proof of vaccination	

(Deposit Required)
3. Feed and care (Per Day) \$5.00

Adoption Fees:

Cost of vaccination, plus all applicable impound (\$25.00), daily care (\$5.00 per day) and all Other expenses incurred.

4-134 Refund of excess sale price

4-161 Supervised quarantine at owner's expense
Actual Cost

4-173 Impoundment of vicious, dangerous or diseased animals
- expenses are the responsibility of Owner

Actual Cost

4-175 Determination if animal is vicious, dangerous or diseased.
Actual Cost

If not, then surrendered to owner upon payment of expenses. If it is, the owner to pay all Required fees.

BUILDING REGULATIONS AND CODE

Registration, Permits, Bond and Fees

5-102	Electrical Contractor	\$100.00
	Journeyman	\$0.00
	Apprentice	\$0.00
	Plumbing Contractor	\$100.00
	Journeyman	\$0.00
	Apprentice	\$0.00
	Mechanical Contractor	\$100.00
	Journeyman	\$0.00
	Apprentice	\$0.00

NOTE: All of the above contractors must show proof of bond with the state.

5-107 Electrical:

For new construction permit is one-half of the building permit. The placement of the construction pole with the meter and outlets will be the responsibility of the owner or electrical contractor and there will be a one-time charge of \$15.00 for the hook-up of this installation. The meter base can be purchased from the City or furnished by owner or contractor but will be of the same specifications as the one from the City or equivalent. There is a \$6.50 minimum fee involving a single fixture and a \$10.00 minimum fee plus \$.20 per opening.

LPG:

\$5.00 minimum plus \$1.00 per fixture. A person doing work done on LPG system will have to have the required certification for this type of work.

Plumbing:

\$5.00 minimum involving a single fixture or a remodel involving a single fixture. \$5.00 plus \$1.00 extra for any work involving more than one fixture.

Mechanical:

\$5.00 minimum for major repair of mineral remodel. \$5.00 minimum for new work plus \$.20 per square foot of the area furnished by this unit.

5-108	New Construction	\$2.00 per one hundred (100) square feet.
	Remodel	\$10.00 minimum for anything involving a Roof with a floor space of more than eighty (80) square feet.
		\$5.00 minimum for driveways, carports, fences, small storage buildings, etc.

NOTE: All applicants for permits must furnish a drawing showing in some detail, the relevant size and location of the purposed project. In the case of fences, small storage buildings, driveways, a sketch on the application will suffice. However, for major remodel and new construction and large complex projects a set of drawings by an engineer or architect may be

required, and the cost of the plan review will be added to the permit. This cost will vary with the complexity of the project.

Bonds and Fees

5-222 Permit to move building 16 feet high & 18 inches wide
or (91-4)

Permit fee to move building with 24 hours' notice
\$20.00

Without 24 hours' notice \$30.00

COURT PROCEDURE

6-112 Filing criminal offense in Municipal court, court
cost fee \$30.00

6-126 Deferred sentence to pay restitution and
administrative fee of up to state maximum

6-127 Judgment of conviction: Cost to defendant of maximum
sum required by state law (plus fees, mileage of jurors
and witnesses, witness fees paid per day plus mileage
\$ 25.00

6-134 Dishonored check or instrument returned and
processing fee per check or instrument to Court
Clerk (returned check charge)
\$25.00

FINANCE AND TAXATION SALES TAX

Sales Tax set 4.5%

Use Tax 4.5%

Telephone Exchange Fee

7-401 Annual Inspection fee and service charge for operating
exchange (2%)

Utility Fee

7-501 Utility tax, in lieu of franchise 2%

Health and Nuisances
Nuisance and Health Generally

8-109 Summary abatement of nuisances; cost to owner or person responsible

8-110 Abatement of health nuisance; cost of abating or removing nuisance, charged to owner or Occupant.

Weeds, Grass and Trash

8-205 Cleaning and mowing:

If done by city not to exceed \$500.00

If done by private contract to be bid of best and lowest bidder

Actual costs and other expenses including notice and mailing to be paid by property owner

Dilapidated Buildings

8-303 Costs of dismantling and removal of boarding or securing:

If by city actual cost of labor, maintenance and equipment not to exceed \$500.00

If by private contractor to be by bid

Actual costs and other expenses including cost of notice and mailing to be paid by Property owner

Abandoned, Junk Vehicles

8-403 Advance cost of mailing to property owners advising of application; up to Maximum of \$50.00

8-407 Owner responsible for all expenses incurred by removal and deposition

8-413 Redemption of impounded vehicles or motor vehicle, prior to sale; actual and reasonable expense of removal plus storage

LICENSES AND BUSINESS REGULATIONS

9-101 License For:

- | | | |
|----|---|---------|
| 1. | Skating Rink \$5.1 (1) per year | \$25.00 |
| 2. | Street Fair or Carnival per year | \$25.00 |
| 3. | Pawnbroker per year) | \$25.00 |
| 4. | Bowling Alley per year | \$5.00 |
| 5. | Pool or Billiard Hall per year | \$5.00 |
| 6. | Domino, card or other game parlors
per table, per year | \$5.00 |
| 7. | Coin-operated Amusement Devise per
device, per year | \$12.00 |

9-102 Separate license required for each branch or separate place of business (same as original)

9-104 Issuance of licenses conditioned upon approval, fees, inspection or bond

9-107 Renewal license fee (same as original)

9-108 Processing fee for all licenses and permits

Itinerate Vendors

9-202 License required prior to soliciting in the city to cover each person and each location or separate

Place of business

Per Week	\$25.00
Per Day	\$5.00

Owner or lessees of building to obtain blanket itinerant vendor license

Fee for license	\$25.00
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9-208 Sale of foods requires individual license

Garage Sales

9-303 Permit required	\$5.00
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Taxicabs

9-402 Taxicab license required to operate:

- 1. First taxicab license \$50.00
- 2. Each additional license \$20.00

9-413 License fee in lieu of occupation License

Tags\$50.00

OFFENSES AND CRIMES
Offenses Against Public Peace

10-406 Parade permit (street fair, street dance, carnival

Per day \$25.00

PLANNING, ZONING AND DEVELOPMENT
ZONING REGULATIONS

12-201 Zoning Regulation, filing, amendment, etc. fees

Subdivision and Platting Regulations

12-401 Subdivision regulation, filing, etc. fees:

The water and sewer systems must be designed by a registered P.E. and submitted to the State Health Department for review and approval. There is a fee associated with this and is the responsibility of the developer. These plans along with a detailed set of plans have the subdivision including the layout of the streets and alleys (these alleys must be dedicated alleys, not easements) will be submitted to the Planning and Zoning Committee for review, they will, in turn, submit these to the council with their recommendations. Fees will be \$100.00 plus Health Department Costs.

Mobile Home Regulations

12-601 Mobile home regulations, permits, parks, etc., fees:

Mobile homes allowed to be placed in the City upon approval, will require a building permit. The cost of this permit is \$10.00. Mobile homes placed in mobile home parks are regulated by another section of this code.

Parks would be same as subdivision. (12-401)

Flood Plain Regulations

12-707 Development permit - Area to be developed will be topographically surveyed by engineer, and studied by an engineer

to determine impact on surrounding area. The topographical map and the findings of the engineer to be furnished before a permit is issued. That permit will be same as subdivision regulates. In the case of a building permit, if this study is for a business or dwelling in a flood plain will be the same as any other building permit after all the above are met and measures are taken to prevent flooding or flood damage to the proposed building project.

Public Safety

Fire Prevention Code

13-106 New materials, processes or occupancies may require permits.

Fire Services

13-224 Charges for calls made outside city limits

- A. Non-emergency calls: \$250/truck per hour
\$25.00/hr. per each
fire fighter (min of
1 hr.)
- B. Emergency calls: \$300 per truck per each 8-hr.
period.

Ambulance Services

13-605 Ambulance and Emergency Medical Service Rates

A. Effective April 1, 2018, the rates to be charged for ambulance and emergency medical services shall be as follows:

Advanced Life Support (Emergency)	\$850.00 per run
Advanced Life Support (Non-Emergency)	\$850.00 per run
Basic Life Support (Emergency)	\$750.00 per run
Basic Life Support (Non-Emergency)	\$750.00 per run
Mileage	\$16.00 per loaded mile
Treat/No Transport	\$200.00

B. Treatment. If a patient receives treatment from the attendant, in addition to an initial patient assessment (such as taking vital signs or primary assessment), the following charges shall be made for treatments such as administering oxygen for a respiratory problem or a breathing treatment (such as the use of Albuterol), the provision of Glucose D-30 to a diabetic, or Epinephrine to a patient suffering an allergic reaction,

bandaging and splinting of wounds and breaks and other similar treatments not constituting an initial patient assessment: \$200.00 per treatment.

Section 13-606 Ambulance Subscriber Fees

Electric customers at occupied single family residential service shall pay a monthly ambulance subscriber fee for emergency service as follows:

Located in corporate limits/utility customer to \$7.00 per month
Non-utility customer/located within city to \$84.00 per year
Non-utility customer/located outside city but within 6 miles of corporate limits to \$87.00 per year
Non-utility customer/located outside city and outside 6-mile limit to \$91.00 per year

STREETS AND SIDEWALKS

General Provisions

14-103	Abatement procedure for removal of trees and shrubs	\$15.00
14-105	Permit for structure on or over street or sidewalk	\$25.00
14-111	Permit and fee for culvert, driveway, stock pass fence or sign	\$25.00

Excavations

14-201	Permit to tunnel under or make an excavation	
14-203	In street, alley or public place	
14-210	For persons other than the phone company, gas company or cable company, there will be a Permit applied for and a fee paid of \$25.00. The condition of the alley or public place excavated by anyone will be restored as good or better than before the project was undertaken	
14-205	Deposit to cover cost of restoration of the ground and laying of pavement	
	If no pavement replacement	\$20.00
	If excavation (refundable deposit)	\$500.00

TRAFFIC AND VEHICLES
General Provisions

15-103 Security verification vehicle form as required by state

Equipment

15-305 Safety inspection sticker for vehicle, as required by
stat

15-306 State vehicle license tag, as required by state

Certain Vehicles Prohibited

15-403 Permit for vehicles with protruding parts
on wheels \$15.00

Stopping, Standing and Parking

15-602 Handicapped parking requires detachable insignia of
physically disabled person

Loading Zones

15-1204 Special permit to back to curb for loading or unloading
issued to: owner of lessee of real Property; or owner
of vehicle

Impoundment

15-1912 Release conditioned on payment of: Impoundment costs
and accrued storage charges

Proof of payment of all fines and costs due city

UTILITIES

General Provisions
Refuse Collection Services

17-206 Permit for refuse collection and refuse disposal

Monthly Fee

Residential As set by motion or resolution

Refuse fee is included with water bill

17-209 Fees for city refuse service, per month
as set by motion or resolution